

House Bill 1059 (RULES COMMITTEE SUBSTITUTE)(AM)

By: Representatives Keen of the 179<sup>th</sup>, Ralston of the 7<sup>th</sup>, Burkhalter of the 50<sup>th</sup>, Freeman of the 140<sup>th</sup>, Thomas of the 55<sup>th</sup>, and others

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

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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 provide for a procedure for certain  
6 sexual offenders to petition a court to be relieved of registration requirements; to require the  
7 sheriff to notify certain people and entities of the presence of sexual offenders in their  
8 community; to increase punishment for failure to comply with registration requirements; to  
9 change the appointing authority for the Sexual Offender Registration Review Board; to  
10 require the Sexual Offender Registration Review Board to classify sexual offenders; to  
11 require sexually dangerous predators to wear an electronic monitoring device for the balance  
12 of his or her life and to pay for such device; to require sexually dangerous predators to update  
13 required registration information twice yearly; to provide for employment restrictions for  
14 sexual offenders; to prohibit sexual offenders from loitering in certain locations; to correct  
15 cross-references; to change provisions relating to sexual offenders conditions for parole; to  
16 change provisions relating to chemical treatment and counseling as a condition of parole for  
17 child molesters; to provide for other related matters; to provide for an effective date and  
18 applicability; to repeal conflicting laws; and for other purposes.

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

20 **SECTION 1.**

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

31 (1) Incarcerating sexual offenders and maintaining adequate facilities to ensure that  
32 decisions to release sexual predators into the community are not made on the basis of  
33 inadequate space;

1 (2) Requiring the registration of sexual offenders, with a requirement that complete and  
 2 accurate information be maintained and accessible for use by law enforcement  
 3 authorities, communities, and the public;

4 (3) Providing for community and public notification concerning the presence of sexual  
 5 offenders;

6 (4) Collecting data relative to sexual offenses and sexual offenders;

7 (5) Requiring sexual predators who are released into the community to wear electronic  
 8 monitoring devices for the rest of their natural life and to pay for such device; and

9 (6) Prohibiting sexual predators from working with children, either for compensation or  
 10 as a volunteer.

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

## 23 SECTION 2.

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

27 "16-5-21.

28 (a) A person commits the offense of aggravated assault when he or she assaults:

29 (1) With intent to murder, to rape, or to rob;

30 (2) With a deadly weapon or with any object, device, or instrument which, when used  
 31 offensively against a person, is likely to or actually does result in serious bodily injury;  
 32 or

33 (3) A person or persons without legal justification by discharging a firearm from within  
 34 a motor vehicle toward a person or persons.

1 (b) Except as provided in subsections (c) through ~~(i)~~ (j) of this Code section, a person  
2 convicted of the offense of aggravated assault shall be punished by imprisonment for not  
3 less than one nor more than 20 years.

4 (c) A person who knowingly commits the offense of aggravated assault upon a peace  
5 officer while the peace officer is engaged in, or on account of the performance of, his or  
6 her official duties shall, upon conviction thereof, be punished by imprisonment for not less  
7 than five nor more than 20 years.

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

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

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

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

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

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

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

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

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

### 15 SECTION 3.

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

18 "16-5-40.

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

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

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

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

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

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

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

### 33 SECTION 4.

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

1 "16-5-41.

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

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

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

9 **SECTION 5.**

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

12 "16-6-1.

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

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

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

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

19 (b) A person convicted of the offense of rape shall be punished by death, by imprisonment  
20 for life without parole, by imprisonment for life, or by imprisonment for not less than ~~ten~~  
21 25 nor more than ~~20~~ 50 years. Any person convicted under this Code section shall, in  
22 addition, be subject to the sentencing and punishment provisions of Code Sections  
23 17-10-6.1 and 17-10-7.

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

29 **SECTION 6.**

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

32 "16-6-2.

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

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

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

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

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

20 (d) If the victim is 14 or 15 years of age and the person convicted of sodomy is no more  
 21 than three years older than the victim, such person shall be guilty of a misdemeanor and  
 22 shall not be subject to the sentencing and punishment provisions of Code Section  
 23 17-10-6.2."

## 24 SECTION 7.

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

27 "16-6-3.

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

31 (b) Except as provided in subsection (c) of this Code section, a person convicted of the  
 32 offense of statutory rape shall be punished by imprisonment for not less than one nor more  
 33 than 20 years; provided, however, that if the person so convicted is 21 years of age or  
 34 older, such person shall be punished by imprisonment for not less than ten nor more than  
 35 20 years; ~~provided, further, that if~~ Any person convicted under this subsection of the

1 offense of statutory rape shall, in addition, be subject to the sentencing and punishment  
 2 provisions of Code Section 17-10-6.2.

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

### 5 SECTION 8.

6 Said title is further amended by striking Code Section 16-6-4, relating to child molestation  
 7 and aggravated child molestation, and inserting in lieu thereof the following:

8 "16-6-4.

9 (a) A person commits the offense of child molestation when he or she does any immoral  
 10 or indecent act to or in the presence of or with any child under the age of 16 years with the  
 11 intent to arouse or satisfy the sexual desires of either the child or the person.

12 ~~(b)(1) Except as provided in paragraph (2) of this subsection, a~~ A person convicted of  
 13 a first offense of child molestation shall be punished by imprisonment for not less than  
 14 five nor more than 20 years and shall be subject to the sentencing and punishment  
 15 provisions of Code Sections 17-10-6.2 and 17-10-7. ~~Upon such first conviction of the~~  
 16 ~~offense of child molestation, the judge may probate the sentence; and such probation may~~  
 17 ~~be upon the special condition that the defendant undergo a mandatory period of~~  
 18 ~~counseling administered by a licensed psychiatrist or a licensed psychologist. However,~~  
 19 ~~if the judge finds that such probation should not be imposed, he or she shall sentence the~~  
 20 ~~defendant to imprisonment; provided, further, that upon a defendant's~~ Upon a defendant  
 21 being incarcerated on a conviction for such a first offense, the Department of Corrections  
 22 shall provide counseling to such defendant. Except as provided in paragraph (2) of this  
 23 subsection, upon ~~Upon~~ a second or subsequent conviction of an offense of child  
 24 molestation, the defendant shall be punished by imprisonment for not less than ten years  
 25 nor more than 30 years or by imprisonment for life and shall be subject to the sentencing  
 26 and punishment provisions of Code Sections 17-10-6.2 and 17-10-7; provided, however,  
 27 that prior to trial, a defendant shall be given notice, in writing, that the state intends to  
 28 seek a punishment of life imprisonment. ~~Adjudication of guilt or imposition of sentence~~  
 29 ~~for a conviction of a second or subsequent offense of child molestation, including a plea~~  
 30 ~~of nolo contendere, shall not be suspended, probated, deferred, or withheld.~~

31 (2) If the victim is 14 or 15 years of age and the person convicted of the offense of child  
 32 molestation is no more than three years older than the victim, such person shall be guilty  
 33 of a misdemeanor and shall not be subject to the sentencing and punishment provisions  
 34 of Code Section 17-10-6.2.

1 (c) A person commits the offense of aggravated child molestation when such person  
 2 commits an offense of child molestation which act physically injures the child or involves  
 3 an act of sodomy.

4 (d)(1) Except as provided in paragraph (2) of this subsection, a A person convicted of  
 5 the offense of aggravated child molestation shall be punished by imprisonment for not  
 6 less than ~~ten~~ 25 nor more than ~~30~~ 50 years. ~~Any person convicted under this Code section~~  
 7 ~~of the offense of aggravated child molestation shall, in addition, and shall~~ be subject to  
 8 the sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7.

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

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

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

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

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

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

## 6 SECTION 9.

7 Said title is further amended by striking Code Section 16-6-5, relating to enticing a child for  
 8 indecent purposes, and inserting in lieu thereof the following:

9 "16-6-5.

10 (a) A person commits the offense of enticing a child for indecent purposes when he or she  
 11 solicits, entices, or takes any child under the age of 16 years to any place whatsoever for  
 12 the purpose of child molestation or indecent acts.

13 (b) Except as provided in subsection (c) of this Code section, a ~~A~~ person convicted of the  
 14 offense of enticing a child for indecent purposes shall be punished by imprisonment for not  
 15 less than ~~one ten~~ ten nor more than ~~20~~ 30 years. Any person convicted under this Code section  
 16 of the offense of enticing a child for indecent purposes shall, in addition, be subject to the  
 17 sentencing and punishment provisions of Code Section 17-10-6.2. ~~Upon a first conviction~~  
 18 ~~of the offense of enticing a child for indecent purposes, the judge may probate the sentence;~~  
 19 ~~and such probation may be upon the special condition that the defendant undergo a~~  
 20 ~~mandatory period of counseling administered by a licensed psychiatrist or a licensed~~  
 21 ~~psychologist. However, if the judge finds that such probation should not be imposed, he~~  
 22 ~~shall sentence the defendant to imprisonment. Upon a second or third conviction of such~~  
 23 ~~offense, the defendant shall be punished by imprisonment for not less than five years. For~~  
 24 ~~a fourth or subsequent conviction of the offense of enticing a child for indecent purposes,~~  
 25 ~~the defendant shall be punished by imprisonment for 20 years. Adjudication of guilt or~~  
 26 ~~imposition of sentence for a conviction of a third, fourth, or subsequent offense of enticing~~  
 27 ~~a child for indecent purposes, including a plea of nolo contendere, shall not be suspended,~~  
 28 ~~probated, deferred, or withheld.~~

29 (c) If the victim is 14 or 15 years of age and the person convicted of enticing a child for  
 30 indecent purposes is no more than three years older than the victim, such person shall be  
 31 guilty of a misdemeanor and shall not be subject to the sentencing and punishment  
 32 provisions of Code Section 17-10-6.2."

## 33 SECTION 10.

34 Said title is further amended by striking Code Section 16-6-5.1, relating to sexual assault  
 35 against persons in custody, and inserting in lieu thereof the following:

1 "16-6-5.1.

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

3 (1) 'Actor' means a person accused of sexual assault.

4 (2) 'Intimate parts' means the genital area, groin, inner thighs, buttocks, or breasts of a  
5 person.

6 (3) 'Psychotherapy' means the professional treatment or counseling of a mental or  
7 emotional illness, symptom, or condition.

8 (4) 'Sexual contact' means any contact between for the purpose of sexual gratification of  
9 the actor and a person not married to the actor involving with the intimate parts of a  
10 person not married to the actor either person for the purpose of sexual gratification of the  
11 actor.

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

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

27 (A) In the custody of law; or

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

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

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

35 (4) A person convicted of sexual assault under this subsection shall be punished by  
36 imprisonment for not less than ~~one~~ ten nor more than ~~three~~ 30 years; provided, however,  
37 that any person convicted of the offense of sexual assault under this subsection of a child

1 under the age of 14 years shall be punished by imprisonment for not less than 25 nor  
 2 more than 50 years. Any person convicted under this subsection of the offense of sexual  
 3 assault shall, in addition, be subject to the sentencing and punishment provisions of Code  
 4 Section 17-10-6.2.

5 (d) A person who is an employee, agent, or volunteer at any facility licensed or required  
 6 to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code  
 7 Section 31-7-12, relating to personal care homes, or who is required to be licensed pursuant  
 8 to Code Section 31-7-151 or 31-7-173, relating to home health care and hospices, commits  
 9 sexual assault when such person engages in sexual contact with another person who has  
 10 been admitted to or is receiving services from such facility, person, or entity. A person  
 11 convicted of sexual assault pursuant to this subsection shall be punished by imprisonment  
 12 for not less than ~~one ten~~ nor more than ~~five~~ 30 years, or a fine of not more than \$5,000.00,  
 13 or both. Any violation of this subsection shall constitute a separate offense. Any person  
 14 convicted under this subsection of the offense of sexual assault shall, in addition, be subject  
 15 to the sentencing and punishment provisions of Code Section 17-10-6.2."

#### 16 SECTION 11.

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

19 "16-6-22.

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

- 23 (1) Father and daughter or stepdaughter;
- 24 (2) Mother and son or stepson;
- 25 (3) Brother and sister of the whole blood or of the half blood;
- 26 (4) Grandparent and grandchild;
- 27 (5) Aunt and nephew; or
- 28 (6) Uncle and niece.

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

**SECTION 12.**

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

"16-6-22.1.

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

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

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

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

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

**SECTION 13.**

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

"16-6-22.2.

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

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

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

**SECTION 14.**

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

1 "16-6-25.

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

8 (b) Any person who knows or reasonably believes that a sexual offender, as defined in  
9 Code Section 42-1-12, is not complying, or has not complied, with the requirements of  
10 Code Section 42-1-12 and who, with the intent to assist such sexual offender in eluding a  
11 law enforcement unit that is seeking such sexual offender to question him or her about, or  
12 to arrest him or her for, his or her noncompliance with the requirements of Code Section  
13 42-1-12:

14 (1) Harbors, attempts to harbor, or assists another person in harboring or attempting  
15 harbor such sexual offender;

16 (2) Conceals, attempts to conceal, or assists another person in concealing or attempting  
17 to conceal such sexual offender; or

18 (3) Provides information to the law enforcement unit regarding such sexual offender  
19 which the person knows to be false information

20 commits a felony and shall be punished by imprisonment for not less than five nor more  
21 than 20 years."

22 **SECTION 15.**

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

26 "(a)(1) Except in cases in which life imprisonment, life without parole, or the death  
27 penalty may be imposed, upon a verdict or plea of guilty in any case involving a  
28 misdemeanor or felony, and after a presentence hearing, the judge fixing the sentence  
29 shall prescribe a determinate sentence for a specific number of months or years which  
30 shall be within the minimum and maximum sentences prescribed by law as the  
31 punishment for the crime. The judge imposing the sentence is granted power and  
32 authority to suspend or probate all or any part of the entire sentence under such rules and  
33 regulations as the judge deems proper, including service of a probated sentence in the  
34 sentencing options system, as provided by Article 9 of Chapter 8 of Title 42, and  
35 including the authority to revoke the suspension or probation when the defendant has  
36 violated any of the rules and regulations prescribed by the court, even before the

1 probationary period has begun, subject to the conditions set out in this subsection;  
 2 provided, however, that such action shall be subject to the provisions of Code ~~Section~~  
 3 Sections 17-10-6.1 and 17-10-6.2."

#### 4 SECTION 16.

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

7 "17-10-6.1.

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

9 (1) Murder or felony murder, as defined in Code Section 16-5-1;

10 (2) Armed robbery, as defined in Code Section 16-8-41;

11 (3) Kidnapping, as defined in Code Section 16-5-40;

12 (4) Rape, as defined in Code Section 16-6-1;

13 (5) Aggravated child molestation, as defined in subsection (c) of Code Section 16-6-4,  
 14 unless subject to the provisions of paragraph (2) of subsection (d) of Code Section  
 15 16-6-4;

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

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

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

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

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

29 (B) Rape;

30 (C) Aggravated child molestation, as defined in subsection (c) of Code Section 16-6-4,  
 31 unless subject to the provisions of paragraph (2) of subsection (d) of Code Section  
 32 16-6-4;

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

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

35 shall be sentenced to a split sentence which shall include a mandatory minimum term of  
 36 imprisonment of 25 years followed by probation for the remainder of the person's natural

1 life. No portion of the mandatory minimum sentence imposed shall be suspended, stayed,  
 2 probated, deferred, or withheld by the sentencing court and shall not be reduced by any  
 3 form of pardon, parole, or commutation of sentence by the State Board of Pardons and  
 4 Paroles.

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

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

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

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

34 (d) For purposes of this Code section, a first conviction of any serious violent felony  
 35 means that the person has never been convicted of a serious violent felony under the laws  
 36 of this state or of an offense under the laws of any other state or of the United States, which  
 37 offense if committed in this state would be a serious violent felony. Conviction of two or

1 more crimes charged on separate counts of one indictment or accusation, or in two or more  
2 indictments or accusations consolidated for trial, shall be deemed to be only one  
3 conviction."

4 **SECTION 17.**

5 Said title is further amended by adding a new Code section to follow Code Section  
6 17-10-6.1, relating to punishment for serious violent offenders, to read as follows:

7 "17-10-6.2.

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

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

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

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

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

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

18 (6) Enticing a child for indecent purposes, as defined in Code Section 16-6-5, unless  
19 subject to the provisions of subsection (c) of Code Section 16-6-5;

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

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

22 (9) A second or subsequent conviction for sexual battery, as defined in Code Section  
23 16-6-22.1; or

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

25 (b) Except as provided in subsection (c) of this Code section, and notwithstanding any  
26 other provisions of law to the contrary, any person convicted of a sexual offense shall be  
27 sentenced to a split sentence which shall include the minimum term of imprisonment  
28 specified in the Code section applicable to the offense. No portion of the mandatory  
29 minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld by  
30 the sentencing court and such sentence shall include, in addition to the mandatory  
31 imprisonment, an additional probated sentence of at least one year. No person convicted  
32 of a sexual offense shall be sentenced as a first offender pursuant to Article 3 of Chapter  
33 8 of Title 42, relating to probation for first offenders, or any other provision of Georgia law  
34 relating to the sentencing of first offenders.

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

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

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

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

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

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

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

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

19 (d) If the court imposes a probated sentence, the defendant shall submit to review by the  
 20 Sexual Offender Registration Review Board for purposes of risk assessment classification  
 21 within ten days of being sentenced and shall otherwise comply with Article 2 of Chapter  
 22 1 of Title 42."

### 23 **SECTION 18.**

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

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

### 30 **SECTION 19.**

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



1 stops, and all other places established for the public to congregate and wait for public  
2 transportation.

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

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

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

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

10 (8) 'Conviction' includes a final judgment of conviction entered upon a verdict or finding  
11 of guilty of a crime, a plea of guilty, or a plea of nolo contendere. A defendant who is  
12 discharged without adjudication of guilt and who is not considered to have a criminal  
13 conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall  
14 be subject to the registration requirements of this Code section for the period of time prior  
15 to the defendant's discharge after completion of his or her sentence or upon the defendant  
16 being adjudicated guilty. Unless otherwise required by federal law, a defendant who is  
17 discharged without adjudication of guilt and who is not considered to have a criminal  
18 conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall  
19 not be subject to the registration requirements of this Code section upon the defendant's  
20 discharge.

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

- 25 (i) Kidnapping of a minor, except by a parent;
- 26 (ii) False imprisonment of a minor, except by a parent;
- 27 (iii) Criminal sexual conduct toward a minor;
- 28 (iv) Solicitation of a minor to engage in sexual conduct;
- 29 (v) Use of a minor in a sexual performance;
- 30 (vi) Solicitation of a minor to practice prostitution; or
- 31 (vii) Any conviction resulting from an underlying sexual offense against a victim  
32 who is a minor.

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

- 37 (i) Kidnapping of a minor, except by a parent;

- 1 (ii) False imprisonment of a minor, except by a parent;
- 2 (iii) Criminal sexual conduct toward a minor;
- 3 (iv) Solicitation of a minor to engage in sexual conduct;
- 4 (v) Use of a minor in a sexual performance;
- 5 (vi) Solicitation of a minor to practice prostitution;
- 6 (vii) Use of a minor to engage in any sexually explicit conduct to produce any visual
- 7 medium depicting such conduct;
- 8 (viii) Creating, publishing, selling, distributing, or possessing any material depicting
- 9 a minor or a portion of a minor's body engaged in sexually explicit conduct;
- 10 (ix) Transmitting, making, selling, buying, or disseminating by means of a computer
- 11 any descriptive or identifying information regarding a child for the purpose of
- 12 offering or soliciting sexual conduct of or with a child or the visual depicting of such
- 13 conduct;
- 14 (x) Conspiracy to transport, ship, receive, or distribute visual depictions of minors
- 15 engaged in sexually explicit conduct; or
- 16 (xi) Any conduct which, by its nature, is a sexual offense against a minor.

17 (C) For purposes of subparagraph (a)(9)(B) of this Code section, conduct which is  
 18 punished as for a misdemeanor or which is prosecuted in juvenile court shall not be  
 19 considered a criminal offense against a victim who is a minor.

20 (10)(A) 'Dangerous sexual offense' with respect to convictions occurring after June 30,  
 21 2006, means any criminal offense under Title 16 as specified in this paragraph or any  
 22 offense under federal law or the laws of another state or territory of the United States  
 23 which consists of the same or similar elements of the following offenses:

- 24 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-2;
- 25 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who
- 26 is less than 14 years of age, except by a parent;
- 27 (iii) False imprisonment in violation of Code Section 16-5-41 which involves a
- 28 victim who is less than 14 years of age, except by a parent;
- 29 (iv) Rape in violation of Code Section 16-6-1;
- 30 (v) Sodomy in violation of Code Section 16-6-2;
- 31 (vi) Aggravated sodomy in violation of Code Section 16-6-2;
- 32 (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted
- 33 of the offense is 21 years of age or older;
- 34 (viii) Child molestation in violation of Code Section 16-6-4;
- 35 (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the
- 36 person was convicted of a misdemeanor offense;
- 37 (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;

- 1 (xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;  
 2 (xii) Incest in violation of Code Section 16-6-22;  
 3 (xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;  
 4 (xiv) Aggravated sexual battery in violation of Code Section 16-6-23;  
 5 (xv) Sexual exploitation of children in violation of Code Section 16-12-100;  
 6 (xvi) Electronically furnishing obscene material to minors in violation of Code  
 7 Section 16-12-100.1;  
 8 (xvii) Computer pornography and child exploitation prevention in violation of Code  
 9 Section 16-12-100.2;  
 10 (xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or  
 11 (xix) Any conduct which, by its nature, is a sexual offense against a minor or an  
 12 attempt to commit a sexual offense against a minor.

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

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

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

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

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

27 (15) 'Required registration information' means:

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

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

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

36 (D) If the place of residence is a mobile home, provide the mobile home location  
 37 permit number; the name and address of the owner of the home; a description, including

1 the color scheme of the mobile home; and, if applicable, a description of where the  
2 mobile home is located on the property;

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (A) Who was designated as a sexually violent offender between July 1, 1996, and June  
31 30, 2006; or

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

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

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

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

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

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

10 (3) Inform the sexual offender that, if the sexual offender changes any of the required  
11 registration information, other than residence address, the sexual offender shall give the  
12 new information to the sheriff of the county with whom the sexual offender is registered  
13 within 72 hours of the change of information; if the information is the sexual offender's  
14 new residence address, the sexual offender shall give the information to the sheriff of the  
15 county with whom the sexual offender last registered not sooner than 72 hours before  
16 moving and to the sheriff of the county to which the sexual offender is moving not later  
17 than 72 hours after the change of information;

18 (4) Inform the sexual offender that he or she shall also register in any state where he or  
19 she is employed, carries on a vocation, or is a student;

20 (5) Inform the sexual offender that, if he or she changes residence to another state, the  
21 sexual offender shall register the new address with the sheriff of the county with whom  
22 the sexual offender last registered, and that the sexual offender shall also register with a  
23 designated law enforcement agency in the new state not later than 72 hours after  
24 establishing residence in the new state;

25 (6) Obtain fingerprints and a current photograph of the sexual offender;

26 (7) Require the sexual offender to read and sign a form stating that the obligations of the  
27 sexual offender have been explained;

28 (8) Obtain and forward any information obtained from the clerk of court pursuant to  
29 Code Section 42-5-50 to the sheriff's office of the county in which the sexual offender  
30 will reside; and

31 (9) If required by Code Section 42-1-14, place any required electronic monitoring device  
32 on the sexually dangerous predator and explain its operation and cost.

33 (c) The Department of Corrections shall:

34 (1) Forward to the Georgia Bureau of Investigation a copy of the form stating that the  
35 obligations of the sexual offender have been explained;

36 (2) Forward any required registration information to the Georgia Bureau of Investigation;

- 1 (3) Forward the sexual offender's fingerprints and photograph to the sheriff's office of  
2 the county where the sexual offender is going to reside;
- 3 (4) Inform the board and the prosecuting attorney for the jurisdiction in which a sexual  
4 offender was convicted of the impending release of a sexual offender at least eight  
5 months prior to such release so as to facilitate compliance with Code Section 42-1-14;  
6 and
- 7 (5) Keep all records of sexual offenders in a secure facility until official proof of death  
8 of a registered sexual offender and thereafter the records shall be destroyed in accordance  
9 with Code Sections 15-1-10, 15-6-62, and 15-6-62.1.
- 10 (d) No sexual offender shall be released from prison or placed on parole, supervised  
11 release, or probation until:
- 12 (1) The appropriate official has provided the Georgia Bureau of Investigation and the  
13 sheriff's office in the county where the sexual offender will be residing with the sexual  
14 offender's required registration information and risk assessment classification level; and
- 15 (2) The sexual offender's name has been added to the list of sexual offenders maintained  
16 by the Georgia Bureau of Investigation and the sheriff's office as required by this Code  
17 section.
- 18 (e) Registration pursuant to this Code section shall be required by any individual who:
- 19 (1) Is convicted on or after July 1, 1996, of a criminal offense against a victim who is a  
20 minor;
- 21 (2) Is convicted on or after July 1, 2006, of a dangerous sexual offense;
- 22 (3) Has previously been convicted of a criminal offense against a minor and may be  
23 released from prison or placed on parole, supervised release, or probation on or after July  
24 1, 1996;
- 25 (4) Has previously been convicted of a sexually violent offense and may be released  
26 from prison or placed on parole, supervised release, or probation;
- 27 (5) Is a resident of Georgia who intends to reside in this state and who is convicted under  
28 the laws of another state or the United States, under the Uniform Code of Military Justice,  
29 or in a tribal court of a sexually violent offense, a criminal offense against a victim who  
30 is a minor on or after July 1, 1999, or a dangerous sexual offense on or after July 1, 2006;
- 31 (6) Is a nonresident sexual offender who changes residence from another state or territory  
32 of the United States to Georgia who is required to register as a sexual offender under  
33 federal law, military law, tribal law, or the laws of another state or territory, regardless  
34 of when the conviction occurred;
- 35 (7) Is a nonresident sexual offender who enters this state for the purpose of employment  
36 for a period exceeding 14 consecutive days or for an aggregate period of time exceeding  
37 30 days during any calendar year regardless of whether such sexual offender is required

1 to register under federal law, military law, tribal law, or the laws of another state or  
2 territory; or

3 (8) Is a nonresident sexual offender who enters this state for the purpose of attending  
4 school as a full-time or part-time student regardless of whether such sexual offender is  
5 required to register under federal law, military law, tribal law, or the laws of another state  
6 or territory.

7 (f) Any sexual offender required to register under this Code section shall:

8 (1) Provide the required registration information to the appropriate official before being  
9 released from prison or placed on parole, supervised release, or probation;

10 (2) Register with the sheriff of the county in which the sexual offender resides within 72  
11 hours after the sexual offender's release from prison or placement on parole, supervised  
12 release, probation, or entry into this state;

13 (3) Maintain the required registration information with the sheriff of the county in which  
14 the sexual offender resides;

15 (4) Renew the required registration information with the sheriff of the county in which  
16 the sexual offender resides by reporting to the sheriff within 72 hours of such offender's  
17 birthday each year to be photographed and fingerprinted;

18 (5) Update the required registration information with the sheriff of the county in which  
19 the sexual offender resides within 72 hours of any change to the required registration  
20 information, other than residence address; if the information is the sexual offender's new  
21 residence address, the sexual offender shall give the information to the sheriff of the  
22 county with whom the sexual offender last registered no sooner than 72 hours before any  
23 change of residence address and to the sheriff of the county to which the sexual offender  
24 is moving;

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

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

30 (f.1)(1) Any sexual offender required to register under this Code section who meets the  
31 criteria set forth in paragraph (2) of this Code section may petition the superior court of  
32 the jurisdiction in which the sexual offender is registered to be released from the  
33 registration requirements of this Code section. The court may issue an order releasing  
34 the sexual offender from further registration if the court finds that the sexual offender  
35 does not pose a substantial risk of perpetrating any future dangerous sexual offense.

36 (2) In order to petition the court pursuant to paragraph (1) of this subsection, the sexual  
37 offender shall:

- 1 (A) Have been convicted of:
- 2 (i) Sodomy, as defined in Code Section 16-6-2;
- 3 (ii) Statutory rape, as defined in Code Section 16-6-3;
- 4 (iii) Child molestation, as defined in subsection (a) of Code Section 16-6-4;
- 5 (iv) Aggravated child molestation when the basis of the charge involves an act of
- 6 sodomy; or
- 7 (v) Enticing a child for indecent purposes, as defined in Code Section 16-6-5;
- 8 (B) Have been under 21 years of age at the time of the commission of the offense;
- 9 (C) Not have a prior conviction of an offense prohibited by Chapter 6 of Title 16 or
- 10 Part 2 of Article 3 of Chapter 12 of Title 16, nor a prior conviction for any offense
- 11 under federal law or the laws of another state or territory of the United States which
- 12 consists of the same or similar elements of offenses prohibited by Chapter 6 of Title 16
- 13 or Part 2 of Article 3 of Chapter 12 of Title 16;
- 14 (D) Not have used a deadly weapon or any object, device, or instrument which when
- 15 used offensively against a person would be likely to or actually did result in serious
- 16 bodily injury during the commission of the offense;
- 17 (E) Not have caused the victim to suffer any physical injury or visible bodily harm
- 18 during the commission of the offense;
- 19 (F) Have been declared a Level I risk assessment classification by the board; and
- 20 (G) Have had ten years elapse since his or her release from prison, parole, supervised
- 21 release, or probation.
- 22 (g)(1) The appropriate official or sheriff shall, within 72 hours after receipt of the
- 23 required registration information, forward such information to the Georgia Bureau of
- 24 Investigation. Once the data is entered into the Criminal Justice Information System by
- 25 the appropriate official or sheriff, the Georgia Crime Information Center shall notify the
- 26 sheriff of the sexual offender's county of residence, either permanent or temporary, the
- 27 sheriff of the county of employment, and the sheriff of the county where the sexual
- 28 offender attends an institution of higher education within 24 hours of entering the data
- 29 or any change to the data.
- 30 (2) The Georgia Bureau of Investigation shall:
- 31 (A) Transmit all information, including the conviction data and fingerprints, to the
- 32 Federal Bureau of Investigation within 24 hours of entering the data;
- 33 (B) Establish operating policies and procedures concerning record ownership, quality,
- 34 verification, modification, and cancellation; and
- 35 (C) Perform mail out and verification duties as follows:
- 36 (i) Send each month Criminal Justice Information System network messages to
- 37 sheriffs listing sexual offenders due for verification;

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

- 1 (8) Retain the verification form stating that the sexual offender still resides at the address  
2 last reported;
- 3 (9) Enforce the criminal provisions of this Code section. The sheriff may request the  
4 assistance of the Georgia Bureau of Investigation to enforce the provisions of this Code  
5 section;
- 6 (10) Cooperate and communicate with other sheriffs' offices in this state and in the  
7 United States to maintain current data on the location of sexual offenders;
- 8 (11) Determine the appropriate time of day for reporting by sexual offenders, which shall  
9 be consistent with the reporting requirements of this Code section;
- 10 (12) If required by Code Section 42-1-14, place any electronic monitoring device on the  
11 sexually dangerous predator and explain its operation and cost;
- 12 (13) Provide current information on names and addresses of all registered sexual  
13 offenders to campus police with jurisdiction for the campus of an institution of higher  
14 education if the campus is within the sheriff's jurisdiction; and
- 15 (14) Collect the annual \$250.00 registration fee from the sexual offender and transmit  
16 such fees to the state for deposit into the General Fund.
- 17 (i)(1) The sheriff of the county where the sexual offender resides or last registered shall  
18 be the primary law enforcement official charged with communicating the whereabouts  
19 of the sexual offender and any changes in required registration information to the  
20 sheriff's office of the county or counties where the sexual offender is employed,  
21 volunteers, attends an institution of higher education, or moves.
- 22 (2) The sheriff's office may post the list of sexual offenders in any public building in  
23 addition to those locations enumerated in subsection (h) of this Code section.
- 24 (j) The Georgia Crime Information Center shall create the Criminal Justice Information  
25 System network transaction screens by which appropriate officials shall enter original data  
26 required by this Code section. Screens shall also be created for sheriffs' offices for the  
27 entry of record confirmation data; employment; changes of residence, institutions of higher  
28 education, or employment; or other pertinent data to assist in sexual offender identification.
- 29 (k)(1) On at least an annual basis, the Department of Education shall obtain from the  
30 Georgia Bureau of Investigation a complete list of the names and addresses of all  
31 registered sexual offenders and shall send such list, accompanied by a hold harmless  
32 provision, to each school in this state. In addition, the Department of Education shall  
33 provide information to each school in this state on accessing and retrieving from the  
34 Georgia Bureau of Investigation's website a list of the names and addresses of all  
35 registered sexual offenders.
- 36 (2) On at least an annual basis, the Department of Early Care and Learning shall provide  
37 current information to all child care programs regulated pursuant to Code Section

1 20-1A-10 on accessing and retrieving from the Georgia Bureau of Investigation's website  
2 a list of the names and addresses of all registered sexual offenders and shall include, on  
3 a continuing basis, such information with each application for licensure, commissioning,  
4 or registration for early care and education programs.

5 (3) On at least an annual basis, the Department of Human Resources shall provide  
6 current information to all day-care, group day-care, and family day-care programs  
7 regulated pursuant to Code Section 49-5-12 and to all long-term facilities for children on  
8 accessing and retrieving from the Georgia Bureau of Investigation's website a list of the  
9 names and addresses of all registered sexual offenders.

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

14 (m) Any individual who:

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

17 (2) Provides false information; or

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

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

24 (1) Such information may be disclosed to law enforcement agencies for law enforcement  
25 purposes;

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

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

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

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

3 42-1-13.

4 (a) The Sexual Offender Registration Review Board shall be composed of three  
5 professionals licensed under Title 43 and knowledgeable in the field of the behavior and  
6 treatment of sexual offenders; at least one representative from a victims' rights advocacy  
7 group or agency; and at least two representatives from law enforcement, each of whom is  
8 either employed by a law enforcement agency as a certified peace officer under Title 35  
9 or retired from such employment. The members of the board shall be appointed by the  
10 commissioner of human resources for terms of four years. On and after July 1, 2006,  
11 successors to the members of the board shall be appointed by the Governor. Members of  
12 the board shall take office on the first day of September immediately following the expired  
13 term of that office and shall serve for a term of four years and until the appointment of their  
14 respective successors. No member shall serve on the board more than two consecutive  
15 terms. Vacancies occurring on the board, other than those caused by expiration of a term  
16 of office, shall be filled in the same manner as the original appointment to the position  
17 vacated for the remainder of the unexpired term and until a successor is appointed.  
18 Members shall be entitled to an expense allowance and travel cost reimbursement the same  
19 as members of certain other boards and commissions as provided in Code Section 45-7-21.

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

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

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

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

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

30 42-1-14.

31 (a) The board shall determine the likelihood that a sexual offender will engage in another  
32 crime against a victim who is a minor or a dangerous sexual offense. The board shall make  
33 such determination for any sexual offender convicted on or after July 1, 2006, of a criminal  
34 act against a minor or a dangerous sexual offense and for any sexual offender incarcerated  
35 on July 1, 2006, but convicted prior to July 1, 2006, of a criminal act against a minor. Such

1 determination shall not be required to be made by the board until January 1, 2007;  
2 provided, however, that such persons shall be subject to this Code section. A sexual  
3 offender shall be placed into Level I risk assessment classification, Level II risk assessment  
4 classification, or sexually dangerous predator classification based upon the board's  
5 assessment criteria and information obtained and reviewed by the board. The sexual  
6 offender may provide the board with information including, but not limited to,  
7 psychological evaluations, sexual history polygraph information, treatment history,  
8 personal, social, educational, and work history, and may agree to submit to a psychosexual  
9 evaluation or sexual history polygraph conducted by the board. If the sexual offender has  
10 undergone treatment through the Department of Corrections, such treatment records shall  
11 also be submitted to the board for evaluation. The prosecuting attorney shall provide the  
12 board with any information available to assist the board in rendering an opinion, including,  
13 but not limited to, criminal history and records related to previous criminal history. On and  
14 after July 1, 2006, the clerk of court shall send a copy of the sexual offender's conviction  
15 to the board and notify the board that a sexual offender's evaluation will need to be  
16 performed. The board shall render its recommendation for risk assessment classification  
17 within:

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

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

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

36 (2) If the sexual offender received a sentence of imprisonment and was sentenced for a  
37 dangerous sexual offense on or after July 1, 2006, or if the sexual offender is incarcerated

1 on July 1, 2006, for a crime against a victim who is a minor, after receiving a  
2 recommendation from the board that he or she be classified as a sexually dangerous  
3 predator, the sexual offender may request that the sentencing court set a date to conduct  
4 a hearing affording the sexual offender the opportunity to present testimony or evidence  
5 relevant to the recommended classification. After the hearing and within 60 days of  
6 receiving the report, the court shall issue a ruling as to whether or not the sexual offender  
7 shall be classified as a sexually dangerous predator. If the court determines the sexual  
8 offender to be a sexually dangerous predator, such fact shall be communicated in writing  
9 to the appropriate official, the Georgia Bureau of Investigation, and the sheriff of the  
10 county where the sexual offender resides.

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

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

27 (e) Any sexually dangerous predator shall be required to wear an electronic monitoring  
28 device that shall have, at a minimum, the capacity to locate and record the location of the  
29 sexually dangerous predator by a link to a global positioning satellite system, have  
30 two-way voice communication capability, have an alarm at no less than 95 decibels that  
31 can be remotely activated, and is automatically activated and broadcasts the sexually  
32 dangerous predator's location if the monitor is removed or tampered with by anyone other  
33 than a law enforcement official designated to maintain and remove or replace the monitor.  
34 Such monitor shall be worn by a sexually dangerous predator for the remainder of his or  
35 her natural life. The sexually dangerous predator shall pay the cost of such monitor to the  
36 Department of Corrections if the sexually dangerous predator is on probation; to the Board  
37 of Pardons and Paroles if the sexually dangerous predator is on parole; and to the sheriff

1 after the sexually dangerous predator completes his or her term of probation and parole or  
 2 if the sexually dangerous predator has moved to this state from another state, territory, or  
 3 country. The monitor shall be placed upon the sexually dangerous predator prior to his or  
 4 her release from confinement. If the sexual offender is not in custody, within 72 hours of  
 5 the decision classifying the sexual offender as a sexually dangerous predator by the court  
 6 in accordance with subsection (b) of this Code section or a final decision pursuant to  
 7 subsection (c) of this Code section, whichever applies to the sexual offender's situation,  
 8 the sexually dangerous predator shall report to the sheriff of the county of his or her  
 9 residence for purposes of having the monitor placed on the sexually dangerous predator.

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

14 42-1-15.

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

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

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

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

### 31 **SECTION 21.**

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

34 "(b) In determining the terms and conditions of probation for a probationer who has been  
 35 convicted of a criminal offense against a victim who is a minor or dangerous sexual offense

1 as ~~that phrase is~~ those terms are defined in ~~subparagraph (a)(4)(B)~~ of Code Section  
2 42-1-12, the court may provide that the probationer shall be:

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

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

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

## 14 SECTION 22.

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

17 "42-8-60.

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

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

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

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

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

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

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

36 (2) A sexual offense as such term is defined in Code Section 17-10-6.2;

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

2 (4) Electronically furnishing obscene material to a minor as defined in Code Section  
 3 16-12-100.1; or

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

### 6 SECTION 23.

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

9 "42-9-44.1.

10 ~~(a) As used in this Code section, the term 'sexual offense' means a violation of Code~~  
 11 ~~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~~  
 12 ~~years of age at the time of the commission of the offense or a violation of Code Section~~  
 13 ~~16-6-3, 16-6-4, or 16-6-5 when the victim was under 14 years of age at the time of the~~  
 14 ~~commission of the offense.~~

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

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

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

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

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

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

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

34 ~~(f) The requirement that a sex offender provide notice and information pursuant to~~  
 35 ~~subsections (b) and (c) of this Code section shall terminate upon the offender's satisfactory~~  
 36 ~~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:

"42-9-44.2.

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

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

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

**SECTION 25.**

1

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

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

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

**SECTION 26.**

12

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