

Senate Bill 481

By: Senators Jones of the 10th, Brown of the 26th, Weber of the 40th, Ramsey, Sr. of the 43rd and Fort of the 39th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 3 of Chapter 12 of Title 16 and Article 4 of Chapter 18 of Title
2 50 of the Official Code of Georgia Annotated, relating to offenses related to minors generally
3 and inspection of public records, respectively, so as to restrict access to evidence of a
4 violation of Code Sections 16-12-100, 16-12-100.1, and 16-12-100.2 involving sexual
5 exploitation of children, electronically furnishing obscene material to minors, and computer
6 or electronic pornography; to provide for controlled access to such evidence in public
7 inspections of evidence; to provide that it shall be unlawful for persons under certain
8 circumstances to knowingly possess any visual medium which depicts a minor or any portion
9 of a minor's body engaging in sexually explicit conduct to any other person; to provide for
10 penalties; to provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Part 2 of Article 3 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated,
14 relating to offenses related to minors generally, is amended by adding a new Code section
15 to read as follows:

16 "16-12-100.4.

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

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

19 (2) 'Possess' means and includes possessing, distributing, giving, exhibiting, and
20 reproducing.

21 (3) 'Sexually explicit conduct' shall have the same meaning as set forth in Code Section
22 16-12-100.

23 (4) 'Visual medium' shall have the same meaning as set forth in Code Section 16-12-100.

24 (b) In addition to the prohibitions contained in Code Sections 16-12-100, 16-12-100.1, and
25 16-12-100.2, it shall be unlawful for any person to knowingly possess any visual medium

1 which depicts a minor or any portion of a minor's body engaging in sexually explicit
2 conduct to any other person.

3 (c) It shall be an affirmative defense to a charge of violating this Code section if the
4 defendant possesses such visual medium depiction for the purpose of prosecuting,
5 defending, or representing a party in a civil action when such visual medium depiction is
6 necessary for the purpose of such case; provided, however, that the affirmative defense
7 provided in this subsection shall not apply to providing to third parties or nonparties, other
8 than to the court, jury, court personnel, or expert witnesses, access or possession of such
9 visual medium depiction.

10 (d) Any person who violates this Code section shall be guilty of a felony, punishable by
11 imprisonment for not less than one nor more than 20 years."

12 SECTION 2.

13 Article 4 of Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to
14 inspection of public records, is amended in Code Section 50-18-71.1, relating to the approval
15 of the judge required for inspection of trial exhibits, by adding a new subsection to read as
16 follows:

17 "(d) Notwithstanding any other provision of this article, any physical evidence that is
18 evidence of a violation of Code Section 16-12-100, 16-12-100.1, or 16-12-100.2 which is
19 in the possession, custody, or control of any public office or agency, including but not
20 limited to property or material introduced as evidence in a criminal or civil trial, shall not
21 be open to public inspection except as provided in subsection (a) of this Code section. If
22 the judge approves inspection of such property or material, the judge shall designate, in
23 writing, the location where such property or material may be inspected, which location
24 shall be in a facility owned or operated by an agency of state or local government. If the
25 judge permits inspection, such property or material shall not be photographed, copied, or
26 reproduced by any means. Any person who photographs, copies, reproduces, or distributes
27 property or material the inspection of which a judge has authorized in accordance with this
28 subsection shall be guilty of a violation of Code Section 16-12-100."

29 SECTION 3.

30 Said article is further amended by revising subsection (a) of Code Section 50-18-72, relating
31 to when public disclosure is not required, by striking "or" at the end of paragraph (19), by
32 striking the period at the end of paragraph (20) and inserting "; or", and by adding a new
33 paragraph to read as follows:

34 "(21) Notwithstanding the provisions of paragraph (4) of this subsection, any physical
35 evidence or investigatory materials that are evidence of an alleged violation of Code

1 Section 16-12-100, 16-12-100.1, or 16-12-100.2 which are in the possession, custody, or
2 control of any public office or agency."

3 **SECTION 4.**

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