

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual  
2 offenses, so as to change the definitions of rape and aggravated sodomy; to provide for  
3 increased punishment for certain persons convicted of rape or aggravated sodomy involving  
4 children 12 years of age or younger; to amend Article 1 of Chapter 10 of Title 17 of the  
5 Official Code of Georgia Annotated, relating to procedure for sentencing and imposition of  
6 punishment, so as to provide for increased punishment for certain persons convicted of rape  
7 or aggravated sodomy involving children 12 years of age or younger; to provide for  
8 applicability; to provide for legislative intent; to provide for related matters; to repeal  
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

11 Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual offenses,  
12 is amended by striking Code Section 16-6-1, relating to rape, and inserting in lieu thereof a  
13 new Code Section 16-6-1 to read as follows:  
14

15 "16-6-1.

16 (a) A person commits the offense of rape when he has carnal knowledge of:

- 17 (1) A female forcibly and against her will; or  
18 (2) A female who is ~~less than ten~~ 12 years of age or younger.

19 Carnal knowledge in rape occurs when there is any penetration of the female sex organ by  
20 the male sex organ. The fact that the person allegedly raped is the wife of the defendant  
21 shall not be a defense to a charge of rape. The fact that the defendant was unaware of or  
22 mistaken concerning the age of the person raped shall not be a defense to such crime.

23 (b) A person convicted of the offense of rape shall be punished by death, by imprisonment  
24 for life without parole, by imprisonment for life, or by imprisonment for not less than ten  
25 nor more than 20 years; provided, however, that a person who is 18 years of age or older  
26 who is convicted of the offense of rape of a person 12 years of age or younger shall be  
27 punished by imprisonment for life without parole. Any person convicted under this Code

1 section shall, in addition, be subject to the sentencing and punishment provisions of Code  
2 Sections 17-10-6.1 and 17-10-7.

3 (c) When evidence relating to an allegation of rape is collected in the course of a medical  
4 examination of the person who is the victim of the alleged crime, the law enforcement  
5 agency investigating the alleged crime shall be responsible for the cost of the medical  
6 examination to the extent that expense is incurred for the limited purpose of collecting  
7 evidence."

## 8 SECTION 2.

9 Said chapter is further amended by striking Code Section 16-6-2, relating to sodomy and  
10 aggravated sodomy, and inserting in lieu thereof a new Code Section 16-6-2 to read as  
11 follows:

12 "16-6-2.

13 (a) A person commits the offense of sodomy when he or she performs or submits to any  
14 sexual act involving the sex organs of one person and the mouth or anus of another. A  
15 person commits the offense of aggravated sodomy when he or she commits sodomy with  
16 force and against the will of the other person or when he or she commits sodomy with a  
17 person who is ~~less than ten~~ 12 years of age or younger. The fact that the person allegedly  
18 sodomized is the spouse of a defendant shall not be a defense to a charge of aggravated  
19 sodomy. The fact that the defendant was unaware of or mistaken concerning the age of the  
20 person against whom the offense of aggravated sodomy was committed shall not be a  
21 defense to such crime.

22 (b) A person convicted of the offense of sodomy shall be punished by imprisonment for  
23 not less than one nor more than 20 years. A person convicted of the offense of aggravated  
24 sodomy shall be punished by imprisonment for life or by imprisonment for not less than  
25 ten nor more than 30 years; provided, however, that a person who is 18 years of age or  
26 older who is convicted of the offense of aggravated sodomy of a person 12 years of age or  
27 younger shall be punished by imprisonment for life without parole. Any person convicted  
28 under this Code section of the offense of aggravated sodomy shall, in addition, be subject  
29 to the sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7.

30 (c) When evidence relating to an allegation of aggravated sodomy is collected in the  
31 course of a medical examination of the person who is the victim of the alleged crime, the  
32 law enforcement agency investigating the alleged crime shall be financially responsible for  
33 the cost of the medical examination to the extent that expense is incurred for the limited  
34 purpose of collecting evidence."



1 administered by the State Board of Pardons and Paroles until that person has served a  
 2 minimum of 14 years in prison. The minimum term of imprisonment shall not be reduced  
 3 by any earned time, early release, work release, leave, or other sentence-reducing  
 4 measures under programs administered by the Department of Corrections.

5 (2) For a first conviction of a serious violent felony in which the defendant has been  
 6 sentenced to death but the sentence of death has been commuted to life imprisonment,  
 7 that person shall not be eligible for any form of parole or early release administered by  
 8 the State Board of Pardons and Paroles until that person has served a minimum of 25  
 9 years in prison. The minimum term of imprisonment shall not be reduced by any earned  
 10 time, early release, work release, leave, or other sentence-reducing measures under  
 11 programs administered by the Department of Corrections.

12 (3) Any sentence imposed for the first conviction of any serious violent felony other than  
 13 a sentence of life imprisonment or life without parole or death shall be served in its  
 14 entirety as imposed by the sentencing court and shall not be reduced by any form of  
 15 parole or early release administered by the State Board of Pardons and Paroles or by any  
 16 earned time, early release, work release, leave, or other sentence-reducing measures  
 17 under programs administered by the Department of Corrections, the effect of which  
 18 would be to reduce the period of incarceration ordered by the sentencing court.

19 (d) For purposes of this Code section, a first conviction of any serious violent felony  
 20 means that the person has never been convicted of a serious violent felony under the laws  
 21 of this state or of an offense under the laws of any other state or of the United States, which  
 22 offense if committed in this state would be a serious violent felony. Conviction of two or  
 23 more crimes charged on separate counts of one indictment or accusation, or in two or more  
 24 indictments or accusations consolidated for trial, shall be deemed to be only one  
 25 conviction."

#### 26 **SECTION 4.**

27 This Act shall be applicable to all offenses committed on or after the effective date of this  
 28 Act. It is the intent of the General Assembly that the provisions of this Act shall not affect  
 29 any prosecutions for offenses committed prior to the effective date of this Act and such  
 30 offenses may continue to be prosecuted.

#### 31 **SECTION 5.**

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