

The Senate Public Safety and Homeland Security Committee offered the following substitute to SB 249:

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to the Sexual Offender Registration Review Board, so as to change certain definitions; to provide for sexual offenders to register with the sheriff of any county where such offender resides, is employed, or is attending an institution of higher education in lieu of only registering in the county of residence and having the sheriff for such county be responsible for forwarding information about such offender to the sheriffs of the counties where such offender is employed or attends an institution of higher education; to require sexual offenders to submit palm prints; to change certain residency requirements for certain sexual offenders; to require the Department of Corrections to forward certain information to sheriffs; to change reporting requirements when a sexual offender is incarcerated; to change provisions relating to the time frame a sheriff has to update certain information; to change certain penalty provisions; to change provisions relating to restrictions on where sexual offenders and sexually dangerous predators may reside, work, and volunteer; to provide a mechanism for certain elderly and disabled sexual offenders to petition the superior court to be released from certain residency requirements; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to the Sexual Offender Registration Review Board, is amended in Code Section 42-1-12, relating to the State Sexual Offender Registry, by revising paragraphs (1) and (6) of subsection (a) and subparagraphs (a)(16)(A) and (a)(16)(C) as follows:

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

"(6) 'Child care facility' means all public and private pre-kindergarten facilities, day-care centers, child care learning centers, preschool facilities, and long-term care facilities for children. Such term shall not include private, in-home child day care which is not licensed by this state."

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

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

SECTION 2.

Said article is further amended in Code Section 42-1-12, relating to the State Sexual Offender Registry, by revising paragraphs (3), (6), and (8) of subsection (b) as follows:

"(3) Inform the sexual offender that, if the sexual offender changes any of the required registration information, other than residence address, place of employment, or enrollment at an institution of higher education, the sexual offender shall give the new information to the sheriff of ~~the~~ each county with whom the sexual offender is registered within 72 hours of the change of information; if the information is the sexual offender's new residence address, change in employment location, or change in where the sexual offender is attending an institution of higher education, the sexual offender shall give the information to the sheriff of ~~the~~ each county with whom the sexual offender last registered within 72 hours prior to moving or changing employment or attendance at an institution of higher education and to the sheriff of the county to which the sexual offender is moving or changing employment or attendance at an institution of higher education within 72 hours after the change of information;"

"(6) Obtain fingerprints, palm prints, and a current photograph of the sexual offender;"

"(8) At least 30 days prior to such release, obtain ~~Obtain~~ and forward any information obtained from the clerk of court pursuant to Code Section 42-5-50 to the sheriff's office of the county in which the sexual offender will reside; and"

SECTION 3.

Said article is further amended in Code Section 42-1-12, relating to the State Sexual Offender Registry, by revising paragraph (3) of subsection (c) as follows:

"(3) Forward ~~the sexual offender's fingerprints and photograph,~~ at least 30 days prior to the sexual offender's release from prison, placement on parole, supervised release, or probation, the following information to the sheriff's office of the county where the sexual offender is going to reside;

1 (A) The sexual offender's fingerprints, palm prints, and photograph;

2 (B) The sexual offender's crime of conviction, including conviction date and the
3 jurisdiction of the conviction; and

4 (C) The sexual offender's address;"

5 **SECTION 4.**

6 Said article is further amended in Code Section 42-1-12, relating to the State Sexual Offender
7 Registry, by revising subsection (f) as follows:

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

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

11 (2) Register in person with the sheriff of the each county in which the sexual offender
12 resides, is employed, or attends an institution of higher education within 72 hours after
13 the sexual offender's release from prison or placement on parole, supervised release,
14 probation, or entry into this state;

15 (3) Maintain the required registration information with the sheriff of the each county in
16 which the sexual offender resides, is employed, or attends an institution of higher
17 education;

18 (4) Renew the required registration information with the sheriff of the each county in
19 which the sexual offender resides, is employed, or attends an institution of higher
20 education by reporting in person to the sheriff within 72 hours prior to such offender's
21 birthday each year to be photographed, and fingerprinted, and palm printed; provided
22 however, that such offender shall only be photographed, fingerprinted, and palm printed
23 in the county where such offender resides;

24 (5) Update the required registration information with the sheriff of the each county in
25 which the sexual offender resides, is employed, or attends an institution of higher
26 education within 72 hours of any change to the required registration information, other
27 than residence address, place of employment, or enrollment at an institution of higher
28 education; if the information is the sexual offender's new residence address, change in
29 employment location, or change in where the sexual offender is attending an institution
30 of higher education, the sexual offender shall give the information to the sheriff of the
31 each county with whom the sexual offender last registered within 72 hours prior to any
32 change of residence address, place of employment, or enrollment at an institution of
33 higher education, and to the sheriff of the county to which the sexual offender is moving
34 within 72 hours after establishing the new residence;

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

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

SECTION 5.

Said article is further amended in Code Section 42-1-12, relating to the State Sexual Offender Registry, by revising paragraphs (1), (3), (4), and (6) of subsection (i) as follows:

"(1) Prepare and maintain a list of all sexual offenders and sexually dangerous predators residing, working, or attending an institution of higher education in each county. Such list shall include the sexual offender's name; age; physical description; address; crime of conviction, including conviction date and the jurisdiction of the conviction; photograph; and the risk assessment classification level provided by the board, and an explanation of how the board classifies sexual offenders and sexually dangerous predators;"

"(3) Maintain ~~and post~~ a list of every sexual offender residing, working, or attending an institution of higher education in each county and electronically submit and update such list for posting;

(A) In the sheriff's office;

(B) In any county administrative building;

(C) In the main administrative building for any municipal corporation;

(D) In the office of the clerk of the superior court so that such list is available to the public; and

(E) On a website maintained by the sheriff of the county for the posting of general information;

(4) Update the public notices required by paragraph (3) of this Code section within ~~two~~ working five business days;"

"(6) Update the list of sexual offenders residing, working, or attending an institution of higher education in the county upon receipt of new information affecting the residence address, employment, or attendance at an institution of higher education of a sexual offender or upon the registration of a sexual offender moving into the county, gaining employment in the county, becoming enrolled in an institution of higher education in the county, or by virtue of release from prison, relocation from another county, conviction in another state, federal court, military tribunal, or tribal court. Such list, and any additions to such list, shall be delivered, within 72 hours of updating the list of sexual offenders residing in the county, to all schools or institutions of higher education located in the county;"

SECTION 6.

Said article is further amended in Code Section 42-1-12, relating to the State Sexual Offender Registry, by revising paragraph (1) of subsection (j) as follows:

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

SECTION 7.

Said article is further amended in Code Section 42-1-12, relating to the State Sexual Offender Registry, by revising subsection (n) as follows:

"(n) Any individual who:

- (1) Is required to register under this Code section and who fails to comply with the requirements of this Code section;
- (2) Provides false information; or
- (3) Fails to respond directly to the sheriff of the county where he or she resides, is employed, or is attending an institution of higher education within 72 hours of such individual's birthday

shall be guilty of a felony and shall be punished by imprisonment for not less than ten nor more than 30 years; provided, however, that upon the conviction of the second offense under this subsection, the defendant shall be punished by imprisonment for life."

SECTION 8.

Said article is further amended by revising Code Section 42-1-15, relating to the restrictions on registered sexual offenders residing, working, or loitering within certain areas, the penalties for violations, and civil causes of actions, as follows:

"42-1-15.

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

(2) A superior court may issue an order releasing an individual who is required to register pursuant to Code Section 42-1-12 from the residency requirements of this subsection if the individual or someone acting on behalf of the individual petitions the

1 superior court of the jurisdiction in which such individual resides to be released from the
2 residency requirements of this subsection, the court finds by a preponderance of the
3 evidence that the individual does not pose a substantial risk of perpetrating any future
4 dangerous sexual offense, and the individual:

5 (A) Resides in a hospice facility, skilled nursing home, residential care facility for the
6 elderly, or nursing home;

7 (B) Is totally and permanently disabled as such term is defined in Code Section
8 49-4-80;

9 (C) Is otherwise seriously physically incapacitated due to illness or injury; or

10 (D) Is 75 years of age or older and at least ten years have elapsed since the date of
11 release from prison or placement on parole, supervised release, or probation.

12 (b)(1) No individual who is required to register under Code Section 42-1-12 shall be
13 employed by or volunteer at any child care facility, school, or church or by or at any
14 business or entity that is located within 1,000 feet of a child care facility, a school, or a
15 church. Such distance shall be determined by the location in which such individual
16 actually carries out or performs the functions of his or her job.

17 (2) No individual who is a sexually dangerous predator shall be employed by any
18 business or entity that is located within 1,000 feet of an area where minors congregate.
19 Such distance shall be determined by the location in which the sexually dangerous
20 predator actually carries out or performs the functions of his or her job.

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

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

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

32 **SECTION 9.**

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