

The House Committee on Public Safety offered the following substitute to SB 433:

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 change certain provisions relating to the state
3 sexual offender registry; to provide that persons required to be registered as sexual offenders
4 must provide school name, enrollment status, and vocation information; to provide that this
5 additional information be entered into the Georgia Crime Information Center data base; to
6 provide that the Georgia Bureau of Investigation shall establish operating policies and
7 procedures in order to provide prompt notice of offender registration to any law enforcement
8 agency having jurisdiction where an institution of higher education is located; to provide
9 punishments for violators; to provide for related matters; to repeal conflicting laws; and for
10 other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

12 Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to the general
13 provisions of penal institutions, is amended in Code Section 42-1-12, relating to the State
14 Sexual Offender Registry, is amended by striking in their entirety subsections (a) through (c)
15 and subsection (h) and inserting in their respective places the following:
16

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

18 (1) 'Appropriate state official' means:

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

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

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

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

4 (2.1) 'Change in enrollment status' or 'change in employment status' means the
5 commencement or termination of enrollment or employment.

6 (2.2) 'Change in vocation status' means the commencement or termination of a vocation.

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

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

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

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

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

1 (viii) Creating, publishing, selling, or distributing any material depicting a minor
2 engaged in sexually explicit conduct;

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

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

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

11 (4.1) 'Institution of higher education' means a community college, state university, state
12 college, or independent postsecondary institution.

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

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

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

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

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

34 (b)(1)(A)(i) On and after July 1, 1996, a person who is convicted of a criminal
35 offense against a victim who is a minor or who is convicted of a sexually violent
36 offense shall register within ten days after his or her release from prison or placement
37 on parole, supervised release, or probation his or her name and current address; place

1 of employment and vocation, if any; the crime of which convicted; school name and
2 address, if any; and the date released from prison or placed on parole, supervised
3 release, or probation with the appropriate sheriff's office as specified in subsection (c)
4 of this Code section in the county where such person will reside for the time period
5 specified in subsection (g) of this Code section.

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

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

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

1 any public or private elementary, secondary, or postsecondary school or educational
2 institution located in the county.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (B) In addition to the requirements of subparagraph (A) of this paragraph, for a person
2 required to register under subparagraph (B) of paragraph (1) of this subsection, the
3 appropriate state official shall obtain the name of the person; descriptive physical and
4 behavioral information to assist law enforcement personnel in identifying the person;
5 known current or proposed residence addresses of the person; place of employment, if
6 any; offense history of the person; and documentation of any treatment received for any
7 mental abnormality or personality disorder of the person; provided, however, that the
8 appropriate state official shall not be required to obtain any information already on the
9 criminal justice information system of the Georgia Crime Information Center.

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

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

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

- 35 (i) Any nonresident who enters this state for the purpose of employment for a period
36 exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days
37 during any calendar year and who is required to register under federal law, military

1 law, tribal law, or the laws of another state or territory, which, based on an act, would
2 require registration under this Code section; or

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

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

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

1 original entries and provide such entries to sheriffs to assist in offender identification and
2 verification.

3 (2) Any person who is required to register under this Code section and who is enrolled,
4 employed, or carries on a vocation at an institution of higher education in this state shall
5 provide the name, address, and county of each institution including each campus attended
6 and the person's position or enrollment status, as well as any change in enrollment,
7 employment, or vocation status. This paragraph shall be accomplished in a manner
8 specified in subparagraphs (b)(1)(A), (b)(1)(B), (b)(3)(A), (b)(3)(D), and (b)(3)(E) of this
9 Code section.

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

22 "(h) Any person who is required to register under this Code section and who fails to
23 comply with the requirements of this Code section or who provides false information shall
24 be guilty of a ~~misdemeanor~~ felony and shall be punished by imprisonment for not less than
25 one nor more than three years; provided, however, that upon the conviction of the second
26 or subsequent offense under this subsection, the defendant ~~shall be guilty of a felony and~~
27 shall be punished by imprisonment for not less than one nor more than three years or by
28 a fine in an amount of up to \$100,000.00, or both."

29 SECTION 2.

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