

Senate Bill 432

By: Senator Hamrick of the 30th

**AS PASSED SENATE**

## A BILL TO BE ENTITLED

## AN ACT

1 To amend Code Section 16-12-100.2 of the Official Code of Georgia Annotated, known as  
 2 the "Computer Pornography and Child Exploitation Prevention Act of 1999," so as to change  
 3 the penalty for certain unlawful acts in violation of such Code section; to repeal conflicting  
 4 laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

6 Code Section 16-12-100.2 of the Official Code of Georgia Annotated, known as the  
 7 "Computer Pornography and Child Exploitation Prevention Act of 1999," is amended by  
 8 striking subsections (d) and (e) of said Code section and inserting in its place the following:  
 9

10 "(d)(1) It shall be unlawful for any person intentionally or willfully to utilize a computer  
 11 on-line service, Internet service, or local bulletin board service to seduce, solicit, lure, or  
 12 entice, ~~or attempt to seduce, solicit, lure, or entice~~ a child or another person believed by  
 13 such person to be a child; to commit any illegal act described in Code Section 16-6-2,  
 14 relating to the offense of sodomy or aggravated sodomy; Code Section 16-6-4, relating  
 15 to the offense of child molestation or aggravated child molestation; Code Section 16-6-5,  
 16 relating to the offense of enticing a child for indecent purposes; or Code Section 16-6-8,  
 17 relating to the offense of public indecency; or to engage in any conduct that by its nature  
 18 is an unlawful sexual offense against a child.

19 (2) It shall be unlawful for any person intentionally or willfully to utilize a computer  
 20 on-line service, Internet service, or local bulletin board service to attempt to seduce,  
 21 solicit, lure, or entice a child or another person believed by such person to be a child to  
 22 commit any illegal act described in Code Section 16-6-2, relating to the offense of  
 23 sodomy or aggravated sodomy; Code Section 16-6-4, relating to the offense of child  
 24 molestation or aggravated child molestation; Code Section 16-6-5, relating to the offense  
 25 of enticing a child for indecent purposes; or Code Section 16-6-8, relating to the offense

1 of public indecency; or to engage in any conduct that by its nature is an unlawful sexual  
 2 offense against a child.

3 ~~(2)~~(3) Any person who violates paragraph (1) of this subsection shall be guilty of a  
 4 ~~misdemeanor of a high and aggravated nature~~ felony and, upon conviction, shall be  
 5 punished by imprisonment for not less than one nor more than 20 years or by a fine not  
 6 to exceed \$50,000.00 or both. Upon a first conviction of a violation of paragraph (1) of  
 7 this subsection, the judge may probate the sentence; and such probation may be upon the  
 8 special condition that the defendant undergo a mandatory period of counseling  
 9 administered by a licensed psychiatrist or a licensed psychologist. However, if the judge  
 10 finds that such probation should not be imposed, the judge shall sentence the defendant  
 11 to imprisonment. Upon a second or third conviction of such offense, the defendant shall  
 12 be punished by imprisonment for not less than five years. For a fourth or subsequent  
 13 conviction of such offense, the defendant shall be punished by imprisonment for 20 years.  
 14 Adjudication of guilt or imposition of sentence for a conviction of a third, fourth, or  
 15 subsequent such offense, including a plea of nolo contendere, shall not be suspended,  
 16 probated, deferred, or withheld.

17 (4) Any person who violates paragraph (2) of this subsection shall be guilty of a felony  
 18 and, upon conviction, shall be punished by imprisonment for not less than one nor more  
 19 than ten years or by a fine not to exceed \$25,000.00 or both.

20 (e)(1) It shall be unlawful for any owner or operator of a computer on-line service,  
 21 Internet service, or local bulletin board service intentionally or willfully to permit a  
 22 subscriber to utilize the service to commit a violation of this Code section, knowing that  
 23 such person intended to utilize such service to violate this Code section.

24 (2) Any person who violates paragraph (1) of this subsection shall be guilty of a  
 25 ~~misdemeanor of a high and aggravated nature~~ felony and, upon conviction, shall be  
 26 punished by imprisonment for not less than one nor more than 20 years or by a fine not  
 27 to exceed \$50,000.00 or both."

## 28 SECTION 2.

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