

The House Committee on Judiciary Non-civil offers the following substitute to HB 1059:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 16, 17, 35, and 42 of the Official Code of Georgia Annotated, relating  
2 respectively to crimes and offenses, criminal procedure, law enforcement officers and  
3 agencies, and penal institutions, so as to change provisions relating to sexual offenders; to  
4 change punishment provisions, registration requirements, and residency requirements for  
5 sexual offenders; to provide for legislative findings; to change punishment provisions related  
6 to aggravated assault with the intent to rape; to change punishment provisions related to  
7 kidnapping; to change punishment provisions related to false imprisonment; to change  
8 punishment provisions related to rape; to change certain provisions relating to sodomy and  
9 aggravated sodomy; to provide for lesser punishment for certain sexual offenses committed  
10 by persons of certain ages; to change certain provisions relating to statutory rape; to change  
11 certain provisions relating to child molestation and aggravated child molestation; to change  
12 certain provisions relating to enticing a child for indecent purposes; to change certain  
13 provisions relating to persons convicted of sexual assault against persons in custody; to  
14 change certain provisions relating to incest; to change certain provisions relating to sexual  
15 battery; to change certain provisions relating to aggravated sexual battery; to allow for  
16 judicial discretion for mandatory minimum sentences under certain circumstances; to create  
17 a new crime involving withholding information concerning a sexual offender and provide for  
18 penalties; to change a provision relating to the fixing of a sentence by a judge; to change  
19 certain provisions relating to punishment of serious violent offenders and increase the  
20 mandatory minimum term of imprisonment for certain offenses; to require persons convicted  
21 of certain sexual crimes to receive a mandatory split sentence including a minimum sentence  
22 of imprisonment; to add a provision relating to statutory aggravating circumstances for the  
23 imposition of the death penalty; to require the Georgia Crime Information Center to collect  
24 certain data; to reorganize and change provisions related to the State Sexual Offender  
25 Registry; to change and add certain definitions; to change provisions relating to registration  
26 requirements for sexual offenders; to provide for an annual registration fee; to provide that  
27 sexual offenders register prior to release from prison; to require each sheriff to maintain and  
28 update a list of all sexual offenders residing in the county; to provide for duties and

1 responsibilities for sheriffs, the Department of Corrections, the Georgia Bureau of  
 2 Investigation, and sexual offenders; to require registered sexual offenders to verify required  
 3 registration information with the sheriff whenever any changes occur to certain information  
 4 and verify information at least annually within 72 hours of the sexual offender's birthday;  
 5 to increase the duration for registration requirement; to require the sheriff to notify certain  
 6 people and entities of the presence of sexual offenders in their community; to increase  
 7 punishment for failure to comply with registration requirements; to change the appointing  
 8 authority for the Sexual Offender Registration Review Board; to require the Sexual Offender  
 9 Registration Review Board to classify sexual offenders; to require sexually dangerous  
 10 predators to wear an electronic monitoring device for the balance of his or her life and to pay  
 11 for such device; to require sexually dangerous predators to update required registration  
 12 information twice yearly; to provide for employment restrictions for sexual offenders; to  
 13 prohibit sexual offenders from loitering in certain locations; to correct cross-references; to  
 14 change provisions relating to sexual offenders conditions for parole; to change provisions  
 15 relating to chemical treatment and counseling as a condition of parole for child molesters;  
 16 to provide for other related matters; to provide for an effective date and applicability; to  
 17 repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

20 The General Assembly finds and declares that recidivist sexual offenders, sexual offenders  
 21 who use physical violence, and sexual offenders who prey on children are sexual predators  
 22 who present an extreme threat to the public safety. Many sexual offenders are extremely  
 23 likely to use physical violence and to repeat their offenses; and some sexual offenders  
 24 commit many offenses, have many more victims than are ever reported, and are prosecuted  
 25 for only a fraction of their crimes. The General Assembly finds that this makes the cost of  
 26 sexual offender victimization to society at large, while incalculable, clearly exorbitant. The  
 27 General Assembly further finds that the high level of threat that a sexual predator presents  
 28 to the public safety, and the long-term effects suffered by victims of sex offenses, provide  
 29 the state with sufficient justification to implement a strategy that includes:

- 30 (1) Incarcerating sexual offenders and maintaining adequate facilities to ensure that  
 31 decisions to release sexual predators into the community are not made on the basis of  
 32 inadequate space;
- 33 (2) Requiring the registration of sexual offenders, with a requirement that complete and  
 34 accurate information be maintained and accessible for use by law enforcement  
 35 authorities, communities, and the public;

- 1 (3) Providing for community and public notification concerning the presence of sexual  
 2 offenders;
- 3 (4) Collecting data relative to sexual offenses and sexual offenders;
- 4 (5) Requiring sexual predators who are released into the community to wear electronic  
 5 monitoring devices for the rest of their natural life and to pay for such device; and
- 6 (6) Prohibiting sexual predators from working with children, either for compensation or  
 7 as a volunteer.

8 The General Assembly further finds that the state has a compelling interest in protecting the  
 9 public from sexual offenders and in protecting children from predatory sexual activity, and  
 10 there is sufficient justification for requiring sexual offenders to register and for requiring  
 11 community and public notification of the presence of sexual offenders. The General  
 12 Assembly declares that in order to protect the public, it is necessary that the sexual offenders  
 13 be registered and that members of the community and the public be notified of a sexual  
 14 offender's presence. The designation of a person as a sexual offender is neither a sentence  
 15 nor a punishment but simply a regulatory mechanism and status resulting from the conviction  
 16 of certain crimes. Likewise, the designation of a person as a sexual predator is neither a  
 17 sentence nor a punishment but simply a regulatory mechanism and status resulting from  
 18 findings by the Sexual Offender Registration Review Board and a court if requested by a  
 19 sexual offender.

## 20 SECTION 2.

21 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 22 amended by striking Code Section 16-5-21, relating to aggravated assault, and inserting in  
 23 lieu thereof the following:

24 "16-5-21.

- 25 (a) A person commits the offense of aggravated assault when he or she assaults:
- 26 (1) With intent to murder, to rape, or to rob;
- 27 (2) With a deadly weapon or with any object, device, or instrument which, when used  
 28 offensively against a person, is likely to or actually does result in serious bodily injury;
- 29 or
- 30 (3) A person or persons without legal justification by discharging a firearm from within  
 31 a motor vehicle toward a person or persons.
- 32 (b) Except as provided in subsections (c) through ~~(i)~~ (j) of this Code section, a person  
 33 convicted of the offense of aggravated assault shall be punished by imprisonment for not  
 34 less than one nor more than 20 years.
- 35 (c) A person who knowingly commits the offense of aggravated assault upon a peace  
 36 officer while the peace officer is engaged in, or on account of the performance of, his or

1 her official duties shall, upon conviction thereof, be punished by imprisonment for not less  
2 than five nor more than 20 years.

3 (d) Any person who commits the offense of aggravated assault against a person who is 65  
4 years of age or older shall, upon conviction thereof, be punished by imprisonment for not  
5 less than three nor more than 20 years.

6 (e)(1) As used in this subsection, the term 'correctional officer' shall include  
7 superintendents, wardens, deputy wardens, guards, and correctional officers of state,  
8 county, and municipal penal institutions who are certified by the Georgia Peace Officer  
9 Standards and Training Council pursuant to Chapter 8 of Title 35 and employees of the  
10 Department of Juvenile Justice who are known to be employees of the department or who  
11 have given reasonable identification of their employment. The term 'correctional officer'  
12 shall also include county jail officers who are certified or registered by the Georgia Peace  
13 Officer Standards and Training Council pursuant to Chapter 8 of Title 35.

14 (2) A person who knowingly commits the offense of aggravated assault upon a  
15 correctional officer while the correctional officer is engaged in, or on account of the  
16 performance of, his or her official duties shall, upon conviction thereof, be punished by  
17 imprisonment for not less than five nor more than 20 years.

18 (f) Any person who commits the offense of aggravated assault in a public transit vehicle  
19 or station shall, upon conviction thereof, be punished by imprisonment for not less than  
20 three nor more than 20 years. For purposes of this Code section, 'public transit vehicle' has  
21 the same meaning as in subsection (c) of Code Section 16-5-20.

22 (f.1) Any person who commits the offense of aggravated assault upon a person in the  
23 course of violating Code Section 16-8-2 where the property that was the subject of the theft  
24 was a vehicle engaged in commercial transportation of cargo or any appurtenance thereto,  
25 including without limitation any such trailer, semitrailer, container, or other associated  
26 equipment, or the cargo being transported therein or thereon, shall upon conviction be  
27 punished by imprisonment for not less than five years nor more than 20 years, a fine not  
28 less than \$50,000.00 nor more than \$200,000.00, or both such fine and imprisonment. For  
29 purposes of this subsection, the term 'vehicle' includes without limitation any railcar.

30 (g) A person convicted of an offense described in paragraph (3) of subsection (a) of this  
31 Code section shall be punished by imprisonment for not less than five nor more than 20  
32 years.

33 (h) Any person who commits the offense of aggravated assault involving the use of a  
34 firearm upon a student or teacher or other school personnel within a school safety zone as  
35 defined in paragraph (1) of subsection (a) of Code Section 16-11-127.1 shall, upon  
36 conviction thereof, be punished by imprisonment for not less than five nor more than 20  
37 years.

1 (i) If the offense of aggravated assault is committed between past or present spouses,  
 2 persons who are parents of the same child, parents and children, stepparents and  
 3 stepchildren, foster parents and foster children, or other persons excluding siblings living  
 4 or formerly living in the same household, the defendant shall be punished by imprisonment  
 5 for not less than three nor more than 20 years.

6 (j) Any person who commits the offense of aggravated assault with intent to rape against  
 7 a child under the age of 14 years shall be punished by imprisonment for not less than 25  
 8 nor more than 50 years. Any person convicted under this subsection shall, in addition, be  
 9 subject to the sentencing and punishment provisions of Code Section 17-10-6.2."

### 10 SECTION 3.

11 Said title is further amended by striking Code Section 16-5-40, relating to kidnapping, and  
 12 inserting in lieu thereof the following:

13 "16-5-40.

14 (a) A person commits the offense of kidnapping when he abducts or steals away any  
 15 person without lawful authority or warrant and holds such person against his will.

16 (b) A person convicted of the offense of kidnapping shall be punished by:

17 (1) Imprisonment ~~imprisonment~~ for not less than ten nor more than 20 years, ~~provided~~  
 18 ~~that a person convicted of the offense of kidnapping for ransom shall be punished by~~ if  
 19 the kidnapping involved a victim who was 14 years of age or older;

20 (2) Imprisonment for not less than 25 nor more than 50 years if the kidnapping involved  
 21 a victim who is less than 14 years of age;

22 (3) Life ~~life~~ imprisonment or by death and ~~provided, further, that, if the person kidnapped~~  
 23 ~~shall have received bodily injury, the person convicted shall be punished by~~ if the  
 24 kidnapping was for ransom; or

25 (4) Life ~~life~~ imprisonment or by death if the person kidnapped received bodily injury.

26 (c) Any person convicted under this Code section shall, in addition, be subject to the  
 27 sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7."

### 28 SECTION 4.

29 Said title is further amended by striking Code Section 16-5-41, relating to false  
 30 imprisonment, and inserting in lieu thereof the following:

31 "16-5-41.

32 (a) A person commits the offense of false imprisonment when, in violation of the personal  
 33 liberty of another, he arrests, confines, or detains such person without legal authority.

34 (b) A person convicted of the offense of false imprisonment shall be punished by  
 35 imprisonment for not less than one nor more than ten years.

1 (c) Any person convicted under this Code section wherein the victim is not the child of the  
 2 defendant and the victim is less than 14 years of age shall, in addition, be subject to the  
 3 sentencing and punishment provisions of Code Section 17-10-6.2."

#### 4 SECTION 5.

5 Said title is further amended by striking Code Section 16-6-1, relating to rape, and inserting  
 6 in lieu thereof the following:

7 "16-6-1.

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

9 (1) A female forcibly and against her will; or

10 (2) A female who is less than ten years of age.

11 Carnal knowledge in rape occurs when there is any penetration of the female sex organ by  
 12 the male sex organ. The fact that the person allegedly raped is the wife of the defendant  
 13 shall not be a defense to a charge of rape.

14 (b) A person convicted of the offense of rape shall be punished by death, by imprisonment  
 15 for life without parole, by imprisonment for life, or by imprisonment for not less than ~~ten~~  
 16 25 nor more than ~~20~~ 50 years. Any person convicted under this Code section shall, in  
 17 addition, be subject to the sentencing and punishment provisions of Code Sections  
 18 17-10-6.1 and 17-10-7.

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

#### 24 SECTION 6.

25 Said title is further amended by striking Code Section 16-6-2, relating to sodomy and  
 26 aggravated sodomy, and inserting in lieu thereof the following:

27 "16-6-2.

28 (a)(1) A person commits the offense of sodomy when he or she performs or submits to  
 29 any sexual act involving the sex organs of one person and the mouth or anus of another.

30 (2) A person commits the offense of aggravated sodomy when he or she commits  
 31 sodomy with force and against the will of the other person or when he or she commits  
 32 sodomy with a person who is less than ten years of age. The fact that the person  
 33 allegedly sodomized is the spouse of a defendant shall not be a defense to a charge of  
 34 aggravated sodomy.

1 (b)(1) Except as provided in subsection (d) of this Code section, a ~~A~~ person convicted  
 2 of the offense of sodomy shall be punished by imprisonment for not less than one nor  
 3 more than 20 years and shall be subject to the sentencing and punishment provisions of  
 4 Code Section 17-10-6.2.

5 (2) A person convicted of the offense of aggravated sodomy shall be punished by  
 6 imprisonment for life or by imprisonment for not less than ~~ten~~ 25 nor more than ~~30~~ 50  
 7 years. Any person convicted under this Code section of the offense of aggravated  
 8 sodomy shall, in addition, be subject to the sentencing and punishment provisions of  
 9 Code Sections 17-10-6.1 and 17-10-7.

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

15 (d) If the victim is 14 or 15 years of age and the person convicted of sodomy is no more  
 16 than three years older than the victim, such person shall be guilty of a misdemeanor and  
 17 shall not be subject to the sentencing and punishment provisions of Code Section  
 18 17-10-6.2."

#### 19 SECTION 7.

20 Said title is further amended by striking Code Section 16-6-3, relating to statutory rape, and  
 21 inserting in lieu thereof the following:

22 "16-6-3.

23 (a) A person commits the offense of statutory rape when he or she engages in sexual  
 24 intercourse with any person under the age of 16 years and not his or her spouse, provided  
 25 that no conviction shall be had for this offense on the unsupported testimony of the victim.

26 (b) Except as provided in subsection (c) of this Code section, a ~~A~~ person convicted of the  
 27 offense of statutory rape shall be punished by imprisonment for not less than one nor more  
 28 than 20 years; provided, however, that if the person so convicted is 21 years of age or  
 29 older, such person shall be punished by imprisonment for not less than ten nor more than  
 30 20 years; ~~provided, further, that if.~~ Any person convicted under this subsection of the  
 31 offense of statutory rape shall, in addition, be subject to the sentencing and punishment  
 32 provisions of Code Section 17-10-6.2.

33 (c) If the victim is 14 or 15 years of age and the person so convicted is no more than three  
 34 years older than the victim, such person shall be guilty of a misdemeanor."



1 ~~of the offense of aggravated child molestation shall, in addition, and shall~~ be subject to  
 2 the sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7.

3 (2) A person convicted of the offense of aggravated child molestation when:

4 (A) The victim is 14 or 15 years of age;

5 (B) The person so convicted is no more than three years older than the victim; and

6 (C) The basis of the charge of aggravated child molestation involves an act of sodomy  
 7 shall be guilty of a misdemeanor and shall not be subject to the sentencing and punishment  
 8 provisions of Code Section 17-10-6.1.

9 ~~(2) The court sentencing a person who has been convicted of a first offense of aggravated~~  
 10 ~~child molestation when the victim is 16 years of age or younger at the time of the offense~~  
 11 ~~is authorized to require, before sentencing, that the defendant undergo a psychiatric~~  
 12 ~~evaluation to ascertain whether or not medroxyprogesterone acetate chemical treatment~~  
 13 ~~or its equivalent would be effective in changing the defendant's behavior. If it is~~  
 14 ~~determined by a qualified mental health professional that such treatment would be~~  
 15 ~~effective, the court may require, as a condition of probation and upon provisions arranged~~  
 16 ~~between the court and the defendant, the defendant to undergo medroxyprogesterone~~  
 17 ~~acetate treatment or its chemical equivalent which must be coupled with treatment by a~~  
 18 ~~qualified mental health professional. In case of a person sentenced to probation who is~~  
 19 ~~required to undergo such treatment or its chemical equivalent and is in the custody of a~~  
 20 ~~law enforcement agency or confined in a jail at the time of sentencing, when he or she~~  
 21 ~~becomes eligible for probation, such person shall begin medroxyprogesterone acetate~~  
 22 ~~treatment and counseling prior to his or her release from custody or confinement. A~~  
 23 ~~person sentenced to probation who is required to undergo such treatment and who is not~~  
 24 ~~in the custody of a law enforcement agency or confined in a jail at the time of sentencing~~  
 25 ~~shall be taken into custody or confined until treatment can begin. Additional treatment~~  
 26 ~~may continue after such defendant's release from custody or confinement until the~~  
 27 ~~defendant demonstrates to the court that such treatment is no longer necessary. No such~~  
 28 ~~treatment shall be administered until such person has been fully informed of the side~~  
 29 ~~effects of hormonal chemical treatment and has consented to the treatment in writing.~~  
 30 ~~The administration of the treatment shall conform to the procedures and conditions set~~  
 31 ~~out in subsection (c) of Code Section 42-9-44.2.~~

32 ~~(3) Any physician or qualified mental health professional who acts in good faith in~~  
 33 ~~compliance with the provisions of this Code section and subsection (c) of Code Section~~  
 34 ~~42-9-44.2 in the administration of treatment or provision of counseling provided for in~~  
 35 ~~this Code section shall be immune from civil or criminal liability for his or her actions~~  
 36 ~~in connection with such treatment or counseling."~~



1 (b) A probation or parole officer or other custodian or supervisor of another person  
 2 referred to in this Code section commits sexual assault when he or she engages in sexual  
 3 contact with another person who is a probationer or parolee under the supervision of said  
 4 probation or parole officer or who is in the custody of law or who is enrolled in a school  
 5 or who is detained in or is a patient in a hospital or other institution and such actor has  
 6 supervisory or disciplinary authority over such other person. A person convicted of sexual  
 7 assault shall be punished by imprisonment for not less than ~~one~~ ten nor more than ~~three~~ 30  
 8 years; provided, however, that any person convicted of the offense of sexual assault under  
 9 this subsection of a child under the age of 14 years shall be punished by imprisonment for  
 10 not less than 25 nor more than 50 years. Any person convicted under this subsection of the  
 11 offense of sexual assault shall, in addition, be subject to the sentencing and punishment  
 12 provisions of Code Section 17-10-6.2.

13 (c)(1) A person commits sexual assault when such person has supervisory or disciplinary  
 14 authority over another person and such person engages in sexual contact with that other  
 15 person who is:

16 (A) In the custody of law; or

17 (B) Detained in or is a patient in a hospital or other institution.

18 (2) A person commits sexual assault when, as an actual or purported practitioner of  
 19 psychotherapy, he or she engages in sexual contact with another person who the actor  
 20 knew or should have known is the subject of the actor's actual or purported treatment or  
 21 counseling, or, if the treatment or counseling relationship was used to facilitate sexual  
 22 contact between the actor and said person.

23 (3) Consent of the victim shall not be a defense to a prosecution under this subsection.

24 (4) A person convicted of sexual assault under this subsection shall be punished by  
 25 imprisonment for not less than ~~one~~ ten nor more than ~~three~~ 30 years; provided, however,  
 26 that any person convicted of the offense of sexual assault under this subsection of a child  
 27 under the age of 14 years shall be punished by imprisonment for not less than 25 nor  
 28 more than 50 years. Any person convicted under this subsection of the offense of sexual  
 29 assault shall, in addition, be subject to the sentencing and punishment provisions of Code  
 30 Section 17-10-6.2.

31 (d) A person who is an employee, agent, or volunteer at any facility licensed or required  
 32 to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code  
 33 Section 31-7-12, relating to personal care homes, or who is required to be licensed pursuant  
 34 to Code Section 31-7-151 or 31-7-173, relating to home health care and hospices, commits  
 35 sexual assault when such person engages in sexual contact with another person who has  
 36 been admitted to or is receiving services from such facility, person, or entity. A person  
 37 convicted of sexual assault pursuant to this subsection shall be punished by imprisonment

1 for not less than ~~one~~ ten nor more than ~~five~~ 30 years, or a fine of not more than \$5,000.00,  
 2 or both. Any violation of this subsection shall constitute a separate offense. Any person  
 3 convicted under this subsection of the offense of sexual assault shall, in addition, be subject  
 4 to the sentencing and punishment provisions of Code Section 17-10-6.2."

### 5 SECTION 11.

6 Said title is further amended by striking Code Section 16-6-22, relating to incest, and  
 7 inserting in lieu thereof the following:

8 "16-6-22.

9 (a) A person commits the offense of incest when he or she engages in sexual intercourse  
 10 with a person to whom he or she knows he or she is related either by blood or by marriage  
 11 as follows:

- 12 (1) Father and daughter or stepdaughter;
- 13 (2) Mother and son or stepson;
- 14 (3) Brother and sister of the whole blood or of the half blood;
- 15 (4) Grandparent and grandchild;
- 16 (5) Aunt and nephew; or
- 17 (6) Uncle and niece.

18 (b) A person convicted of the offense of incest shall be punished by imprisonment for not  
 19 less than ~~one~~ ten nor more than ~~20~~ 30 years; provided, however, that any person convicted  
 20 of the offense of incest under this subsection with a child under the age of 14 years shall  
 21 be punished by imprisonment for not less than 25 nor more than 50 years. Any person  
 22 convicted under this Code section of the offense of incest shall, in addition, be subject to  
 23 the sentencing and punishment provisions of Code Section 17-10-6.2."

### 24 SECTION 12.

25 Said title is further amended by striking Code Section 16-6-22.1, relating to sexual battery,  
 26 and inserting in lieu thereof the following:

27 "16-6-22.1.

28 (a) For the purposes of this Code section, the term 'intimate parts' means the primary  
 29 genital area, anus, groin, inner thighs, or buttocks of a male or female and the breasts of a  
 30 female.

31 (b) A person commits the offense of sexual battery when he or she intentionally makes  
 32 physical contact with the intimate parts of the body of another person without the consent  
 33 of that person.

34 (c) Except as otherwise provided in this Code section, a person convicted of the offense  
 35 of sexual battery shall be punished as for a misdemeanor of a high and aggravated nature.

1 (d) A person convicted of the offense of sexual battery against any child under the age of  
 2 16 years shall be guilty of a felony and, upon conviction thereof, shall be punished by  
 3 imprisonment for not less than one nor more than five years.

4 (e) Upon a second or subsequent conviction under this Code section, a person shall, in  
 5 addition, be subject to the sentencing and punishment provisions of Code Section  
 6 17-10-6.2."

### 7 SECTION 13.

8 Said title is further amended by striking Code Section 16-6-22.2, relating to aggravated  
 9 sexual battery, and inserting in lieu thereof the following:

10 "16-6-22.2.

11 (a) For the purposes of this Code section, the term 'foreign object' means any article or  
 12 instrument other than the sexual organ of a person.

13 (b) A person commits the offense of aggravated sexual battery when he or she  
 14 intentionally penetrates with a foreign object the sexual organ or anus of another person  
 15 without the consent of that person.

16 (c) A person convicted of the offense of aggravated sexual battery shall be punished by  
 17 imprisonment for not less than ~~ten~~ 25 nor more than ~~20~~ 50 years. ~~Any person convicted~~  
 18 ~~under this Code section shall, in addition,~~ and shall be subject to the sentencing and  
 19 punishment provisions of Code Sections 17-10-6.1 and 17-10-7."

### 20 SECTION 14.

21 Said title is further amended by inserting at the end thereof a new Code Section 16-6-25 to  
 22 read as follows:

23 "16-6-25.

24 (a) As used in this Code section, the term 'law enforcement unit' means any agency, organ,  
 25 or department of this state, or a subdivision or municipality thereof, whose primary  
 26 functions include the enforcement of criminal or traffic laws; the preservation of public  
 27 order; the protection of life and property; or the prevention, detection, or investigation of  
 28 crime. Such term shall also include the Department of Corrections and the State Board of  
 29 Pardons and Paroles.

30 (b) Any person who knows or reasonably believes that a sexual offender, as defined in  
 31 Code Section 42-1-12, is not complying, or has not complied, with the requirements of  
 32 Code Section 42-1-12 and who, with the intent to assist such sexual offender in eluding a  
 33 law enforcement unit that is seeking such sexual offender to question him or her about, or  
 34 to arrest him or her for, his or her noncompliance with the requirements of Code Section  
 35 42-1-12:

- 1 (1) Harbors, attempts to harbor, or assists another person in harboring or attempting  
 2 harbor such sexual offender;
- 3 (2) Conceals, attempts to conceal, or assists another person in concealing or attempting  
 4 to conceal such sexual offender; or
- 5 (3) Provides information to the law enforcement unit regarding such sexual offender  
 6 which the person knows to be false information  
 7 commits a felony and shall be punished by imprisonment for not less than five nor more  
 8 than 20 years."

9 **SECTION 15.**

10 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
 11 amended by striking paragraph (1) of subsection (a) of Code Section 17-10-1, relating to the  
 12 fixing of a sentence, and inserting in lieu thereof the following:

13 "(a)(1) Except in cases in which life imprisonment, life without parole, or the death  
 14 penalty may be imposed, upon a verdict or plea of guilty in any case involving a  
 15 misdemeanor or felony, and after a presentence hearing, the judge fixing the sentence  
 16 shall prescribe a determinate sentence for a specific number of months or years which  
 17 shall be within the minimum and maximum sentences prescribed by law as the  
 18 punishment for the crime. The judge imposing the sentence is granted power and  
 19 authority to suspend or probate all or any part of the entire sentence under such rules and  
 20 regulations as the judge deems proper, including service of a probated sentence in the  
 21 sentencing options system, as provided by Article 9 of Chapter 8 of Title 42, and  
 22 including the authority to revoke the suspension or probation when the defendant has  
 23 violated any of the rules and regulations prescribed by the court, even before the  
 24 probationary period has begun, subject to the conditions set out in this subsection;  
 25 provided, however, that such action shall be subject to the provisions of Code ~~Section~~  
 26 Sections 17-10-6.1 and 17-10-6.2."

27 **SECTION 16.**

28 Said title is further amended by striking Code Section 17-10-6.1, relating to punishment for  
 29 serious violent offenders, and inserting in lieu thereof the following:

30 "17-10-6.1.

31 (a) As used in this Code section, the term 'serious violent felony' means:

- 32 (1) Murder or felony murder, as defined in Code Section 16-5-1;
- 33 (2) Armed robbery, as defined in Code Section 16-8-41;
- 34 (3) Kidnapping, as defined in Code Section 16-5-40;
- 35 (4) Rape, as defined in Code Section 16-6-1;

1 (5) Aggravated child molestation, as defined in subsection (c) of Code Section 16-6-4,  
 2 unless subject to the provisions of paragraph (2) of subsection (d) of Code Section  
 3 16-6-4;

4 (6) Aggravated sodomy, as defined in Code Section 16-6-2; or

5 (7) Aggravated sexual battery, as defined in Code Section 16-6-22.2.

6 (b)(1) Notwithstanding any other provisions of law to the contrary, any person convicted  
 7 of a the serious violent felony as defined in paragraphs (2) through (7) of subsection (a)  
 8 of this Code section of kidnapping involving a victim who is 14 years of age or older or  
 9 armed robbery shall be sentenced to a mandatory minimum term of imprisonment of ten  
 10 years and no portion of the mandatory minimum sentence imposed shall be suspended,  
 11 stayed, probated, deferred, or withheld by the sentencing court and shall not be reduced  
 12 by any form of pardon, parole, or commutation of sentence by the State Board of Pardons  
 13 and Paroles.

14 (2) Notwithstanding any other provisions of law to the contrary, any person convicted  
 15 of the serious violent felony of:

16 (A) Kidnapping involving a victim who is less than 14 years of age;

17 (B) Rape;

18 (C) Aggravated child molestation, as defined in subsection (c) of Code Section 16-6-4,  
 19 unless subject to the provisions of paragraph (2) of subsection (d) of Code Section  
 20 16-6-4;

21 (D) Aggravated sodomy, as defined in Code Section 16-6-2; or

22 (E) Aggravated sexual battery, as defined in Code Section 16-6-22.2

23 shall be sentenced to a split sentence which shall include a mandatory minimum term of  
 24 imprisonment of 25 years followed by probation for the remainder of the person's natural  
 25 life. No portion of the mandatory minimum sentence imposed shall be suspended, stayed,  
 26 probated, deferred, or withheld by the sentencing court and shall not be reduced by any  
 27 form of pardon, parole, or commutation of sentence by the State Board of Pardons and  
 28 Paroles.

29 (3) No person convicted of a serious violent felony as defined in subsection (a) of this  
 30 Code section shall be sentenced as a first offender pursuant to Article 3 of Chapter 8 of  
 31 Title 42, relating to probation for first offenders, or any other provision of Georgia law  
 32 relating to the sentencing of first offenders. The State of Georgia shall have the right to  
 33 appeal any sentence which is imposed by the superior court which does not conform to  
 34 the provisions of this subsection in the same manner as is provided for other appeals by  
 35 the state in accordance with Chapter 7 of Title 5, relating to appeals or certiorari by the  
 36 state.

1 (c)(1) Except as otherwise provided in subsection (c) of Code Section 42-9-39, for a first  
 2 conviction of a serious violent felony in which the defendant has been sentenced to life  
 3 imprisonment, that person shall not be eligible for any form of parole or early release  
 4 administered by the State Board of Pardons and Paroles until that person has served a  
 5 minimum of ~~14~~ 20 years in prison. The minimum term of imprisonment shall not be  
 6 reduced by any earned time, early release, work release, leave, or other sentence-reducing  
 7 measures under programs administered by the Department of Corrections.

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

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

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

### 29 **SECTION 17.**

30 Said title is further amended by adding a new Code section to follow Code Section  
 31 17-10-6.1, relating to punishment for serious violent offenders, to read as follows:

32 "17-10-6.2.

33 (a) As used in this Code section, the term 'sexual offense' means:

34 (1) Aggravated assault with the intent to rape, as defined in Code Section 16-5-21;

35 (2) False imprisonment, as defined in Code Section 16-5-41, if the victim is not the child  
 36 of the defendant and the victim is less than 14 years of age;

1 (3) Sodomy, as defined in Code Section 16-6-2, unless subject to the provisions of  
2 subsection (d) of Code Section 16-6-2;

3 (4) Statutory rape, as defined in Code Section 16-6-3, if the person convicted of the  
4 crime is 21 years of age or older;

5 (5) Child molestation, as defined in subsection (a) of Code Section 16-6-4, unless subject  
6 to the provisions of paragraph (2) of subsection (b) of Code Section 16-6-4;

7 (6) Enticing a child for indecent purposes, as defined in Code Section 16-6-5;

8 (7) Sexual assault against persons in custody, as defined in Code Section 16-6-5.1;

9 (8) Incest, as defined in Code Section 16-6-22;

10 (9) A second or subsequent conviction for sexual battery, as defined in Code Section  
11 16-6-22.1; or

12 (10) Sexual exploitation of children, as defined in Code Section 16-12-100.

13 (b) Except as provided in subsection (c) of this Code section, and notwithstanding any  
14 other provisions of law to the contrary, any person convicted of a sexual offense shall be  
15 sentenced to a split sentence which shall include the minimum term of imprisonment  
16 specified in the Code section applicable to the offense. No portion of the mandatory  
17 minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld by  
18 the sentencing court and such sentence shall include, in addition to the mandatory  
19 imprisonment, an additional probated sentence of at least one year. No person convicted  
20 of a sexual offense, except, in the court's discretion, a person who is less than 21 years of  
21 age at the time of the offense, shall be sentenced as a first offender pursuant to Article 3  
22 of Chapter 8 of Title 42, relating to probation for first offenders, or any other provision of  
23 Georgia law relating to the sentencing of first offenders.

24 (c)(1) In the court's discretion, the court may deviate from the mandatory minimum  
25 sentence as set forth in subsection (b) of this Code section, or any portion thereof,  
26 provided that:

27 (A) The defendant has no prior conviction of an offense prohibited by Chapter 6 of  
28 Title 16 or Part 2 of Article 3 of Chapter 12 of Title 16, nor a prior conviction for any  
29 offense under federal law or the laws of another state or territory of the United States  
30 which consists of the same or similar elements of offenses prohibited by Chapter 6 of  
31 Title 16 or Part 2 of Article 3 of Chapter 12 of Title 16;

32 (B) The defendant did not use a deadly weapon or any object, device, or instrument  
33 which when used offensively against a person would be likely to or actually did result  
34 in serious bodily injury during the commission of the offense;

35 (C) The court has not found evidence of a relevant similar transaction;

36 (D) The victim did not suffer any physical harm or visible bodily harm during the  
37 commission of the offense;

1 (E) The offense did not involve transportation of the victim; and

2 (F) The victim was not physically restrained during the commission of the offense.

3 (2) If the court deviates in sentencing pursuant to this subsection, the judge shall issue  
4 a written order setting forth the judge's reasons.

5 (d) If the court imposes a probated sentence, the defendant shall submit to review by the  
6 Sexual Offender Registration Review Board for purposes of risk assessment classification  
7 within ten days of being sentenced and shall otherwise comply with Article 2 of Chapter  
8 1 of Title 42."

9 **SECTION 18.**

10 Said title is further amended in subsection (b) of Code Section 17-10-30, relating to the  
11 procedure for implementation of the death penalty generally, by striking "or" at the end of  
12 paragraph (9), by adding "; or" at the end of paragraph (10), and by adding a new paragraph  
13 (11) to read as follows:

14 "(11) The offense of murder, rape, or kidnapping was committed by a person previously  
15 designated as a sexually dangerous predator pursuant to Code Section 42-1-14."

16 **SECTION 19.**

17 Title 35 of the Official Code of Georgia Annotated, relating to law enforcement officers and  
18 agencies, is amended by striking subparagraph (A) of paragraph (4) of Code Section 35-3-30,  
19 relating to definitions used for the Georgia Crime Information Center article, and inserting  
20 in lieu thereof the following:

21 "(A) 'Criminal history record information' means information collected by criminal  
22 justice agencies on individuals consisting of identifiable descriptions and notations of  
23 arrests, detentions, indictments, accusations, information, or other formal charges, and  
24 any disposition arising therefrom, sentencing, correctional supervision, and release.  
25 Such term also includes the age and sex of each victim as provided by criminal justice  
26 agencies. The term does not include identification information, such as fingerprint  
27 records, to the extent that such information does not indicate involvement of the  
28 individual in the criminal justice system."

29 **SECTION 20.**

30 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended  
31 by designating Code Sections 42-1-1 through 42-1-11 as Article 1 of Chapter 1, striking in  
32 their entirety Code Sections 42-1-12 and 42-1-13, and inserting in their place a new Article  
33 2 to read as follows:

## "ARTICLE 2

42-1-12.

(a) As used in this article, the term:

(1) 'Address' means the street or route address of the sexual offender's residence. For purposes of this Code section, the term does not mean a post office box, and homeless does not constitute an address.

(2) 'Appropriate official' means:

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

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

(C) With respect to a sexual offender who is placed on parole, the chairperson of the State Board of Pardons and Paroles or his or her designee; and

(D) With respect to a sexual offender who is placed on probation through a private probation agency, the director of the private probation agency or his or her designee.

(3) 'Area where minors congregate' shall include all public and private parks and recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums, bus stops, and all other places established for the public to congregate and wait for public transportation.

(4) 'Assessment criteria' means the tests that the board members use to determine the likelihood that a sexual offender will commit another criminal offense against a victim who is a minor or commit a dangerous sexual offense.

(5) 'Board' means the Sexual Offender Registration Review Board.

(6) 'Child care facility' means all public and private pre-kindergarten facilities, day-care centers, preschool facilities, and long-term care facilities for children.

(7) 'Church' means a place of public religious worship.

(8) 'Conviction' includes a final judgment of conviction entered upon a verdict or finding of guilty of a crime, a plea of guilty, or a plea of nolo contendere. A defendant who is discharged without adjudication of guilt and who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall be subject to the registration requirements of this Code section for the period of time prior to the defendant's discharge after completion of his or her sentence or upon the defendant

1 being adjudicated guilty. Unless otherwise required by federal law, a defendant who is  
2 discharged without adjudication of guilt and who is not considered to have a criminal  
3 conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall  
4 not be subject to the registration requirements of this Code section upon the defendant's  
5 discharge.

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

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

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

- 22 (i) Kidnapping of a minor, except by a parent;
- 23 (ii) False imprisonment of a minor, except by a parent;
- 24 (iii) Criminal sexual conduct toward a minor;
- 25 (iv) Solicitation of a minor to engage in sexual conduct;
- 26 (v) Use of a minor in a sexual performance;
- 27 (vi) Solicitation of a minor to practice prostitution;
- 28 (vii) Use of a minor to engage in any sexually explicit conduct to produce any visual  
29 medium depicting such conduct;
- 30 (viii) Creating, publishing, selling, distributing, or possessing any material depicting  
31 a minor or a portion of a minor's body engaged in sexually explicit conduct;
- 32 (ix) Transmitting, making, selling, buying, or disseminating by means of a computer  
33 any descriptive or identifying information regarding a child for the purpose of  
34 offering or soliciting sexual conduct of or with a child or the visual depicting of such  
35 conduct;
- 36 (x) Conspiracy to transport, ship, receive, or distribute visual depictions of minors  
37 engaged in sexually explicit conduct; or

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

2 (10)(A) 'Dangerous sexual offense' with respect to convictions occurring after June 30,  
3 2006, means any criminal offense under Title 16 as specified in this paragraph or any  
4 offense under federal law or the laws of another state or territory of the United States  
5 which consists of the same or similar elements of the following offenses:

6 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-2;

7 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who  
8 is less than 14 years of age, except by a parent;

9 (iii) False imprisonment in violation of Code Section 16-5-41 which involves a  
10 victim who is less than 14 years of age, except by a parent;

11 (iv) Rape in violation of Code Section 16-6-1;

12 (v) Sodomy in violation of Code Section 16-6-2;

13 (vi) Aggravated sodomy in violation of Code Section 16-6-2;

14 (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted  
15 of the offense is 21 years of age or older;

16 (viii) Child molestation in violation of Code Section 16-6-4;

17 (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the  
18 person was convicted of a misdemeanor offense;

19 (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;

20 (xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;

21 (xii) Incest in violation of Code Section 16-6-22;

22 (xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;

23 (xiv) Aggravated sexual battery in violation of Code Section 16-6-23;

24 (xv) Sexual exploitation of children in violation of Code Section 16-12-100;

25 (xvi) Electronically furnishing obscene material to minors in violation of Code  
26 Section 16-12-100.1;

27 (xvii) Computer pornography and child exploitation prevention in violation of Code  
28 Section 16-12-100.2;

29 (xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or

30 (xix) Any conduct which, by its nature, is a sexual offense against a minor or an  
31 attempt to commit a sexual offense against a minor.

32 (B) For purposes of this paragraph, conduct which is punished as for a misdemeanor  
33 or which is prosecuted in juvenile court shall not be considered a dangerous sexual  
34 offense.

35 (11) 'Institution of higher education' means a private or public community college, state  
36 university, state college, or independent postsecondary institution.

1 (12) 'Level I risk assessment classification' means the sexual offender is a low sex  
2 offense risk and low general recidivism risk.

3 (13) 'Level II risk assessment classification' means the sexual offender is an intermediate  
4 sex offense risk and intermediate general recidivism risk and includes all sexual offenders  
5 who do not meet the criteria for classification either as a sexually dangerous predator or  
6 for Level I risk assessment.

7 (14) 'Minor' means any individual under the age of 18 years and any individual that the  
8 sexual offender believed at the time of the offense was under the age of 18 years if such  
9 individual was the victim of an offense.

10 (15) 'Required registration information' means:

11 (A) Name; social security number; age; race; sex; date of birth; height; weight; hair  
12 color, eye color, fingerprints; and photograph;

13 (B) Address of any permanent residence and address of any current temporary  
14 residence, within the state or out of state, and, if applicable in addition to the address,  
15 a rural route address and a post office box;

16 (C) If the place of residence is a motor vehicle or trailer, provide the vehicle  
17 identification number, the license tag number, and a description, including color  
18 scheme, of the motor vehicle or trailer;

19 (D) If the place of residence is a mobile home, provide the mobile home location  
20 permit number; the name and address of the owner of the home; a description, including  
21 the color scheme of the mobile home; and, if applicable, a description of where the  
22 mobile home is located on the property;

23 (E) If the place of residence is a manufactured home, provide the title number assigned  
24 to the home; the name and address of the owner of the home; a description, including  
25 the color scheme of the manufactured home; and, if applicable, a description of where  
26 the manufactured home is located on the property.

27 (F) If the place of residence is a vessel, live-aboard vessel, or houseboat, provide the  
28 hull identification number; the manufacturer's serial number; the name of the vessel,  
29 live-aboard vessel, or houseboat; the registration number; and a description, including  
30 color scheme, of the vessel, live-aboard vessel, or houseboat;

31 (G) Date of employment, place of any employment, and address of employer;

32 (H) Place of vocation and address of the place of vocation;

33 (I) Vehicle make, model, color, and license tag number;

34 (J) If enrolled, employed, or carrying on a vocation at an institution of higher education  
35 in this state, the name, address, and county of each institution, including each campus  
36 attended, and enrollment or employment status; and

1 (K) The name of the crime or crimes for which the sexual offender is registering and  
 2 the date released from prison or placed on probation, parole, or supervised release.

3 (16) 'Risk assessment classification' means the notification level into which a sexual  
 4 offender is placed based on the board's assessment.

5 (17) 'School' means all public and private kindergarten, elementary, and secondary  
 6 schools.

7 (18) 'Sexual offender' means any individual:

8 (A) Who has been convicted of a criminal offense against a victim who is a minor or  
 9 any dangerous sexual offense; or

10 (B) Who has been convicted under the laws of another state or territory, under the laws  
 11 of the United States, under the Uniform Code of Military Justice, or in a tribal court of  
 12 a criminal offense against a victim who is a minor or a dangerous sexual offense.

13 (19) 'Sexually dangerous predator' means a sexual offender:

14 (A) Who was designated as a sexually violent offender between July 1, 1996, and June  
 15 30, 2006; or

16 (B) Who has been convicted on or after July 1, 2006, of a dangerous sexual offense;  
 17 and

18 who is determined by the Sexual Offender Registration Review Board to be at risk of  
 19 perpetrating any future dangerous sexual offense.

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

23 (b) Before a sexual offender who is required to register under this Code section is released  
 24 from prison or placed on parole, supervised release, or probation, the appropriate official  
 25 shall:

26 (1) Inform the sexual offender of the obligation to register, the amount of the registration  
 27 fee, and how to maintain registration;

28 (2) Obtain the information necessary for the required registration information;

29 (3) Inform the sexual offender that, if the sexual offender changes any of the required  
 30 registration information, other than residence address, the sexual offender shall give the  
 31 new information to the sheriff of the county with whom the sexual offender is registered  
 32 within 72 hours of the change of information; if the information is the sexual offender's  
 33 new residence address, the sexual offender shall give the information to the sheriff of the  
 34 county with whom the sexual offender last registered not sooner than 72 hours before  
 35 moving and to the sheriff of the county to which the sexual offender is moving not later  
 36 than 72 hours after the change of information;

- 1 (4) Inform the sexual offender that he or she shall also register in any state where he or  
2 she is employed, carries on a vocation, or is a student;
  - 3 (5) Inform the sexual offender that, if he or she changes residence to another state, the  
4 sexual offender shall register the new address with the sheriff of the county with whom  
5 the sexual offender last registered, and that the sexual offender shall also register with a  
6 designated law enforcement agency in the new state not later than 72 hours after  
7 establishing residence in the new state;
  - 8 (6) Obtain fingerprints and a current photograph of the sexual offender;
  - 9 (7) Require the sexual offender to read and sign a form stating that the obligations of the  
10 sexual offender have been explained;
  - 11 (8) Obtain and forward any information obtained from the clerk of court pursuant to  
12 Code Section 42-5-50 to the sheriff's office of the county in which the sexual offender  
13 will reside; and
  - 14 (9) If required by Code Section 42-1-14, place any required electronic monitoring device  
15 on the sexually dangerous predator and explain its operation and cost.
- 16 (c) The Department of Corrections shall:
- 17 (1) Forward to the Georgia Bureau of Investigation a copy of the form stating that the  
18 obligations of the sexual offender have been explained;
  - 19 (2) Forward any required registration information to the Georgia Bureau of Investigation;
  - 20 (3) Forward the sexual offender's fingerprints and photograph to the sheriff's office of  
21 the county where the sexual offender is going to reside;
  - 22 (4) Inform the board and the prosecuting attorney for the jurisdiction in which a sexual  
23 offender was convicted of the impending release of a sexual offender at least eight  
24 months prior to such release so as to facilitate compliance with Code Section 42-1-14;  
25 and
  - 26 (5) Keep all records of sexual offenders in a secure facility until official proof of death  
27 of a registered sexual offender and thereafter the records shall be destroyed in accordance  
28 with Code Sections 15-1-10, 15-6-62, and 15-6-62.1.
- 29 (d) No sexual offender shall be released from prison or placed on parole, supervised  
30 release, or probation until:
- 31 (1) The appropriate official has provided the Georgia Bureau of Investigation and the  
32 sheriff's office in the county where the sexual offender will be residing with the sexual  
33 offender's required registration information and risk assessment classification level; and
  - 34 (2) The sexual offender's name has been added to the list of sexual offenders maintained  
35 by the Georgia Bureau of Investigation and the sheriff's office as required by this Code  
36 section.
- 37 (e) Registration pursuant to this Code section shall be required by any individual who:

- 1 (1) Is convicted on or after July 1, 1996, of a criminal offense against a victim who is a  
2 minor;
  - 3 (2) Is convicted on or after July 1, 2006, of a dangerous sexual offense;
  - 4 (3) Has previously been convicted of a criminal offense against a minor and may be  
5 released from prison or placed on parole, supervised release, or probation on or after July  
6 1, 1996;
  - 7 (4) Has previously been convicted of a sexually violent offense and may be released  
8 from prison or placed on parole, supervised release, or probation;
  - 9 (5) Is a resident of Georgia who intends to reside in this state and who is convicted under  
10 the laws of another state or the United States, under the Uniform Code of Military Justice,  
11 or in a tribal court of a sexually violent offense, a criminal offense against a victim who  
12 is a minor on or after July 1, 1999, or a dangerous sexual offense on or after July 1, 2006;
  - 13 (6) Is a nonresident sexual offender who changes residence from another state or territory  
14 of the United States to Georgia who is required to register as a sexual offender under  
15 federal law, military law, tribal law, or the laws of another state or territory, regardless  
16 of when the conviction occurred;
  - 17 (7) Is a nonresident sexual offender who enters this state for the purpose of employment  
18 for a period exceeding 14 consecutive days or for an aggregate period of time exceeding  
19 30 days during any calendar year regardless of whether such sexual offender is required  
20 to register under federal law, military law, tribal law, or the laws of another state or  
21 territory; or
  - 22 (8) Is a nonresident sexual offender who enters this state for the purpose of attending  
23 school as a full-time or part-time student regardless of whether such sexual offender is  
24 required to register under federal law, military law, tribal law, or the laws of another state  
25 or territory.
- 26 (f) Any sexual offender required to register under this Code section shall:
- 27 (1) Provide the required registration information to the appropriate official before being  
28 released from prison or placed on parole, supervised release, or probation;
  - 29 (2) Register with the sheriff of the county in which the sexual offender resides within 72  
30 hours after the sexual offender's release from prison or placement on parole, supervised  
31 release, probation, or entry into this state;
  - 32 (3) Maintain the required registration information with the sheriff of the county in which  
33 the sexual offender resides;
  - 34 (4) Renew the required registration information with the sheriff of the county in which  
35 the sexual offender resides by reporting to the sheriff within 72 hours of such offender's  
36 birthday each year to be photographed and fingerprinted;

1 (5) Update the required registration information with the sheriff of the county in which  
2 the sexual offender resides within 72 hours of any change to the required registration  
3 information, other than residence address; if the information is the sexual offender's new  
4 residence address, the sexual offender shall give the information to the sheriff of the  
5 county with whom the sexual offender last registered no sooner than 72 hours before any  
6 change of residence address and to the sheriff of the county to which the sexual offender  
7 is moving;

8 (6) If convicted of a dangerous sexual offense on or after July 1, 2006, pay to the sheriff  
9 of the county where the sexual offender resides an annual registration fee of \$250.00  
10 upon each anniversary of such registration; and

11 (7) Continue to comply with the registration requirements of this Code section for the  
12 entire life of the sexual offender, including ensuing periods of incarceration.

13 (g)(1) The appropriate official or sheriff shall, within 72 hours after receipt of the  
14 required registration information, forward such information to the Georgia Bureau of  
15 Investigation. Once the data is entered into the Criminal Justice Information System by  
16 the appropriate official or sheriff, the Georgia Crime Information Center shall notify the  
17 sheriff of the sexual offender's county of residence, either permanent or temporary, the  
18 sheriff of the county of employment, and the sheriff of the county where the sexual  
19 offender attends an institution of higher education within 24 hours of entering the data  
20 or any change to the data.

21 (2) The Georgia Bureau of Investigation shall:

22 (A) Transmit all information, including the conviction data and fingerprints, to the  
23 Federal Bureau of Investigation within 24 hours of entering the data;

24 (B) Establish operating policies and procedures concerning record ownership, quality,  
25 verification, modification, and cancellation; and

26 (C) Perform mail out and verification duties as follows:

27 (i) Send each month Criminal Justice Information System network messages to  
28 sheriffs listing sexual offenders due for verification;

29 (ii) Create a photo image file from original entries and provide such entries to sheriffs  
30 to assist in sexual offender identification and verification;

31 (iii) Mail a nonforwardable verification form to the last reported address of the sexual  
32 offender prior to the sexual offender's birthday;

33 (iv) If the sexual offender changes residence to another state, notify the law  
34 enforcement agency with which the sexual offender shall register in the new state; and

35 (v) Maintain records required under this Code section.

- 1 (h) The sheriff's office in each county shall:
- 2 (1) Prepare and maintain a list of all sexual offenders and sexually dangerous predators  
3 residing in each county. Such list shall include the sexual offender's name; age; physical  
4 description; address; crime of conviction, including conviction date and the jurisdiction  
5 of the conviction; photograph; and the risk assessment classification level provided by  
6 the board, and an explanation of how the board classifies sexual offenders and sexually  
7 dangerous predators;
- 8 (2) Electronically submit and update all information provided by the sexual offender  
9 within two working days to the Georgia Bureau of Investigation in a manner prescribed  
10 by the Georgia Bureau of Investigation;
- 11 (3) Maintain and post a list of every sexual offender residing in each county:
- 12 (A) In the sheriff's office;
- 13 (B) In any county administrative building;
- 14 (C) In the main administrative building for any municipal corporation;
- 15 (D) In the office of the clerk of the superior court so that such list is available to the  
16 public; and
- 17 (E) On a website maintained by the sheriff of the county for the posting of general  
18 information;
- 19 (4) Update the public notices required by paragraph (3) of this Code section within two  
20 working days;
- 21 (5) Inform the public of the presence of sexual offenders in each community;
- 22 (6) Update the list of sexual offenders residing in the county upon receipt of new  
23 information affecting the residence address of a sexual offender or upon the registration  
24 of a sexual offender moving into the county by virtue of release from prison, relocation  
25 from another county, conviction in another state, federal court, military tribunal, or tribal  
26 court. Such list, and any additions to such list, shall be delivered immediately to all  
27 schools or institutions of higher education located in the county;
- 28 (7) Within 72 hours of the receipt of changed required registration information, notify  
29 the Georgia Bureau of Investigation through the Criminal Justice Information System of  
30 each change of information;
- 31 (8) Retain the verification form stating that the sexual offender still resides at the address  
32 last reported;
- 33 (9) Enforce the criminal provisions of this Code section. The sheriff may request the  
34 assistance of the Georgia Bureau of Investigation to enforce the provisions of this Code  
35 section;
- 36 (10) Cooperate and communicate with other sheriffs' offices in this state and in the  
37 United States to maintain current data on the location of sexual offenders;

1 (11) Determine the appropriate time of day for reporting by sexual offenders, which shall  
2 be consistent with the reporting requirements of this Code section;

3 (12) If required by Code Section 42-1-14, place any electronic monitoring device on the  
4 sexually dangerous predator and explain its operation and cost;

5 (13) Provide current information on names and addresses of all registered sexual  
6 offenders to campus police with jurisdiction for the campus of an institution of higher  
7 education if the campus is within the sheriff's jurisdiction; and

8 (14) Collect the annual \$250.00 registration fee from the sexual offender and transmit  
9 such fees to the state for deposit into the General Fund.

10 (i)(1) The sheriff of the county where the sexual offender resides or last registered shall  
11 be the primary law enforcement official charged with communicating the whereabouts  
12 of the sexual offender and any changes in required registration information to the  
13 sheriff's office of the county or counties where the sexual offender is employed,  
14 volunteers, attends an institution of higher education, or moves.

15 (2) The sheriff's office may post the list of sexual offenders in any public building in  
16 addition to those locations enumerated in subsection (h) of this Code section.

17 (j) The Georgia Crime Information Center shall create the Criminal Justice Information  
18 System network transaction screens by which appropriate officials shall enter original data  
19 required by this Code section. Screens shall also be created for sheriffs' offices for the  
20 entry of record confirmation data; employment; changes of residence, institutions of higher  
21 education, or employment; or other pertinent data to assist in sexual offender identification.

22 (k)(1) On at least an annual basis, the Department of Education shall obtain from the  
23 Georgia Bureau of Investigation a complete list of the names and addresses of all  
24 registered sexual offenders and shall send such list, accompanied by a hold harmless  
25 provision, to each school in this state. In addition, the Department of Education shall  
26 provide information to each school in this state on accessing and retrieving from the  
27 Georgia Bureau of Investigation's website a list of the names and addresses of all  
28 registered sexual offenders.

29 (2) On at least an annual basis, the Department of Early Care and Learning shall provide  
30 current information to all child care programs regulated pursuant to Code Section  
31 20-1A-10 on accessing and retrieving from the Georgia Bureau of Investigation's website  
32 a list of the names and addresses of all registered sexual offenders and shall include, on  
33 a continuing basis, such information with each application for licensure, commissioning,  
34 or registration for early care and education programs.

35 (3) On at least an annual basis, the Department of Human Resources shall provide  
36 current information to all day-care, group day-care, and family day-care programs  
37 regulated pursuant to Code Section 49-5-12 and to all long-term facilities for children on

1 accessing and retrieving from the Georgia Bureau of Investigation's website a list of the  
2 names and addresses of all registered sexual offenders.

3 (l) Within ten days of the filing of a defendant's discharge and exoneration of guilt  
4 pursuant to Article 3 of Chapter 8 of this title, the clerk of court shall transmit the order of  
5 discharge and exoneration to the Georgia Bureau of Investigation and any sheriff  
6 maintaining records required under this Code section.

7 (m) Any individual who:

8 (1) Is required to register under this Code section and who fails to comply with the  
9 requirements of this Code section;

10 (2) Provides false information; or

11 (3) Fails to respond directly to the sheriff within 72 hours of such individual's birthday  
12 shall be guilty of a felony and shall be punished by imprisonment for not less than ten nor  
13 more than 30 years; provided, however, that upon the conviction of the second offense  
14 under this subsection, the defendant shall be punished by imprisonment for life.

15 (n) The information collected pursuant to this Code section shall be treated as private data  
16 except that:

17 (1) Such information may be disclosed to law enforcement agencies for law enforcement  
18 purposes;

19 (2) Such information may be disclosed to government agencies conducting confidential  
20 background checks; and

21 (3) The Georgia Bureau of Investigation or any sheriff maintaining records required  
22 under this Code section shall, in addition to the requirements of this Code section to  
23 inform the public of the presence of sexual offenders in each community, release such  
24 other relevant information collected under this Code section that is necessary to protect  
25 the public concerning sexual offenders required to register under this Code section,  
26 except that the identity of a victim of an offense that requires registration under this Code  
27 section shall not be released.

28 (o) The Board of Public Safety is authorized to promulgate rules and regulations necessary  
29 for the Georgia Bureau of Investigation and the Georgia Crime Information Center to  
30 implement and carry out the provisions of this Code section.

31 (p) Law enforcement agencies, employees of law enforcement agencies, and state officials  
32 shall be immune from liability for good faith conduct under this article.

33 42-1-13.

34 (a) The Sexual Offender Registration Review Board shall be composed of three  
35 professionals licensed under Title 43 and knowledgeable in the field of the behavior and  
36 treatment of sexual offenders; at least one representative from a victims' rights advocacy

1 group or agency; and at least two representatives from law enforcement, each of whom is  
 2 either employed by a law enforcement agency as a certified peace officer under Title 35  
 3 or retired from such employment. The members of the board shall be appointed by the  
 4 commissioner of human resources for terms of four years. On and after July 1, 2006,  
 5 successors to the members of the board shall be appointed by the Governor. Members of  
 6 the board shall take office on the first day of September immediately following the expired  
 7 term of that office and shall serve for a term of four years and until the appointment of their  
 8 respective successors. No member shall serve on the board more than two consecutive  
 9 terms. Vacancies occurring on the board, other than those caused by expiration of a term  
 10 of office, shall be filled in the same manner as the original appointment to the position  
 11 vacated for the remainder of the unexpired term and until a successor is appointed.  
 12 Members shall be entitled to an expense allowance and travel cost reimbursement the same  
 13 as members of certain other boards and commissions as provided in Code Section 45-7-21.

14 (b) The board shall be attached to the Department of Human Resources for administrative  
 15 purposes and, provided there is adequate funding, shall:

16 (1) Exercise its quasi-judicial, rule-making, or policy-making functions independently  
 17 of the department and without approval or control of the department;

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

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

22 (c) Members of the board shall be immune from liability for good faith conduct under this  
 23 article.

24 42-1-14.

25 (a) The board shall determine the likelihood that a sexual offender will engage in another  
 26 crime against a victim who is a minor or a dangerous sexual offense. The board shall make  
 27 such determination for any sexual offender convicted on or after July 1, 2006, of a criminal  
 28 act against a minor or a dangerous sexual offense and for any sexual offender incarcerated  
 29 on July 1, 2006, but convicted prior to July 1, 2006, of a criminal act against a minor. Such  
 30 determination shall not be required to be made by the board until January 1, 2007;  
 31 provided, however, that such persons shall be subject to this Code section. A sexual  
 32 offender shall be placed into Level I risk assessment classification, Level II risk assessment  
 33 classification, or sexually dangerous predator classification based upon the board's  
 34 assessment criteria and information obtained and reviewed by the board. The sexual  
 35 offender may provide the board with information including, but not limited to,  
 36 psychological evaluations, sexual history polygraph information, treatment history,

1 personal, social, educational, and work history, and may agree to submit to a psychosexual  
2 evaluation or sexual history polygraph conducted by the board. If the sexual offender has  
3 undergone treatment through the Department of Corrections, such treatment records shall  
4 also be submitted to the board for evaluation. The prosecuting attorney shall provide the  
5 board with any information available to assist the board in rendering an opinion, including,  
6 but not limited to, criminal history and records related to previous criminal history. On and  
7 after July 1, 2006, the clerk of court shall send a copy of the sexual offender's conviction  
8 to the board and notify the board that a sexual offender's evaluation will need to be  
9 performed. The board shall render its recommendation for risk assessment classification  
10 within:

- 11 (1) Sixty days of receipt of a request for an evaluation if the sexual offender is being  
12 sentenced pursuant to subsection (c) of Code Section 17-10-6.2;
- 13 (2) Six months prior to the sexual offender's proposed release from confinement if the  
14 offender is incarcerated; and
- 15 (3) Forty-five days of receipt of the required registration information if the sexual  
16 offender has entered this state from another state and registered as a sexual offender.

17 The board shall send a copy of its risk assessment classification to the Department of  
18 Corrections, sexual offender, and sentencing court, if applicable.

19 (b)(1) If the sexual offender has been sentenced pursuant to subsection (c) of Code  
20 Section 17-10-6.2, after receiving a recommendation from the board that he or she be  
21 classified as a sexually dangerous predator, the sexual offender may request that the  
22 sentencing court set a date to conduct a hearing affording the sexual offender the  
23 opportunity to present testimony or evidence relevant to the recommended classification.  
24 After the hearing and within 60 days of receiving the report, the court shall issue a ruling  
25 as to whether or not the sexual offender shall be classified as a sexually dangerous  
26 predator. If the court determines the sexual offender to be a sexually dangerous predator,  
27 such fact shall be communicated in writing to the appropriate official, the Georgia Bureau  
28 of Investigation, and the sheriff of the county where the sexual offender resides.

29 (2) If the sexual offender received a sentence of imprisonment and was sentenced for a  
30 dangerous sexual offense on or after July 1, 2006, or if the sexual offender is incarcerated  
31 on July 1, 2006, for a crime against a victim who is a minor, after receiving a  
32 recommendation from the board that he or she be classified as a sexually dangerous  
33 predator, the sexual offender may request that the sentencing court set a date to conduct  
34 a hearing affording the sexual offender the opportunity to present testimony or evidence  
35 relevant to the recommended classification. After the hearing and within 60 days of  
36 receiving the report, the court shall issue a ruling as to whether or not the sexual offender  
37 shall be classified as a sexually dangerous predator. If the court determines the sexual

1 offender to be a sexually dangerous predator, such fact shall be communicated in writing  
2 to the appropriate official, the Georgia Bureau of Investigation, and the sheriff of the  
3 county where the sexual offender resides.

4 (c) Any sexual offender who changes residence from another state or territory of the  
5 United States to this state and who is not designated as a sexually dangerous predator,  
6 sexual predator, or a sexually violent predator shall have his or her required registration  
7 information forwarded by the sheriff of his or her county of registration to the board for the  
8 purpose of risk assessment classification. After receiving a recommendation from the  
9 board that he or she be classified as a sexually dangerous predator, the sexual offender  
10 may, within 30 days after the issuance of such classification, request a hearing before an  
11 administrative law judge. Such hearing shall be conducted in accordance with Chapter 13  
12 of Title 50, the 'Georgia Administrative Procedure Act.' The decision of the administrative  
13 law judge shall constitute the final decision of the board subject to the right of judicial  
14 review in accordance with Chapter 13 of Title 50. If the final determination is that the  
15 sexual offender is classified as a sexually dangerous predator, such fact shall be  
16 communicated in writing to the appropriate official, the Georgia Bureau of Investigation,  
17 and the sheriff of the county where the sexual offender resides.

18 (d) Any individual who was classified as a sexually violent predator prior to July 1, 2006,  
19 shall be classified as a sexually dangerous predator on and after July 1, 2006.

20 (e) Any sexually dangerous predator shall be required to wear an electronic monitoring  
21 device that shall have, at a minimum, the capacity to locate and record the location of the  
22 sexually dangerous predator by a link to a global positioning satellite system, have  
23 two-way voice communication capability, have an alarm at no less than 95 decibels that  
24 can be remotely activated, and is automatically activated and broadcasts the sexually  
25 dangerous predator's location if the monitor is removed or tampered with by anyone other  
26 than a law enforcement official designated to maintain and remove or replace the monitor.  
27 Such monitor shall be worn by a sexually dangerous predator for the remainder of his or  
28 her natural life. The sexually dangerous predator shall pay the cost of such monitor to the  
29 Department of Corrections if the sexually dangerous predator is on probation; to the Board  
30 of Pardons and Paroles if the sexually dangerous predator is on parole; and to the sheriff  
31 after the sexually dangerous predator completes his or her term of probation and parole or  
32 if the sexually dangerous predator has moved to this state from another state, territory, or  
33 country. The monitor shall be placed upon the sexually dangerous predator prior to his or  
34 her release from confinement. If the sexual offender is not in custody, within 72 hours of  
35 the decision classifying the sexual offender as a sexually dangerous predator by the court  
36 in accordance with subsection (b) of this Code section or a final decision pursuant to  
37 subsection (c) of this Code section, whichever applies to the sexual offender's situation,

1 the sexually dangerous predator shall report to the sheriff of the county of his or her  
2 residence for purposes of having the monitor placed on the sexually dangerous predator.

3 (f) In addition to the requirements of registration for all sexual offenders, a sexually  
4 dangerous predator shall report to the sheriff of the county where such predator resides six  
5 months following his or her birth month and update or verify his or her required  
6 registration information.

7 42-1-15.

8 (a) No individual required to register pursuant to Code Section 42-1-12 shall reside or  
9 loiter within 1,000 feet of any child care facility, church, school, or area where minors  
10 congregate. Such distance shall be determined by measuring from the outer boundary of  
11 the property on which the individual resides to the outer boundary of the property of the  
12 child care facility, church, school, or area where minors congregate at their closest points.

13 (b) No individual who is required to register under Code Section 42-1-12 shall be  
14 employed by any child care facility, school, or church or by any business or entity that is  
15 located within 1,000 feet of an area where minors congregate, a child care facility, a school,  
16 or a church.

17 (c) Any sexual offender who knowingly violates the provisions of this Code section shall  
18 be guilty of a felony and shall be punished by imprisonment for not less than ten nor more  
19 than 30 years.

20 (d) Nothing in this Code section shall create, either directly or indirectly, any civil cause  
21 of action against or result in criminal prosecution of any person, firm, corporation,  
22 partnership, trust, or association other than an individual required to be registered under  
23 Code Section 42-1-12."

## 24 SECTION 21.

25 Said title is further amended by striking subsection (b) of Code Section 42-8-35, relating to  
26 terms and conditions of probation, and inserting in lieu thereof the following:

27 "(b) In determining the terms and conditions of probation for a probationer who has been  
28 convicted of a criminal offense against a victim who is a minor or dangerous sexual offense  
29 as ~~that phrase is~~ those terms are defined in ~~subparagraph (a)(4)(B)~~ of Code Section  
30 42-1-12, the court may provide that the probationer shall be:

31 (1) Prohibited from entering or remaining present at a victim's school, place of  
32 employment, place of residence, or other specified place at times when a victim is present  
33 or from ~~entering or remaining present~~ loitering in areas where minors congregate, child  
34 care facilities, churches, or schools as those terms are defined in ~~subsection (a)~~ of Code  
35 Section ~~42-1-13~~ 42-1-12;

1 (2) Required to wear a device capable of tracking the location of the probationer by  
 2 means including electronic surveillance or global positioning systems. ~~The Unless the~~  
 3 ~~probationer is indigent, the~~ department shall assess and collect fees from the probationer  
 4 for such monitoring at levels set by regulation by the department; and

5 (3) Prohibited from seeking election to a ~~Local Board of Education~~ local board of  
 6 education."

## 7 SECTION 22.

8 Said title is further amended by striking Code Section 42-8-60, relating to probation prior to  
 9 adjudication of guilt, and inserting in lieu thereof the following:

10 "42-8-60.

11 (a) Upon a verdict or plea of guilty or a plea of nolo contendere, but before an adjudication  
 12 of guilt, in the case of a defendant who has not been previously convicted of a felony, the  
 13 court may, without entering a judgment of guilt and with the consent of the defendant:

14 (1) Defer further proceeding and place the defendant on probation as provided by law;  
 15 or

16 (2) Sentence the defendant to a term of confinement as provided by law.

17 (b) Upon violation by the defendant of the terms of probation, upon a conviction for  
 18 another crime during the period of probation, or upon the court determining that the  
 19 defendant is or was not eligible for sentencing under this article, the court may enter an  
 20 adjudication of guilt and proceed as otherwise provided by law. No person may avail  
 21 himself or herself of this article on more than one occasion.

22 (c) The court shall not sentence a defendant under the provisions of this article and, if  
 23 sentenced under the provisions of this article, shall not discharge the defendant upon  
 24 completion of the sentence unless the court has reviewed the defendant's criminal record  
 25 as such is on file with the Georgia Crime Information Center.

26 (d) The court shall not sentence a defendant under the provisions of this article who has  
 27 been found guilty of or entered a plea of guilty of a plea of nolo contendere for:

28 (1) A serious violent felony as such term is defined in Code Section 17-10-6.1;

29 (2) A sexual offense as such term is defined in Code Section 17-10-6.2, unless in the  
 30 court's discretion it imposed a sentence under this article for a person who is less than 21  
 31 years of age at the time of the offense;

32 (3) Sexual exploitation of a minor as defined in Code Section 16-12-100;

33 (4) Electronically furnishing obscene material to a minor as defined in Code Section  
 34 16-12-100.1; or

35 (5) Computer pornography and child exploitation, as defined in Code Section  
 36 16-12-100.2."

**SECTION 23.**

Said title is further amended by striking in its entirety Code Section 42-9-44.1, relating to conditions of parole for sexual offenders, and inserting in lieu thereof the following:

"42-9-44.1.

~~(a) As used in this Code section, the term 'sexual offense' means a violation of Code Section 16-6-1, 16-6-2, 16-6-5.1, 16-6-22, or 16-6-22.2 when the victim was under 18 years of age at the time of the commission of the offense or a violation of Code Section 16-6-3, 16-6-4, or 16-6-5 when the victim was under 14 years of age at the time of the commission of the offense.~~

~~(b)(1) The board shall adopt rules providing that with respect to any person who has been convicted of a sexual offense, as a condition of parole, the offender shall be ordered to give notice of his or her name and address, the crime for which he or she was convicted, and the date of parole to:~~

~~(A) The superintendent of the public school district where the offender will reside; and~~

~~(B) The sheriff of the county wherein the offender will reside.~~

~~(2) The offender shall provide the notice and information required in paragraph (1) of this subsection within ten days of the release on parole or within ten days of setting up residency in the locale where the offender plans to have his or her domicile.~~

~~(c) Any sex offender who has been paroled and who moves his or her legal residence from one county within this state to another county within this state shall be required to provide the information and notice required in subsection (b) of this Code section with respect to his or her new residence within ten days after moving during the period of his or her parole.~~

~~(d) Any person who fails to comply with the requirements of this Code section or who provides false information shall, in the case of a person on parole, be in violation of such person's conditions of parole and shall be guilty of a misdemeanor.~~

~~(e) It shall be the duty of the sheriff of each county within this state to maintain a register of the names and addresses of all offenders providing information to the sheriff under this Code section. Such register shall be open to public inspection.~~

~~(f) The requirement that a sex offender provide notice and information pursuant to subsections (b) and (c) of this Code section shall terminate upon the offender's satisfactory completion of his or her terms of parole. Reserved."~~

**SECTION 24.**

Said title is further amended by striking in its entirety Code Section 42-9-44.2, relating to chemical treatment and counseling as a condition of parole for child molesters, and inserting in lieu thereof the following:

1 "42-9-44.2.

2 ~~(a) The Board of Pardons and Paroles may in the exercise of its discretion in considering~~  
 3 ~~the grant of parole to a person who has been convicted of a second or subsequent offense~~  
 4 ~~of child molestation of a child who was 16 years of age or younger at the time of the~~  
 5 ~~offense or who has been convicted of a first offense of aggravated child molestation of a~~  
 6 ~~child who was 16 years of age or younger at the time of the offense require, as a condition~~  
 7 ~~of parole, that such person undergo medroxyprogesterone acetate treatment or its chemical~~  
 8 ~~equivalent. While undergoing such treatment, such person must participate in and pay for~~  
 9 ~~counseling currently available from a private or public provider of outpatient mental health~~  
 10 ~~services. No such treatment shall be administered until such person has consented thereto~~  
 11 ~~in writing.~~

12 ~~(b) A person who is required to undergo medroxyprogesterone acetate treatment or its~~  
 13 ~~chemical equivalent and counseling as a condition of parole shall begin such treatment~~  
 14 ~~prior to his or her release from confinement in the state correctional institution or other~~  
 15 ~~institution, but additional treatment may continue after such defendant's release on parole~~  
 16 ~~until the defendant demonstrates to the board that such treatment is no longer necessary.~~

17 ~~(c) The provision of treatment required as a condition of parole shall be administered by~~  
 18 ~~the State Board of Pardons and Paroles through licensed medical personnel employed by~~  
 19 ~~the defendant and approved by the board. Any physician or qualified mental health~~  
 20 ~~professional who acts in good faith in compliance with the provisions of this Code section~~  
 21 ~~in the administration of treatment or provision of counseling provided for in this Code~~  
 22 ~~section shall be immune from civil or criminal liability for his or her actions in connection~~  
 23 ~~with such treatment. The Department of Corrections shall permit access by such licensed~~  
 24 ~~medical personnel for such purpose to any person required to begin the treatment and~~  
 25 ~~counseling while confined in a facility of the department. The medical personnel utilized~~  
 26 ~~or approved by the board shall be required to inform the person about the effect of~~  
 27 ~~hormonal chemical treatment and any side effects that may result from it. A person subject~~  
 28 ~~to treatment under this Code section shall acknowledge in writing the receipt of this~~  
 29 ~~information. Reserved.~~

## 30 SECTION 25.

31 (a) This Act shall become effective July 1, 2006.

32 (b) Any person required to register pursuant to the provisions of Code Section 42-1-12,  
 33 relating to the state sexual offender registry, and any person required not to reside within  
 34 areas where minors congregate, as prohibited by Code Section 42-1-13, shall not be relieved  
 35 of the obligation to comply with the provisions of said Code sections by the repeal and  
 36 reenactment of said Code sections.

1 (c) The provisions of this Act shall not affect or abate the status as a crime of any such act  
2 or omission which occurred prior to the effective date of the Act repealing, repealing and  
3 reenacting, or amending such law, nor shall the prosecution of such crime be abated as a  
4 result of such repeal, repeal and reenactment, or amendment.

5 **SECTION 26.**

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