

Senate Bill 433

By: Senators Meyer von Bremen of the 12th and Bowen of the 13th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to the
2 general provisions of penal institutions, so as to provide that persons required to be registered
3 as sexual offenders must provide school name, enrollment status, and vocation information;
4 to provide that this additional information be entered into the Georgia Crime Information
5 Center data base; to provide that the Georgia Bureau of Investigation shall establish
6 operating policies and procedures in order to provide prompt notice of offender registration
7 to any law enforcement agency having jurisdiction where an institution of higher education
8 is located; to provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to the general
12 provisions of penal institutions, is amended in Code Section 42-1-12, relating to the State
13 Sexual Offender Registry, is amended by striking in their entirety subsections (a) through (c)
14 and inserting in their place the following:

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

16 (1) 'Appropriate state official' means:

17 (A) With respect to an offender who is sentenced to probation without any sentence of
18 incarceration in the state prison system or who is sentenced pursuant to Article 3 of
19 Chapter 8 of this title, relating to first offenders, the Division of Probation of the
20 Department of Corrections;

21 (B) With respect to an offender who is sentenced to a period of incarceration in a
22 prison under the jurisdiction of the Department of Corrections and who is subsequently
23 released from prison or placed on probation, the commissioner of corrections or his or
24 her designee; and

25 (C) With respect to an offender who is placed on parole, the chairperson of the State
26 Board of Pardons and Paroles or his or her designee.

1 (2) 'Board' means the Sexual Offender Registration Review Board.

2 (2.1) 'Change in enrollment status' or 'change in employment status' means the
3 commencement or termination of enrollment or employment.

4 (2.2) 'Change in vocation status' means the commencement or termination of a vocation.

5 (3) 'Conviction' includes a final judgment of conviction entered upon a verdict or finding
6 of guilty of a crime, a plea of guilty, or a plea of nolo contendere. Unless otherwise
7 required by federal law, a defendant who is discharged without adjudication of guilt and
8 who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of
9 this title, relating to first offenders, shall not be subject to the registration requirements
10 of this Code section.

11 (4) (A) 'Criminal offense against a victim who is a minor' with respect to convictions
12 occurring on or before June 30, 2001, means any criminal offense under Title 16 or any
13 offense under federal law or the laws of another state or territory of the United States
14 which consists of:

- 15 (i) Kidnapping of a minor, except by a parent;
- 16 (ii) False imprisonment of a minor, except by a parent;
- 17 (iii) Criminal sexual conduct toward a minor;
- 18 (iv) Solicitation of a minor to engage in sexual conduct;
- 19 (v) Use of a minor in a sexual performance;
- 20 (vi) Solicitation of a minor to practice prostitution; or
- 21 (vii) Any conviction resulting from an underlying sexual offense against a victim
22 who is a minor.

23 (B) 'Criminal offense against a victim who is a minor' with respect to convictions
24 occurring after June 30, 2001, means any criminal offense under Title 16 or any offense
25 under federal law or the laws of another state or territory of the United States which
26 consists of:

- 27 (i) Kidnapping of a minor, except by a parent;
- 28 (ii) False imprisonment of a minor, except by a parent;
- 29 (iii) Criminal sexual conduct toward a minor;
- 30 (iv) Solicitation of a minor to engage in sexual conduct;
- 31 (v) Use of a minor in a sexual performance;
- 32 (vi) Solicitation of a minor to practice prostitution;
- 33 (vii) Use of a minor to engage in any sexually explicit conduct to produce any visual
34 medium depicting such conduct;
- 35 (viii) Creating, publishing, selling, or distributing any material depicting a minor
36 engaged in sexually explicit conduct;

1 (ix) Transmitting, making, selling, buying, or disseminating by means of a computer
2 any descriptive or identifying information regarding a child for the purpose of
3 offering or soliciting sexual conduct of or with a child or the visual depicting of such
4 conduct; or

5 (x) Any conduct which, by its nature, is a sexual offense against a minor.

6 (C) For purposes of this paragraph, conduct which is criminal only because of the age
7 of the victim shall not be considered a criminal offense if the perpetrator is 18 years of
8 age or younger.

9 (4.1) 'Institution of higher education' means a community college, state university, state
10 college, or independent postsecondary institution.

11 (5) 'Mental abnormality' means a congenital or acquired condition of a person that affects
12 the emotional or volitional capacity of the person in a manner that predisposes that person
13 to the commission of criminal sexual acts to a degree that makes the person a menace to
14 the health and safety of other persons.

15 (6) 'Predatory' means an act directed at a stranger or a person with whom a relationship
16 has been established or promoted for the primary purpose of victimization.

17 (7) 'Sexually violent offense' means a conviction for violation of Code Section 16-6-1,
18 relating to rape; Code Section 16-6-2, relating to aggravated sodomy; Code Section
19 16-6-4, relating to aggravated child molestation; or Code Section 16-6-22.2, relating to
20 aggravated sexual battery; or an offense that has as its element engaging in physical
21 contact with another person with intent to commit such an offense; or a conviction in a
22 federal court, military court, tribal court, or court of another state or territory for any
23 offense which under the laws of this state would be classified as a violation of a Code
24 section listed in this paragraph.

25 (8) 'Sexually violent predator' means a person who has been convicted on or after July
26 1, 1996, of a sexually violent offense and who suffers from a mental abnormality or
27 personality disorder or attitude that places the person at risk of perpetrating any future
28 predatory sexually violent offenses.

29 (9) 'Vocation' means any sort of full-time, part-time, or volunteer employment with or
30 without compensation exceeding 14 consecutive days or for an aggregate period of time
31 exceeding 30 days during any calendar year.

32 (b)(1)(A)(i) On and after July 1, 1996, a person who is convicted of a criminal
33 offense against a victim who is a minor or who is convicted of a sexually violent
34 offense shall register within ten days after his or her release from prison or placement
35 on parole, supervised release, or probation his or her name and current address; place
36 of employment or vocation, if any; the crime of which convicted; school name and
37 address, if any; and the date released from prison or placed on parole, supervised

1 release, or probation with the appropriate sheriff's office as specified in subsection (c)
2 of this Code section in the county where such person will reside for the time period
3 specified in subsection (g) of this Code section.

4 (ii) A person who has previously been convicted of a criminal offense against a
5 victim who is a minor or who has previously been convicted of a sexually violent
6 offense and who is released from prison or placed on parole, supervised release, or
7 probation on or after July 1, 1996, shall register within ten days after such release or
8 placement his or her name and current address; place of employment or vocation, if
9 any; the crime of which convicted; school name and address, if any; and the date
10 released from prison or placed on parole, supervised release, or probation with the
11 appropriate sheriff's office as specified in subsection (c) of this Code section in the
12 county where such person will reside for the time period specified in subsection (g)
13 of this Code section.

14 (iii) On and after July 1, 1999, any resident of Georgia who is convicted under the
15 laws of another state or territory, under the laws of the United States, under the
16 Uniform Code of Military Justice, or in a tribal court of a sexually violent offense or
17 a criminal offense against a victim who is a minor shall register within ten days after
18 his or her release from prison or placement on parole, supervised release, or
19 probation. The information such an offender is required to register shall include his
20 or her name and current address; place of employment or vocation, if any; the crime
21 of which convicted; school name and address, if any; and the date released from
22 prison or placed on parole, supervised release, or probation. Such an offender shall
23 register with the appropriate sheriff's office as specified in subsection (c) of this Code
24 section in the county where such person will reside for the time period specified in
25 subsection (g) of this Code section.

26 (B) A person who is a sexually violent predator shall register within ten days after his
27 or her release from prison or placement on parole, supervised release, or probation the
28 information required under subparagraph (A) of this paragraph with the appropriate
29 sheriff's office as specified in subsection (c) of this Code section in the county where
30 such person will reside. The sheriff may prepare a list of such sexual predators
31 providing each person's name, address, and photograph. The sheriff shall update the list
32 periodically and may post such list in a prominent and visible location in the sheriff's
33 office and each city hall or primary administration building of every incorporated
34 municipality within the county. Such list shall also be made available upon request to
35 any public or private elementary, secondary, or postsecondary school or educational
36 institution located in the county.

1 (2) (A) Upon a determination that an offender is guilty of a sexually violent offense,
2 the court may request a report from the Sexual Offender Registration Review Board as
3 to the likelihood that the offender suffers from a mental abnormality or personality
4 disorder that would make the person likely to engage in a predatory sexually violent
5 offense. The report shall be requested as a matter of course for any offender with a
6 history of sexually violent offenses. The court shall provide the Sexual Offender
7 Registration Review Board with any information available to assist the board in
8 rendering an opinion. The board shall have 60 days from receipt of the court's request
9 to respond with its report. After receiving a recommendation from the Sexual Offender
10 Registration Review Board that a convicted sexually violent offender be classified as
11 a sexually violent predator, the sentencing court shall so inform the offender and shall
12 set a date to conduct a hearing affording the offender the opportunity to present
13 testimony or evidence relevant to the recommended classification. After the hearing and
14 within 60 days of receiving the report, the court shall issue a ruling as to whether or not
15 the offender shall be classified as a sexually violent predator. If the court determines
16 the offender to be a sexually violent predator, such fact shall be communicated in
17 writing to the appropriate state official and to the Georgia Bureau of Investigation.

18 (B) The Sexual Offender Registration Review Board shall be composed of three
19 professionals licensed under Title 43 and knowledgeable in the field of the behavior and
20 treatment of sexual offenders; at least one representative from a victims' rights
21 advocacy group or agency and at least one representative from a law enforcement
22 agency who is certified as a peace officer under Title 35. The members of such board
23 shall be appointed by the commissioner of human resources for terms of four years.
24 Members of the board shall take office on the first day of September immediately
25 following the expired term of that office and shall serve for a term of four years and
26 until the appointment of their respective successors. No member shall serve on the
27 board more than two consecutive terms. Vacancies occurring on the board, other than
28 those caused by expiration of a term of office, shall be filled in the same manner as the
29 original appointment to the position vacated for the remainder of the unexpired term
30 and until a successor is appointed. Members shall be entitled to an expense allowance
31 and travel cost reimbursement the same as members of certain other boards and
32 commissions as provided in Code Section 45-7-21.

33 (C) The Sexual Offender Review Board shall be attached to the Department of Human
34 Resources for administrative purposes and provided there is adequate funding provided
35 shall:

- 36 (i) Exercise its quasi-judicial, rule-making, or policy-making functions independently
37 of the department and without approval or control of the department;

1 (ii) Prepare its budget, if any, and submit its budgetary requests, if any, through the
2 department; and

3 (iii) Hire its own personnel if authorized by the Constitution of this state or by statute
4 or if the General Assembly provides or authorizes the expenditure of funds therefor.

5 (3) (A) If a person who is required to register under this Code section is released from
6 prison or placed on parole, supervised release, or probation, the appropriate state
7 official shall:

8 (i) Inform the person of the duty to register and obtain the information required under
9 subparagraph (A) of paragraph (1) of this subsection for such registration;

10 (ii) Inform the person that, if the person changes residence address, employment or
11 vocation address, or school address or enrollment status, the person shall give the
12 new address to the sheriff or sheriffs with whom the person last registered and the
13 sheriff or sheriffs of the county to which the person is changing residence,
14 employment or vocation, or school address or enrollment status, not later than ten
15 days after the change of address. Following such notification, the sheriff's office shall
16 notify immediately the Georgia Bureau of Investigation through the Criminal Justice
17 Information System (CJIS) of each change of address;

18 (iii) Inform the person that the person must register in any state where the person is
19 employed or carries on a vocation or is a student;

20 (iv) Inform the person that, if the person changes residence to another state, the
21 person shall register the new address with the sheriff or sheriffs with whom the person
22 last registered, and that the person shall also register with a designated law
23 enforcement agency in the new state not later than ten days after establishing
24 residence in the new state;

25 (v) Obtain fingerprints and a photograph of the person if such fingerprints and
26 photograph have not already been obtained in connection with the offense that
27 triggered the initial registration; and

28 (vi) Require the person to read and sign a form stating that the duty of the person to
29 register under this Code section has been explained. A copy of this form and any other
30 registration information furnished by the Department of Corrections shall be
31 forwarded to the Georgia Bureau of Investigation.

32 (B) In addition to the requirements of subparagraph (A) of this paragraph, for a person
33 required to register under subparagraph (B) of paragraph (1) of this subsection, the
34 appropriate state official shall obtain the name of the person; descriptive physical and
35 behavioral information to assist law enforcement personnel in identifying the person;
36 known current or proposed residence addresses of the person; place of employment, if
37 any; offense history of the person; and documentation of any treatment received for any

1 mental abnormality or personality disorder of the person; provided, however, that the
2 appropriate state official shall not be required to obtain any information already on the
3 criminal justice information system of the Georgia Crime Information Center.

4 (C) The Georgia Crime Information Center shall create criminal justice information
5 system network transaction screens by which appropriate state officials shall enter
6 original data required by this Code section including residence address, school name,
7 address, and enrollment status, and employment or vocation address and status. Screens
8 shall also be created for sheriffs' offices for the entry of record confirmation data;
9 employment; changes of residence, school, or employment; or other pertinent data and
10 to assist in offender identification.

11 (D) Any person changing residence from another state or territory of the United States
12 to Georgia who is required to register under federal law or the laws of another state,
13 territory, or tribal authority or who has been convicted of an offense in another state,
14 territory, or tribal authority which would require registration under this Code section
15 if committed in this state shall comply with the registration requirements of this Code
16 section. Such person shall register the new address and employment information with
17 the appropriate sheriff of the county as specified in subsection (c) of this Code section
18 not later than ten days after the date of establishing residency in this state. Upon the
19 person's registration with the sheriff of the county of new residence, the sheriff or his
20 or her designee shall forward the registration information to the Georgia Bureau of
21 Investigation. The sheriff or his or her designee shall obtain any needed information
22 concerning the registrant, including fingerprints and a photograph of the person if such
23 fingerprints and photograph have not previously been obtained within the State of
24 Georgia. In addition, the sheriff or his or her designee shall inform the person of the
25 duty to report any change of address as otherwise required in this Code section. The
26 Georgia Bureau of Investigation shall forward such information in the manner
27 described in subsection (c) of this Code section.

28 (E) The following persons are also required to register:

29 (i) Any nonresident who enters this state for the purpose of employment for a period
30 exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days
31 during any calendar year and who is required to register under federal law, military
32 law, tribal law, or the laws of another state or territory, which, based on an act, would
33 require registration under this Code section; or

34 (ii) Any nonresident who enters this state for the purpose of attending school as a
35 full-time or part-time student and who is required to register under federal law,
36 military law, tribal law, or the laws of another state or territory, which, based on an
37 act, would require registration under this Code section.

1 Any person required to register by this subparagraph shall not later than ten days after the
 2 person enters the state register with the sheriff of the county of his or her temporary address,
 3 with the sheriff of the county of his or her employment, and with the sheriff of the county in
 4 which the person is attending school. The information registered shall include the person's
 5 temporary address, permanent address in the person's state of residence, employment or
 6 vocation address, or school name, address, and enrollment status. Upon the person's
 7 registration, the sheriff or the sheriff's designee shall forward the registration information to
 8 the Georgia Bureau of Investigation. The sheriff or the sheriff's designee shall obtain the
 9 fingerprints and photograph of the person, if the person's fingerprints and photograph have
 10 not previously been obtained in Georgia. The sheriff or the sheriff's designee shall inform
 11 the person of his or her duty to report any change in temporary residence, permanent
 12 residence, employment or vocation address, ~~or~~ and status, school name, address, or
 13 enrollment status.

14 (c)(1) The appropriate state official shall, within three days after receipt of information
 15 described in paragraph (3) of subsection (b) of this Code section, forward such
 16 information to the Georgia Bureau of Investigation. Once the data is entered into the
 17 criminal justice information system by the appropriate state official or sheriff, the
 18 Georgia Crime Information Center, where appropriate, shall immediately notify the
 19 sheriff of the person's county of residence, either permanent or temporary, the sheriff of
 20 the county of employment, and the sheriff of the county where the person attends school.
 21 The Georgia Bureau of Investigation shall also immediately transmit the conviction data
 22 and fingerprints to the Federal Bureau of Investigation. It shall be the duty of the sheriff
 23 of each county within this state to maintain a register of the names and addresses of all
 24 registered offenders within the sheriff's jurisdiction whose names have been provided by
 25 the Georgia Bureau of Investigation to the sheriff under this Code section. The Georgia
 26 Bureau of Investigation shall establish operating policies and procedures concerning
 27 record ownership, quality, verification, modification, and cancellation and shall perform
 28 mail out and verification duties on a quarterly basis. The Georgia Bureau of Investigation
 29 shall send each month criminal justice information system network messages to sheriffs
 30 listing offenders due for verification. The bureau shall also create a photo image file from
 31 original entries and provide such entries to sheriffs to assist in offender identification and
 32 verification.

33 (2) Any person who is required to register under this Code section and who is enrolled,
 34 employed, or carries on a vocation at an institution of higher education in this state shall
 35 provide the name, address, and county of each institution including each campus attended
 36 and the person's position or enrollment status, as well as any change in enrollment,
 37 employment, or vocation status. This paragraph shall be accomplished in a manner

1 specified in subparagraphs (b)(1)(A), (b)(1)(B), (b)(3)(A), (b)(3)(D), and (b)(3) (E) of
2 this Code section.

3 (3) The Georgia Bureau of Investigation shall establish operating policies and procedures
4 in order to provide prompt notice of offender registration and any change in status
5 information contained in paragraph (2) of this subsection to any law enforcement agency
6 having jurisdiction where an institution of higher education is located and to include
7 notification to the campus police if appropriate for the institution of higher education.
8 The law enforcement agency or agencies having jurisdiction where an institution of
9 higher education is located shall provide a statement advising the campus community
10 where law enforcement agency information may be obtained as provided by the state
11 under 20 U.S.C. 1092 (f)(1) and 42 U.S.C. 1407 (j), concerning registered sex offenders.
12 This information may be obtained at the law enforcement officer of the institution, a local
13 law enforcement agency with jurisdiction for the campus, or via the Georgia Bureau of
14 Investigation's Web page."

15 SECTION 2.

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