

House Bill 1059 (AS PASSED HOUSE AND SENATE)

By: Representatives Keen of the 179th, Ralston of the 7th, Burkhalter of the 50th, Freeman of the 140th, Thomas of the 55th, 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 change certain
16 restrictions on granting an appeal bond; to allow for judicial discretion for mandatory
17 minimum sentences under certain circumstances; to create a new crime involving
18 withholding information concerning a sexual offender and provide for penalties; to change
19 a provision relating to the fixing of a sentence by a judge; to change certain provisions
20 relating to punishment of serious violent offenders and increase the mandatory minimum
21 term of imprisonment for certain offenses; to require persons convicted of certain sexual
22 crimes to receive a mandatory split sentence including a minimum sentence of imprisonment;
23 to add a provision relating to statutory aggravating circumstances for the imposition of the
24 death penalty; to require the Georgia Crime Information Center to collect certain data; to
25 provide that notice of conviction and release of a person who is required to register as a
26 sexual offender shall be made for offenders sentenced directly to probation or who are newly
27 established residents in a county; to permit publication of such notice in the legal organ of
28 the county in which such person resides based on information available; to reorganize and

1 change provisions related to the State Sexual Offender Registry; to change and add certain
 2 definitions; to change provisions relating to registration requirements for sexual offenders;
 3 to provide for an annual registration fee; to provide that sexual offenders register prior to
 4 release from prison; to require each sheriff to maintain and update a list of all sexual
 5 offenders residing in the county; to provide for duties and responsibilities for sheriffs, the
 6 Department of Corrections, the Georgia Bureau of Investigation, and sexual offenders; to
 7 require registered sexual offenders to verify required registration information with the sheriff
 8 whenever any changes occur to certain information and verify information at least annually
 9 within 72 hours of the sexual offender's birthday; to increase the duration for registration
 10 requirement; to provide for a procedure for certain sexual offenders to petition a court to be
 11 relieved of registration requirements; to require the sheriff to notify certain people and
 12 entities of the presence of sexual offenders in their community; to increase punishment for
 13 failure to comply with registration requirements; to change the appointing authority for the
 14 Sexual Offender Registration Review Board; to require the Sexual Offender Registration
 15 Review Board to classify sexual offenders; to require sexually dangerous predators to wear
 16 an electronic monitoring system for the balance of his or her life and to pay for such system;
 17 to require sexually dangerous predators to update required registration information twice
 18 yearly; to provide for employment restrictions for sexual offenders; to prohibit sexual
 19 offenders from loitering in certain locations; to correct cross-references; to change provisions
 20 relating to sexual offenders conditions for parole; to change provisions relating to chemical
 21 treatment and counseling as a condition of parole for child molesters; to amend Title 5 of the
 22 Official Code of Georgia Annotated, relating to appeal and error, so as to allow the state and
 23 the defendant the right of direct appeal under certain circumstances; to provide for other
 24 related matters; to provide for an effective date and applicability; to repeal conflicting laws;
 25 and for other purposes.

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

27 **SECTION 1.**

28 The General Assembly finds and declares that recidivist sexual offenders, sexual offenders
 29 who use physical violence, and sexual offenders who prey on children are sexual predators
 30 who present an extreme threat to the public safety. Many sexual offenders are extremely
 31 likely to use physical violence and to repeat their offenses; and some sexual offenders
 32 commit many offenses, have many more victims than are ever reported, and are prosecuted
 33 for only a fraction of their crimes. The General Assembly finds that this makes the cost of
 34 sexual offender victimization to society at large, while incalculable, clearly exorbitant. The
 35 General Assembly further finds that the high level of threat that a sexual predator presents

1 to the public safety, and the long-term effects suffered by victims of sex offenses, provide
2 the state with sufficient justification to implement a strategy that includes:

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

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

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

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

12 (5) Requiring sexual predators who are released into the community to wear an
13 electronic monitoring system for the rest of their natural life and to pay for such system;
14 and

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

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

29 **SECTION 2.**

30 Title 5 of the Official Code of Georgia Annotated, relating to appeal and error, is amended
31 by striking subsection (a) of Code Section 5-6-34, relating to judgments and rulings deemed
32 directly appealable, and inserting in lieu thereof the following:

33 "(a) Appeals may be taken to the Supreme Court and the Court of Appeals from the
34 following judgments and rulings of the superior courts, the constitutional city courts, and
35 such other courts or tribunals from which appeals are authorized by the Constitution and
36 laws of this state:

- 1 (1) All final judgments, that is to say, where the case is no longer pending in the court
 2 below, except as provided in Code Section 5-6-35;
- 3 (2) All judgments involving applications for discharge in bail trover and contempt cases;
- 4 (3) All judgments or orders directing that an accounting be had;
- 5 (4) All judgments or orders granting or refusing applications for receivers or for
 6 interlocutory or final injunctions;
- 7 (5) All judgments or orders granting or refusing applications for attachment against
 8 fraudulent debtors;
- 9 ~~(5.1)~~(6) Any ruling on a motion which would be dispositive if granted with respect to a
 10 defense that the action is barred by Code Section 16-11-184;
- 11 ~~(6)~~(7) All judgments or orders granting or refusing to grant mandamus or any other
 12 extraordinary remedy, except with respect to temporary restraining orders;
- 13 ~~(7)~~(8) All judgments or orders refusing applications for dissolution of corporations
 14 created by the superior courts;
- 15 ~~(8)~~(9) All judgments or orders sustaining motions to dismiss a caveat to the probate of
 16 a will; ~~and~~
- 17 ~~(9)~~(10) All final judgments of child support; ~~and~~
- 18 (11) All judgments or orders entered pursuant to subsection (c) of Code Section
 19 17-10-6.2."

20 SECTION 3.

21 Said title is further amended by striking subsection (a) of Code Section 5-7-1, relating to
 22 orders, decisions, or judgments appealable by the state, and inserting in lieu thereof the
 23 following:

24 "(a) An appeal may be taken by and on behalf of the State of Georgia from the superior
 25 courts, state courts, City Court of Atlanta, and juvenile courts and such other courts from
 26 which a direct appeal is authorized to the Court of Appeals of Georgia and the Supreme
 27 Court of Georgia in criminal cases and adjudication of delinquency cases in the following
 28 instances:

- 29 (1) From an order, decision, or judgment setting aside or dismissing any indictment,
 30 accusation, or petition alleging that a child has committed a delinquent act or any count
 31 thereof;
- 32 (2) From an order, decision, or judgment arresting judgment of conviction or
 33 adjudication of delinquency upon legal grounds;
- 34 (3) From an order, decision, or judgment sustaining a plea or motion in bar, when the
 35 defendant has not been put in jeopardy;

1 (4) From an order, decision, or judgment suppressing or excluding evidence illegally
 2 seized or excluding the results of any test for alcohol or drugs in the case of motions
 3 made and ruled upon prior to the impaneling of a jury or the defendant being put in
 4 jeopardy, whichever occurs first;

5 (5) From an order, decision, or judgment of a court where the court does not have
 6 jurisdiction or the order is otherwise void under the Constitution or laws of this state;

7 (6) From an order, decision, or judgment of a superior court transferring a case to the
 8 juvenile court pursuant to subparagraph (b)(2)(B) of Code Section 15-11-28;

9 (7) From an order, decision, or judgment of a superior court granting a motion for new
 10 trial or an extraordinary motion for new trial; ~~or~~

11 (8) From an order, decision, or judgment denying a motion by the state to recuse or
 12 disqualify a judge made and ruled upon prior to the defendant being put in jeopardy; or

13 (9) From an order, decision, or judgment issued pursuant to subsection (c) of Code
 14 Section 17-10-6.2."

15 SECTION 4.

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

19 "16-5-21.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 SECTION 5.

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

8 "16-5-40.

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

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

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

15 (2) Imprisonment for life or by a split sentence that is a term of imprisonment for not less
 16 than 25 years and not exceeding life imprisonment, followed by probation for life, if the
 17 kidnapping involved a victim who is less than 14 years of age;

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

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

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

24 SECTION 6.

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

27 "16-5-41.

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

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

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

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

6 SECTION 9.

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

9 "16-6-2.

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

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

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

21 (2) A person convicted of the offense of aggravated sodomy shall be punished by
 22 imprisonment for life or by a split sentence that is a term of imprisonment for not less
 23 than ten nor more than 30 25 years and not exceeding life imprisonment, followed by
 24 probation for life. Any person convicted under this Code section of the offense of
 25 aggravated sodomy shall, in addition, be subject to the sentencing and punishment
 26 provisions of Code Sections 17-10-6.1 and 17-10-7.

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

32 (d) If the victim is at least 13 but less than 16 years of age and the person convicted of
 33 sodomy is 18 years of age or younger and is no more than four years older than the victim,
 34 such person shall be guilty of a misdemeanor and shall not be subject to the sentencing and
 35 punishment provisions of Code Section 17-10-6.2."

1 molestation, the defendant shall be punished by imprisonment for not less than ten years
 2 nor more than 30 years or by imprisonment for life and shall be subject to the sentencing
 3 and punishment provisions of Code Sections 17-10-6.2 and 17-10-7; provided, however,
 4 that prior to trial, a defendant shall be given notice, in writing, that the state intends to
 5 seek a punishment of life imprisonment. ~~Adjudication of guilt or imposition of sentence~~
 6 ~~for a conviction of a second or subsequent offense of child molestation, including a plea~~
 7 ~~of nolo contendere, shall not be suspended, probated, deferred, or withheld.~~

8 (2) If the victim is at least 14 but less than 16 years of age and the person convicted of
 9 child molestation is 18 years of age or younger and is no more than four years older than
 10 the victim, such person shall be guilty of a misdemeanor and shall not be subject to the
 11 sentencing and punishment provisions of Code Section 17-10-6.2.

12 (c) A person commits the offense of aggravated child molestation when such person
 13 commits an offense of child molestation which act physically injures the child or involves
 14 an act of sodomy.

15 (d)(1) Except as provided in paragraph (2) of this subsection, a A person convicted of
 16 the offense of aggravated child molestation shall be punished by imprisonment for life
 17 or by a split sentence that is a term of imprisonment for not less than ten nor more than
 18 ~~30~~ 25 years and not exceeding life imprisonment, followed by probation for life. ~~Any~~
 19 ~~person convicted under this Code section of the offense of aggravated child molestation~~
 20 ~~shall, in addition, and shall~~ be subject to the sentencing and punishment provisions of
 21 Code Sections 17-10-6.1 and 17-10-7.

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

23 (A) The victim is at least 13 but less than 16 years of age;

24 (B) The person convicted of aggravated child molestation is 18 years of age or younger
 25 and is no more than four years older than the victim; and

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

29 ~~(2) The court sentencing a person who has been convicted of a first offense of aggravated~~
 30 ~~child molestation when the victim is 16 years of age or younger at the time of the offense~~
 31 ~~is authorized to require, before sentencing, that the defendant undergo a psychiatric~~
 32 ~~evaluation to ascertain whether or not medroxyprogesterone acetate chemical treatment~~
 33 ~~or its equivalent would be effective in changing the defendant's behavior. If it is~~
 34 ~~determined by a qualified mental health professional that such treatment would be~~
 35 ~~effective, the court may require, as a condition of probation and upon provisions arranged~~
 36 ~~between the court and the defendant, the defendant to undergo medroxyprogesterone~~
 37 ~~acetate treatment or its chemical equivalent which must be coupled with treatment by a~~

1 ~~qualified mental health professional. In case of a person sentenced to probation who is~~
 2 ~~required to undergo such treatment or its chemical equivalent and is in the custody of a~~
 3 ~~law enforcement agency or confined in a jail at the time of sentencing, when he or she~~
 4 ~~becomes eligible for probation, such person shall begin medroxyprogesterone acetate~~
 5 ~~treatment and counseling prior to his or her release from custody or confinement. A~~
 6 ~~person sentenced to probation who is required to undergo such treatment and who is not~~
 7 ~~in the custody of a law enforcement agency or confined in a jail at the time of sentencing~~
 8 ~~shall be taken into custody or confined until treatment can begin. Additional treatment~~
 9 ~~may continue after such defendant's release from custody or confinement until the~~
 10 ~~defendant demonstrates to the court that such treatment is no longer necessary. No such~~
 11 ~~treatment shall be administered until such person has been fully informed of the side~~
 12 ~~effects of hormonal chemical treatment and has consented to the treatment in writing.~~
 13 ~~The administration of the treatment shall conform to the procedures and conditions set~~
 14 ~~out in subsection (c) of Code Section 42-9-44.2.~~

15 ~~(3) Any physician or qualified mental health professional who acts in good faith in~~
 16 ~~compliance with the provisions of this Code section and subsection (c) of Code Section~~
 17 ~~42-9-44.2 in the administration of treatment or provision of counseling provided for in~~
 18 ~~this Code section shall be immune from civil or criminal liability for his or her actions~~
 19 ~~in connection with such treatment or counseling."~~

20 SECTION 12.

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

23 "16-6-5.

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

27 (b) Except as provided in subsection (c) of this Code section, a A person convicted of the
 28 offense of enticing a child for indecent purposes shall be punished by imprisonment for not
 29 less than ~~one~~ ten nor more than ~~20~~ 30 years. Any person convicted under this Code section
 30 of the offense of enticing a child for indecent purposes shall, in addition, be subject to the
 31 sentencing and punishment provisions of Code Section 17-10-6.2. Upon a first conviction
 32 ~~of the offense of enticing a child for indecent purposes, the judge may probate the sentence;~~
 33 ~~and such probation may be upon the special condition that the defendant undergo a~~
 34 ~~mandatory period of counseling administered by a licensed psychiatrist or a licensed~~
 35 ~~psychologist. However, if the judge finds that such probation should not be imposed, he~~
 36 ~~shall sentence the defendant to imprisonment. Upon a second or third conviction of such~~

1 ~~offense, the defendant shall be punished by imprisonment for not less than five years. For~~
 2 ~~a fourth or subsequent conviction of the offense of enticing a child for indecent purposes,~~
 3 ~~the defendant shall be punished by imprisonment for 20 years. Adjudication of guilt or~~
 4 ~~imposition of sentence for a conviction of a third, fourth, or subsequent offense of enticing~~
 5 ~~a child for indecent purposes, including a plea of nolo contendere, shall not be suspended,~~
 6 ~~probated, deferred, or withheld.~~

7 (c) If the victim is at least 14 but less than 16 years of age and the person convicted of
 8 enticing a child for indecent purposes is 18 years of age or younger and is no more than
 9 four years older than the victim, such person shall be guilty of a misdemeanor and shall not
 10 be subject to the sentencing and punishment provisions of Code Section 17-10-6.2."

11 SECTION 13.

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

14 "16-6-5.1.

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

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

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

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

21 (4) 'Sexual contact' means any contact between for the purpose of sexual gratification of
 22 the actor and a person not married to the actor involving with the intimate parts of a
 23 person not married to the actor either person for the purpose of sexual gratification of the
 24 actor.

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

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

4 (A) In the custody of law; or

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

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

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

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

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

30 SECTION 14.

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

33 "16-6-22.

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

- 1 (1) Father and daughter or stepdaughter;
 2 (2) Mother and son or stepson;
 3 (3) Brother and sister of the whole blood or of the half blood;
 4 (4) Grandparent and grandchild;
 5 (5) Aunt and nephew; or
 6 (6) Uncle and niece.
- 7 (b) A person convicted of the offense of incest shall be punished by imprisonment for not
 8 less than ~~one ten~~ nor more than ~~20~~ 30 years; provided, however, that any person convicted
 9 of the offense of incest under this subsection with a child under the age of 14 years shall
 10 be punished by imprisonment for not less than 25 nor more than 50 years. Any person
 11 convicted under this Code section of the offense of incest shall, in addition, be subject to
 12 the sentencing and punishment provisions of Code Section 17-10-6.2."

13 SECTION 15.

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

16 "16-6-22.1.

- 17 (a) For the purposes of this Code section, the term 'intimate parts' means the primary
 18 genital area, anus, groin, inner thighs, or buttocks of a male or female and the breasts of a
 19 female.
- 20 (b) A person commits the offense of sexual battery when he or she intentionally makes
 21 physical contact with the intimate parts of the body of another person without the consent
 22 of that person.
- 23 (c) Except as otherwise provided in this Code section, a person convicted of the offense
 24 of sexual battery shall be punished as for a misdemeanor of a high and aggravated nature.
- 25 (d) A person convicted of the offense of sexual battery against any child under the age of
 26 16 years shall be guilty of a felony and, upon conviction thereof, shall be punished by
 27 imprisonment for not less than one nor more than five years.
- 28 (e) Upon a second or subsequent conviction under subsection (b) of this Code section, a
 29 person shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not
 30 less than one nor more than five years and, in addition, shall be subject to the sentencing
 31 and punishment provisions of Code Section 17-10-6.2."

32 SECTION 16.

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

1 "16-6-22.2.
 2 (a) For the purposes of this Code section, the term 'foreign object' means any article or
 3 instrument other than the sexual organ of a person.
 4 (b) A person commits the offense of aggravated sexual battery when he or she
 5 intentionally penetrates with a foreign object the sexual organ or anus of another person
 6 without the consent of that person.
 7 (c) A person convicted of the offense of aggravated sexual battery shall be punished by
 8 imprisonment for life or by a split sentence that is a term of imprisonment for not less than
 9 ten nor more than 20 25 years and not exceeding life imprisonment, followed by probation
 10 for life. ~~Any person convicted under this Code section shall, in addition, and shall~~ be
 11 subject to the sentencing and punishment provisions of Code Sections 17-10-6.1 and
 12 17-10-7."

13 SECTION 17.

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

15 "16-6-25.
 16 (a) As used in this Code section, the term 'law enforcement unit' means any agency, organ,
 17 or department of this state, or a subdivision or municipality thereof, whose primary
 18 functions include the enforcement of criminal or traffic laws; the preservation of public
 19 order; the protection of life and property; or the prevention, detection, or investigation of
 20 crime. Such term shall also include the Department of Corrections and the State Board of
 21 Pardons and Paroles.
 22 (b) Any person who knows or reasonably believes that a sexual offender, as defined in
 23 Code Section 42-1-12, is not complying, or has not complied, with the requirements of
 24 Code Section 42-1-12 and who, with the intent to assist such sexual offender in eluding a
 25 law enforcement unit that is seeking such sexual offender to question him or her about, or
 26 to arrest him or her for, his or her noncompliance with the requirements of Code Section
 27 42-1-12:
 28 (1) Harbors, attempts to harbor, or assists another person in harboring or attempting
 29 harbor such sexual offender;
 30 (2) Conceals, attempts to conceal, or assists another person in concealing or attempting
 31 to conceal such sexual offender; or
 32 (3) Provides information to the law enforcement unit regarding such sexual offender
 33 which the person knows to be false information
 34 commits a felony and shall be punished by imprisonment for not less than five nor more
 35 than 20 years."

1 "17-10-6.1.

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

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

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

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

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

7 (5) Aggravated child molestation, as defined in subsection (c) of Code Section 16-6-4,
 8 unless subject to the provisions of paragraph (2) of subsection (d) of Code Section
 9 16-6-4;

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

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

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

20 (2) Notwithstanding any other provisions of law to the contrary, the sentence of any
 21 person convicted of the serious violent felony of:

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

23 (B) Rape;

24 (C) Aggravated child molestation, as defined in subsection (c) of Code Section 16-6-4,
 25 unless subject to the provisions of paragraph (2) of subsection (d) of Code Section
 26 16-6-4;

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

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

29 shall, unless sentenced to life imprisonment, be a split sentence which shall include a
 30 mandatory minimum term of imprisonment of 25 years, followed by probation for life.
 31 No portion of the mandatory minimum sentence imposed shall be suspended, stayed,
 32 probated, deferred, or withheld by the sentencing court and shall not be reduced by any
 33 form of pardon, parole, or commutation of sentence by the State Board of Pardons and
 34 Paroles.

35 (3) No person convicted of a serious violent felony as defined in subsection (a) of this
 36 Code section shall be sentenced as a first offender pursuant to Article 3 of Chapter 8 of
 37 Title 42, relating to probation for first offenders, or any other provision of Georgia law

1 relating to the sentencing of first offenders. The State of Georgia shall have the right to
 2 appeal any sentence which is imposed by the superior court which does not conform to
 3 the provisions of this subsection in the same manner as is provided for other appeals by
 4 the state in accordance with Chapter 7 of Title 5, relating to appeals or certiorari by the
 5 state.

6 (c)(1) Except as otherwise provided in subsection (c) of Code Section 42-9-39, for a first
 7 conviction of a serious violent felony in which the defendant has been sentenced to life
 8 imprisonment, that person shall not be eligible for any form of parole or early release
 9 administered by the State Board of Pardons and Paroles until that person has served a
 10 minimum of ~~14~~ 30 years in prison. The minimum term of imprisonment shall not be
 11 reduced by any earned time, early release, work release, leave, or other sentence-reducing
 12 measures under programs administered by the Department of Corrections.

13 (2) For a first conviction of a serious violent felony in which the defendant has been
 14 sentenced to death but the sentence of death has been commuted to life imprisonment,
 15 that person shall not be eligible for any form of parole or early release administered by
 16 the State Board of Pardons and Paroles until that person has served a minimum of ~~25~~ 30
 17 years in prison. The minimum term of imprisonment shall not be reduced by any earned
 18 time, early release, work release, leave, or other sentence-reducing measures under
 19 programs administered by the Department of Corrections.

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

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

34 **SECTION 21.**

35 Said title is further amended by adding a new Code section to follow Code Section
 36 17-10-6.1, relating to punishment for serious violent offenders, to read as follows:

1 "17-10-6.2.

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

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

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

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

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

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

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

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

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

16 (9) A second or subsequent conviction for sexual battery, as defined in Code Section
17 16-6-22.1; or

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

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

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

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

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

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

5 (D) The victim did not suffer any intentional physical harm during the commission of
 6 the offense;

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

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

9 (2) If the court deviates in sentencing pursuant to this subsection, the judge shall issue
 10 a written order setting forth the judge's reasons. Any such order shall be appealable by
 11 the defendant pursuant to Code Section 5-6-34, or by the State of Georgia pursuant to
 12 Code Section 5-7-1.

13 (d) If the court imposes a probated sentence, the defendant shall submit to review by the
 14 Sexual Offender Registration Review Board for purposes of risk assessment classification
 15 within ten days of being sentenced and shall otherwise comply with Article 2 of Chapter
 16 1 of Title 42."

17 SECTION 22.

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

22 "(11) The offense of murder, rape, or kidnapping was committed by a person previously
 23 convicted of rape, aggravated sodomy, aggravated child molestation, or aggravated
 24 sexual battery."

25 SECTION 23.

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

30 "(A) 'Criminal history record information' means information collected by criminal
 31 justice agencies on individuals consisting of identifiable descriptions and notations of
 32 arrests, detentions, indictments, accusations, information, or other formal charges, and
 33 any disposition arising therefrom, sentencing, correctional supervision, and release.
 34 Such term also includes the age and sex of each victim as provided by criminal justice
 35 agencies. The term does not include identification information, such as fingerprint

1 records, to the extent that such information does not indicate involvement of the
2 individual in the criminal justice system."

3 **SECTION 24.**

4 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended
5 by designating Code Sections 42-1-1 through 42-1-11 as Article 1 of Chapter 1, striking in
6 their entirety Code Sections 42-1-12 and 42-1-13, and inserting in their place a new Article
7 2 to read as follows:

8 "ARTICLE 2

9 42-1-12.

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

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

14 (2) 'Appropriate official' means:

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

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

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

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

27 (3) 'Area where minors congregate' shall include all public and private parks and
28 recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums,
29 school bus stops, and public and community swimming pools.

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

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

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

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

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

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

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

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

- 32 (i) Kidnapping of a minor, except by a parent;
- 33 (ii) False imprisonment of a minor, except by a parent;
- 34 (iii) Criminal sexual conduct toward a minor;
- 35 (iv) Solicitation of a minor to engage in sexual conduct;
- 36 (v) Use of a minor in a sexual performance;
- 37 (vi) Solicitation of a minor to practice prostitution;

1 (vii) Use of a minor to engage in any sexually explicit conduct to produce any visual
2 medium depicting such conduct;

3 (viii) Creating, publishing, selling, distributing, or possessing any material depicting
4 a minor or a portion of a minor's body engaged in sexually explicit conduct;

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

9 (x) Conspiracy to transport, ship, receive, or distribute visual depictions of minors
10 engaged in sexually explicit conduct; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (12) 'Level I risk assessment classification' means the sexual offender is a low sex
14 offense risk and low recidivism risk for future sexual offenses.

15 (13) 'Level II risk assessment classification' means the sexual offender is an intermediate
16 sex offense risk and intermediate recidivism risk for future sexual offenses and includes
17 all sexual offenders who do not meet the criteria for classification either as a sexually
18 dangerous predator or for Level I risk assessment.

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

22 (15) 'Public and community swimming pools' includes municipal, school, hotel, motel,
23 or any pool to which access is granted in exchange for payment of a daily fee. The term
24 includes apartment complex pools, country club pools, or subdivision pools which are
25 open only to residents of the subdivision and their guests. This term does not include a
26 private pool or hot tub serving a single-family dwelling and used only by the residents
27 of the dwelling and their guests.

28 (16) 'Required registration information' means:

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

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

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

- 1 (D) If the place of residence is a mobile home, provide the mobile home location
 2 permit number; the name and address of the owner of the home; a description, including
 3 the color scheme of the mobile home; and, if applicable, a description of where the
 4 mobile home is located on the property;
- 5 (E) If the place of residence is a manufactured home, provide the name and address of
 6 the owner of the home; a description, including the color scheme of the manufactured
 7 home; and, if applicable, a description of where the manufactured home is located on
 8 the property;
- 9 (F) If the place of residence is a vessel, live-aboard vessel, or houseboat, provide the
 10 hull identification number; the manufacturer's serial number; the name of the vessel,
 11 live-aboard vessel, or houseboat; the registration number; and a description, including
 12 color scheme, of the vessel, live-aboard vessel, or houseboat;
- 13 (G) Date of employment, place of any employment, and address of employer;
- 14 (H) Place of vocation and address of the place of vocation;
- 15 (I) Vehicle make, model, color, and license tag number;
- 16 (J) If enrolled, employed, or carrying on a vocation at an institution of higher education
 17 in this state, the name, address, and county of each institution, including each campus
 18 attended, and enrollment or employment status; and
- 19 (K) The name of the crime or crimes for which the sexual offender is registering and
 20 the date released from prison or placed on probation, parole, or supervised release.
- 21 (17) 'Risk assessment classification' means the notification level into which a sexual
 22 offender is placed based on the board's assessment.
- 23 (18) 'School' means all public and private kindergarten, elementary, and secondary
 24 schools.
- 25 (19) 'School bus stop' means a school bus stop as designated by local school boards of
 26 education or by a private school.
- 27 (20) 'Sexual offender' means any individual:
- 28 (A) Who has been convicted of a criminal offense against a victim who is a minor or
 29 any dangerous sexual offense; or
- 30 (B) Who has been convicted under the laws of another state or territory, under the laws
 31 of the United States, under the Uniform Code of Military Justice, or in a tribal court of
 32 a criminal offense against a victim who is a minor or a dangerous sexual offense.
- 33 (21) 'Sexually dangerous predator' means a sexual offender:
- 34 (A) Who was designated as a sexually violent predator between July 1, 1996, and June
 35 30, 2006; or
- 36 (B) Who is determined by the Sexual Offender Registration Review Board to be at risk
 37 of perpetrating any future dangerous sexual offense.

1 (22) '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 within 72 hours prior to moving and
16 to the sheriff of the county to which the sexual offender is moving within 72 hours after
17 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 within 72 hours after establishing
24 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 system
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 or any other reason for a period exceeding 14 consecutive days or for an aggregate period
37 of time exceeding 30 days during any calendar year regardless of whether such sexual

1 offender is required to register under federal law, military law, tribal law, or the laws of
2 another state or 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 prior to such
17 offender's 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 within 72 hours prior to any change
23 of residence address and to the sheriff of the county to which the sexual offender is
24 moving within 72 hours after establishing the new residence;

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 (g)(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 sentenced pursuant to subsection (c) of Code Section 17-10-6.2; and
- 2 (B) Have had ten years elapse since his or her release from prison, parole, supervised
- 3 release, or probation.

4 (h)(1) The appropriate official or sheriff shall, within 72 hours after receipt of the
 5 required registration information, forward such information to the Georgia Bureau of
 6 Investigation. Once the data is entered into the Criminal Justice Information System by
 7 the appropriate official or sheriff, the Georgia Crime Information Center shall notify the
 8 sheriff of the sexual offender's county of residence, either permanent or temporary, the
 9 sheriff of the county of employment, and the sheriff of the county where the sexual
 10 offender attends an institution of higher education within 24 hours of entering the data
 11 or any change to the data.

12 (2) The Georgia Bureau of Investigation shall:

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

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

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

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

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

22 (iii) Mail a nonforwardable verification form to the last reported address of the sexual
 23 offender within ten days prior to the sexual offender's birthday;

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

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

27 (i) The sheriff's office in each county shall:

28 (1) Prepare and maintain a list of all sexual offenders and sexually dangerous predators
 29 residing in each county. Such list shall include the sexual offender's name; age; physical
 30 description; address; crime of conviction, including conviction date and the jurisdiction
 31 of the conviction; photograph; and the risk assessment classification level provided by
 32 the board, and an explanation of how the board classifies sexual offenders and sexually
 33 dangerous predators;

34 (2) Electronically submit and update all information provided by the sexual offender
 35 within two working days to the Georgia Bureau of Investigation in a manner prescribed
 36 by the Georgia Bureau of Investigation;

37 (3) Maintain and post a list of every sexual offender residing in each county:

- 1 (A) In the sheriff's office;
- 2 (B) In any county administrative building;
- 3 (C) In the main administrative building for any municipal corporation;
- 4 (D) In the office of the clerk of the superior court so that such list is available to the
- 5 public; and
- 6 (E) On a website maintained by the sheriff of the county for the posting of general
- 7 information;
- 8 (4) Update the public notices required by paragraph (3) of this Code section within two
- 9 working days;
- 10 (5) Inform the public of the presence of sexual offenders in each community;
- 11 (6) Update the list of sexual offenders residing in the county upon receipt of new
- 12 information affecting the residence address of a sexual offender or upon the registration
- 13 of a sexual offender moving into the county by virtue of release from prison, relocation
- 14 from another county, conviction in another state, federal court, military tribunal, or tribal
- 15 court. Such list, and any additions to such list, shall be delivered, within 72 hours of
- 16 updating the list of sexual offenders residing in the county, to all schools or institutions
- 17 of higher education located in the county;
- 18 (7) Within 72 hours of the receipt of changed required registration information, notify
- 19 the Georgia Bureau of Investigation through the Criminal Justice Information System of
- 20 each change of information;
- 21 (8) Retain the verification form stating that the sexual offender still resides at the address
- 22 last reported;
- 23 (9) Enforce the criminal provisions of this Code section. The sheriff may request the
- 24 assistance of the Georgia Bureau of Investigation to enforce the provisions of this Code
- 25 section;
- 26 (10) Cooperate and communicate with other sheriffs' offices in this state and in the
- 27 United States to maintain current data on the location of sexual offenders;
- 28 (11) Determine the appropriate time of day for reporting by sexual offenders, which shall
- 29 be consistent with the reporting requirements of this Code section;
- 30 (12) If required by Code Section 42-1-14, place any electronic monitoring system on the
- 31 sexually dangerous predator and explain its operation and cost;
- 32 (13) Provide current information on names and addresses of all registered sexual
- 33 offenders to campus police with jurisdiction for the campus of an institution of higher
- 34 education if the campus is within the sheriff's jurisdiction; and
- 35 (14) Collect the annual \$250.00 registration fee from the sexual offender and transmit
- 36 such fees to the state for deposit into the general fund.

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

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

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

13 (l)(1) On at least an annual basis, the Department of Education shall obtain from the
14 Georgia Bureau of Investigation a complete list of the names and addresses of all
15 registered sexual offenders and shall send such list, accompanied by a hold harmless
16 provision, to each school in this state. In addition, the Department of Education shall
17 provide information to each school in this state on accessing and retrieving from the
18 Georgia Bureau of Investigation's website a list of the names and addresses of all
19 registered sexual offenders.

20 (2) On at least an annual basis, the Department of Early Care and Learning shall provide
21 current information to all child care programs regulated pursuant to Code Section
22 20-1A-10 and to all child care learning centers, day-care, group day-care, and family
23 day-care programs regulated pursuant to Code Section 49-5-12 on accessing and
24 retrieving from the Georgia Bureau of Investigation's website a list of the names and
25 addresses of all registered sexual offenders and shall include, on a continuing basis, such
26 information with each application for licensure, commissioning, or registration for early
27 care and education programs.

28 (3) On at least an annual basis, the Department of Human Resources shall provide
29 current information to all long-term care facilities for children on accessing and retrieving
30 from the Georgia Bureau of Investigation's website a list of the names and addresses of
31 all registered sexual offenders.

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

36 (n) Any individual who:

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

3 (2) Provides false information; or

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

8 (o) The information collected pursuant to this Code section shall be treated as private data
9 except that:

10 (1) Such information may be disclosed to law enforcement agencies for law enforcement
11 purposes;

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

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

21 (p) The Board of Public Safety is authorized to promulgate rules and regulations necessary
22 for the Georgia Bureau of Investigation and the Georgia Crime Information Center to
23 implement and carry out the provisions of this Code section.

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

26 42-1-13.

27 (a) The Sexual Offender Registration Review Board shall be composed of three
28 professionals licensed under Title 43 and knowledgeable in the field of the behavior and
29 treatment of sexual offenders; at least one representative from a victims' rights advocacy
30 group or agency; and at least two representatives from law enforcement, each of whom is
31 either employed by a law enforcement agency as a certified peace officer under Title 35
32 or retired from such employment. The members of the board shall be appointed by the
33 commissioner of human resources for terms of four years. On and after July 1, 2006,
34 successors to the members of the board shall be appointed by the Governor. Members of
35 the board shall take office on the first day of September immediately following the expired
36 term of that office and shall serve for a term of four years and until the appointment of their

1 respective successors. No member shall serve on the board more than two consecutive
2 terms. Vacancies occurring on the board, other than those caused by expiration of a term
3 of office, shall be filled in the same manner as the original appointment to the position
4 vacated for the remainder of the unexpired term and until a successor is appointed.

5 Members shall be entitled to an expense allowance and travel cost reimbursement the same
6 as members of certain other boards and commissions as provided in Code Section 45-7-21.

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

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

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

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

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

17 42-1-14.

18 (a) The board shall determine the likelihood that a sexual offender will engage in another
19 crime against a victim who is a minor or a dangerous sexual offense. The board shall make
20 such determination for any sexual offender convicted on or after July 1, 2006, of a criminal
21 act against a minor or a dangerous sexual offense and for any sexual offender incarcerated
22 on July 1, 2006, but convicted prior to July 1, 2006, of a criminal act against a minor. Such
23 determination shall not be required to be made by the board until January 1, 2007;
24 provided, however, that such persons shall be subject to this Code section. A sexual
25 offender shall be placed into Level I risk assessment classification, Level II risk assessment
26 classification, or sexually dangerous predator classification based upon the board's
27 assessment criteria and information obtained and reviewed by the board. The sexual
28 offender may provide the board with information including, but not limited to,
29 psychological evaluations, sexual history polygraph information, treatment history,
30 personal, social, educational, and work history, and may agree to submit to a psychosexual
31 evaluation or sexual history polygraph conducted by the board. If the sexual offender has
32 undergone treatment through the Department of Corrections, such treatment records shall
33 also be submitted to the board for evaluation. The prosecuting attorney shall provide the
34 board with any information available to assist the board in rendering an opinion, including,
35 but not limited to, criminal history and records related to previous criminal history. On and
36 after July 1, 2006, the clerk of court shall send a copy of the sexual offender's conviction

1 to the board and notify the board that a sexual offender's evaluation will need to be
2 performed. The board shall render its recommendation for risk assessment classification
3 within:

4 (1) Sixty days of receipt of a request for an evaluation if the sexual offender is being
5 sentenced pursuant to subsection (c) of Code Section 17-10-6.2;

6 (2) Six months prior to the sexual offender's proposed release from confinement if the
7 offender is incarcerated; and

8 (3) Forty-five days of receipt of the required registration information if the sexual
9 offender has entered this state from another state and registered as a sexual offender.

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

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

22 (2) If the sexual offender received a sentence of imprisonment and was sentenced for a
23 dangerous sexual offense on or after July 1, 2006, or if the sexual offender is incarcerated
24 on July 1, 2006, for a crime against a victim who is a minor, after receiving a
25 recommendation from the board that he or she be classified as a sexually dangerous
26 predator, the sexual offender may request that the sentencing court set a date to conduct
27 a hearing affording the sexual offender the opportunity to present testimony or evidence
28 relevant to the recommended classification. After the hearing and within 60 days of
29 receiving the report, the court shall issue a ruling as to whether or not the sexual offender
30 shall be classified as a sexually dangerous predator. If the court determines the sexual
31 offender to be a sexually dangerous predator, such fact shall be communicated in writing
32 to the appropriate official, the Georgia Bureau of Investigation, and the sheriff of the
33 county where the sexual offender resides.

34 (c) Any sexual offender who changes residence from another state or territory of the
35 United States to this state and who is not designated as a sexually dangerous predator,
36 sexual predator, or a sexually violent predator shall have his or her required registration
37 information forwarded by the sheriff of his or her county of registration to the board for the

1 purpose of risk assessment classification. After receiving a recommendation from the
2 board that he or she be classified as a sexually dangerous predator, the sexual offender
3 may, within 30 days after the issuance of such classification, request a hearing before an
4 administrative law judge. Such hearing shall be conducted in accordance with Chapter 13
5 of Title 50, the 'Georgia Administrative Procedure Act.' The decision of the administrative
6 law judge shall constitute the final decision of the board subject to the right of judicial
7 review in accordance with Chapter 13 of Title 50. If the final determination is that the
8 sexual offender is classified as a sexually dangerous predator, such fact shall be
9 communicated in writing to the appropriate official, the Georgia Bureau of Investigation,
10 and the sheriff of the county where the sexual offender resides.

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

13 (e) Any sexually dangerous predator shall be required to wear an electronic monitoring
14 system that shall have, at a minimum:

15 (1) The capacity to locate and record the location of a sexually dangerous predator by a
16 link to a global positioning satellite system;

17 (2) The capacity to timely report or record a sexually dangerous predator's presence near
18 or within a crime scene or in a prohibited area or the sexually dangerous predator's
19 departure from specific geographic locations; and

20 (3) An alarm that is automatically activated and broadcasts the sexually dangerous
21 predator's location if the global positioning satellite monitor is removed or tampered with
22 by anyone other than a law enforcement official designated to maintain and remove or
23 replace the equipment.

24 Such electronic monitoring system shall be worn by a sexually dangerous predator for the
25 remainder of his or her natural life. The sexually dangerous predator shall pay the cost of
26 such system to the Department of Corrections if the sexually dangerous predator is on
27 probation; to the Board of Pardons and Paroles if the sexually dangerous predator is on
28 parole; and to the sheriff after the sexually dangerous predator completes his or her term
29 of probation and parole or if the sexually dangerous predator has moved to this state from
30 another state, territory, or country. The electronic monitoring system shall be placed upon
31 the sexually dangerous predator prior to his or her release from confinement. If the sexual
32 offender is not in custody, within 72 hours of the decision classifying the sexual offender
33 as a sexually dangerous predator by the court in accordance with subsection (b) of this
34 Code section or a final decision pursuant to subsection (c) of this Code section, whichever
35 applies to the sexual offender's situation, the sexually dangerous predator shall report to
36 the sheriff of the county of his or her residence for purposes of having the electronic
37 monitoring system placed on the sexually dangerous predator.

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

5 42-1-15.

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

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

14 (2) No individual who is a sexually dangerous predator shall be employed by any
 15 business or entity that is located within 1,000 feet of an area where minors congregate.

16 (c) Notwithstanding any ordinance or resolution adopted pursuant to Code Section 16-6-24
 17 or subsection (d) of Code Section 16-11-24, it shall be unlawful for any individual required
 18 to register pursuant to Code Section 42-1-12 to loiter, as prohibited by Code Section
 19 16-11-36, at any child care facility, school, or area where minors congregate.

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

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

27 SECTION 25.

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

30 "(b) In determining the terms and conditions of probation for a probationer who has been
 31 convicted of a criminal offense against a victim who is a minor or dangerous sexual offense
 32 as ~~that phrase is~~ those terms are defined in ~~subparagraph (a)(4)(B)~~ of Code Section
 33 42-1-12, the court may provide that the probationer shall be:

34 (1) Prohibited from entering or remaining present at a victim's school, place of
 35 employment, place of residence, or other specified place at times when a victim is present

1 or from ~~entering or remaining present~~ loitering in areas where minors congregate, child
 2 care facilities, churches, or schools as those terms are defined in ~~subsection (a) of Code~~
 3 Section ~~42-1-13~~ 42-1-12;

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

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

10 SECTION 26.

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

13 "42-8-60.

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

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

18 or

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

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

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

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

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

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

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

34 (4) Electronically furnishing obscene material to a minor as defined in Code Section
 35 16-12-100.1; or

1 (5) Computer pornography and child exploitation, as defined in Code Section
 2 16-12-100.2."

3 SECTION 27.

4 Said title is further amended by striking subsections (b) and (c) of Code Section 42-9-39,
 5 relating to restrictions on relief for person serving a second life sentence, and inserting new
 6 subsections (b) and (c) to read as follows:

7 "(b) Except as otherwise provided in subsection (b) of Code Section 17-10-7, when a
 8 person is convicted of murder and sentenced to life imprisonment and such person has
 9 previously been incarcerated under a life sentence, such person shall serve at least ~~25~~ 30
 10 years in the penitentiary before being granted a pardon and before becoming eligible for
 11 parole.

12 (c) When a person receives consecutive life sentences as the result of offenses occurring
 13 in the same series of acts and any one of the life sentences is imposed for the crime of
 14 murder, such person shall serve consecutive ~~ten-year~~ 30 year periods for each such
 15 sentence, up to a maximum of ~~30~~ 60 years, before being eligible for parole consideration."

16 SECTION 28.

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

19 "42-9-44.1.

20 ~~(a) As used in this Code section, the term 'sexual offense' means a violation of Code~~
 21 ~~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~~
 22 ~~years of age at the time of the commission of the offense or a violation of Code Section~~
 23 ~~16-6-3, 16-6-4, or 16-6-5 when the victim was under 14 years of age at the time of the~~
 24 ~~commission of the offense.~~

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

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

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

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

34 ~~(c) Any sex offender who has been paroled and who moves his or her legal residence from~~
 35 ~~one county within this state to another county within this state shall be required to provide~~

1 ~~the information and notice required in subsection (b) of this Code section with respect to~~
 2 ~~his or her new residence within ten days after moving during the period of his or her parole.~~

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

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

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

12 SECTION 29.

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

16 "42-9-44.2.

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

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

32 ~~(c) The provision of treatment required as a condition of parole shall be administered by~~
 33 ~~the State Board of Pardons and Paroles through licensed medical personnel employed by~~
 34 ~~the defendant and approved by the board. Any physician or qualified mental health~~
 35 ~~professional who acts in good faith in compliance with the provisions of this Code section~~
 36 ~~in the administration of treatment or provision of counseling provided for in this Code~~

1 ~~section shall be immune from civil or criminal liability for his or her actions in connection~~
2 ~~with such treatment. The Department of Corrections shall permit access by such licensed~~
3 ~~medical personnel for such purpose to any person required to begin the treatment and~~
4 ~~counseling while confined in a facility of the department. The medical personnel utilized~~
5 ~~or approved by the board shall be required to inform the person about the effect of~~
6 ~~hormonal chemical treatment and any side effects that may result from it. A person subject~~
7 ~~to treatment under this Code section shall acknowledge in writing the receipt of this~~
8 ~~information. Reserved.~~"

9 **SECTION 30.**

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

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

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

20 **SECTION 31.**

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