

The Senate Public Safety and Homeland Security Committee offered the following substitute to HB 314:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 2 of Article 3 of Chapter 12 of Title 16 and Article 2 of Chapter 1 of Title 42  
2 of the Official Code of Georgia Annotated, relating to offenses related to minors generally  
3 and the Sexual Offender Registration Review Board, respectively, so as to change provisions  
4 relating to sexual offenses or sexually related offenses; to provide that it shall be unlawful  
5 for persons required to register as sexual offenders to photograph a minor under certain  
6 circumstances; to provide for penalties; to change certain definitions; to provide for sexual  
7 offenders to register with the sheriff of any county where such offender resides, is employed,  
8 or is attending an institution of higher education in lieu of only registering in the county of  
9 residence and having the sheriff for such county be responsible for forwarding information  
10 about such offender to the sheriffs of the counties where such offender is employed or  
11 attends an institution of higher education; to require sexual offenders to submit palm prints;  
12 to change certain residency requirements for certain sexual offenders; to require the  
13 Department of Corrections to forward certain information to sheriffs; to change reporting  
14 requirements when a sexual offender is incarcerated; to change provisions relating to the time  
15 frame a sheriff has to update certain information; to change certain penalty provisions; to  
16 change provisions relating to restrictions on where sexual offenders and sexually dangerous  
17 predators may reside, work, and volunteer; to provide a mechanism for certain elderly and  
18 disabled sexual offenders to petition the superior court to be released from certain residency  
19 requirements; to provide for related matters; to repeal conflicting laws; and for other  
20 purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

22 Part 2 of Article 3 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,  
23 relating to offenses related to minors generally, is amended by adding a new Code section  
24 to the end of the part to read as follows:  
25

1 "16-12-100.4.

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

3 (1) 'Minor' means any individual who is under 18 years of age.

4 (2) 'Photograph' means any picture, film or digital photograph, motion picture film,  
5 videotape, or similar visual representation or image of a person.

6 (b) It shall be unlawful for any person who is required to register as a sexual offender  
7 pursuant to Code Section 42-1-12 to intentionally photograph a minor without consent of  
8 the minor's parent or guardian.

9 (c) Any person who violates this Code section shall be guilty of a misdemeanor of a high  
10 and aggravated nature."

## 11 SECTION 2.

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

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

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

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

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

## 28 SECTION 3.

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

31 "(3) Inform the sexual offender that, if the sexual offender changes any of the required  
32 registration information, other than residence address, place of employment, or  
33 enrollment at an institution of higher education, the sexual offender shall give the new  
34 information to the sheriff of the each county with whom the sexual offender is registered  
35 within 72 hours of the change of information; if the information is the sexual offender's

1 new residence address, change in employment location, or change in where the sexual  
 2 offender is attending an institution of higher education, the sexual offender shall give the  
 3 information to the sheriff of ~~the~~ each county with whom the sexual offender last  
 4 registered within 72 hours prior to moving or changing employment or attendance at an  
 5 institution of higher education and to the sheriff of the county to which the sexual  
 6 offender is moving or changing employment or attendance at an institution of higher  
 7 education within 72 hours after the change of information;”

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

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

#### 12 SECTION 4.

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

15 “(3) Forward ~~the sexual offender’s fingerprints and photograph,~~ at least 30 days prior to  
 16 the sexual offender’s release from prison, placement on parole, supervised release, or  
 17 probation, the following information to the sheriff’s office of the county where the sexual  
 18 offender is going to reside:

19 (A) The sexual offender’s fingerprints, palm prints, and photograph;

20 (B) The sexual offender’s crime of conviction, including conviction date and the  
 21 jurisdiction of the conviction; and

22 (C) The sexual offender’s address;”

#### 23 SECTION 5.

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

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

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

29 (2) Register in person with the sheriff of ~~the~~ each county in which the sexual offender  
 30 resides, is employed, or attends an institution of higher education within 72 hours after  
 31 the sexual offender’s release from prison or placement on parole, supervised release,  
 32 probation, or entry into this state;

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

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

7 (5) Update the required registration information with the sheriff of ~~the~~ each county in  
 8 which the sexual offender resides, is employed, or attends an institution of higher  
 9 education within 72 hours of any change to the required registration information, other  
 10 than residence address, place of employment, or enrollment at an institution of higher  
 11 education; if the information is the sexual offender's new residence address, change in  
 12 employment location, or change in where the sexual offender is attending an institution  
 13 of higher education, the sexual offender shall give the information to the sheriff of ~~the~~  
 14 each county with whom the sexual offender last registered within 72 hours prior to any  
 15 change of residence address, place of employment, or enrollment at an institution of  
 16 higher education, and to the sheriff of the county to which the sexual offender is moving  
 17 within 72 hours after establishing the new residence;

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

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

### 23 SECTION 6.

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

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

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

35 (A) In the sheriff's office;

36 (B) In any county administrative building;

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

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

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

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

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

#### 18 SECTION 7.

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

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

#### 26 SECTION 8.

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

29 "(n) Any individual who:

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

32 (2) Provides false information; or

33 (3) Fails to respond directly to the sheriff of the county where he or she resides, is  
34 employed, or is attending an institution of higher education within 72 hours of such  
35 individual's birthday

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

#### 4 SECTION 9.

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

8 "42-1-15.

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

15 (2) A superior court may issue an order releasing an individual who is required to  
 16 register pursuant to Code Section 42-1-12 from the residency requirements of this  
 17 subsection if the individual or someone acting on behalf of the individual petitions the  
 18 superior court of the jurisdiction in which such individual resides to be released from the  
 19 residency requirements of this subsection, the court finds by a preponderance of the  
 20 evidence that the individual does not pose a substantial risk of perpetrating any future  
 21 dangerous sexual offense, and the individual:

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

24 (B) Is totally and permanently disabled as such term is defined in Code Section  
 25 49-4-80;

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

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

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

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

