

The House Committee on Judiciary Non-civil offers the following substitute to HB 571:

A BILL TO BE ENTITLED
AN ACT

1 To change and enact provisions of law relating to classification of sexual offenders, sexual
2 offender registration, and restrictions on sexual offenders' residences, workplaces, and
3 activities; to amend Code Section 5-6-35 of the Official Code of Georgia Annotated, relating
4 to appeals requiring an application for appeal, so as to make such Code section applicable
5 to appeals from decisions of superior courts reviewing a decision of the Sexual Offender
6 Registration Review Board and to decisions granting or denying petitions for release from
7 registration requirements and residency and employment restrictions; to amend Code Section
8 16-7-29 of the Official Code of Georgia Annotated, relating to interference with electronic
9 monitoring devices, so as to prohibit interference with such device when it is worn by a
10 sexual offender; to amend Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia
11 Annotated, relating to classification and registration of sexual offenders and regulation of the
12 conduct of such offenders, so as to revise provisions relating to registration of sexual
13 offenders; to change certain definitions; to provide for registration and reporting by sexual
14 offenders who do not have a residence address; to revise provisions relative to classification
15 of sexual offenders; to change provisions relating to the sheriff's obligations relative to sexual
16 offenders; to change provisions relative to the process of classification by the Sexual
17 Offender Registration Review Board and review and repeal of such classifications; to provide
18 for procedure and review; to provide a mechanism for certain sexual offenders to petition the
19 superior court to be released from registration requirements and residency and employment
20 restrictions; to provide for related matters; to provide for an effective date; to repeal
21 conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **SECTION 1.**

24 Code Section 5-6-35 of the Official Code of Georgia Annotated, relating to appeals requiring
25 an application for appeal, is amended in subsection (a) by adding two new paragraphs to read
26 as follows:

H. B. 571 (SUB)

27 "(5.1) Appeals from decisions of superior courts reviewing decisions of the Sexual
 28 Offender Registration Review Board;
 29 (5.2) Appeals from decisions of superior courts granting or denying petitions for release
 30 pursuant to Code Section 42-1-16;"

31 **SECTION 2.**

32 Code Section 16-7-29 of the Official Code of Georgia Annotated, relating to interference
 33 with electronic monitoring devices, is amended by revising subsection (b) as follows:

34 "(b) It shall be unlawful for any person to knowingly and without authority remove,
 35 destroy, or circumvent the operation of an electronic monitoring device which is being used
 36 for the purpose of monitoring a person who is:

- 37 (1) Complying with a home arrest program as set forth in Code Section 42-1-8;
 38 (2) Wearing an electronic monitoring device as a condition of bond or pretrial release;
 39 (3) Wearing an electronic monitoring device as a condition of probation; ~~or~~
 40 (4) Wearing an electronic monitoring device as a condition of parole; or
 41 (5) Wearing an electronic monitoring device as required in Code Section 42-1-14."

42 **SECTION 3.**

43 Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to
 44 classification and registration of sexual offenders and regulation of the conduct of such
 45 offenders, is amended by revising portions of subsection (a) of Code Section 42-1-12,
 46 relating to the State Sexual Offender Registry, as follows:

47 Paragraph (1) is revised as follows:

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

51 Division (9)(B)(xi) is revised as follows:

52 "(xi) Any conduct which, by its nature, is a sexual offense against a victim who is a
 53 minor."

54 Subparagraph (C) of paragraph (9) is revised as follows:

55 "(C) For purposes of ~~subparagraph (a)(9)(B)~~ of this Code section, ~~conduct which is~~
 56 ~~punished as a conviction~~ for a misdemeanor ~~or shall not be considered a criminal~~
 57 ~~offense against a victim who is a minor, and conduct which is prosecuted adjudicated~~
 58 in juvenile court shall not be considered a criminal offense against a victim who is a
 59 minor."

60 Paragraph (10) is revised as follows:

61 "(10)(A) 'Dangerous sexual offense' with respect to convictions occurring on or before
 62 June 30, 2006, means any criminal offense, or the attempt to commit any criminal
 63 offense, under Title 16 as specified in this paragraph or any offense under federal law
 64 or the laws of another state or territory of the United States which consists of the same
 65 or similar elements of the following offenses:

66 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;

67 (ii) Rape in violation of Code Section 16-6-1;

68 (iii) Aggravated sodomy in violation of Code Section 16-6-2;

69 (iv) Aggravated child molestation in violation of Code Section 16-6-4; or

70 (v) Aggravated sexual battery in violation of Code Section 16-6-22.2.

71 (B) 'Dangerous sexual offense' with respect to convictions occurring after June 30,
 72 2006, means any criminal offense, or the attempt to commit any criminal offense, under
 73 Title 16 as specified in this paragraph or any offense under federal law or the laws of
 74 another state or territory of the United States which consists of the same or similar
 75 elements of the following offenses:

76 (i) Aggravated assault with the intent to rape in violation of Code Section ~~16-5-2~~
 77 16-5-21;

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

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

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

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

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

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

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

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

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

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

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

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

94 (xiv) Aggravated sexual battery in violation of Code Section ~~16-6-23~~ 16-6-22.2;

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

- 96 (xvi) Electronically furnishing obscene material to minors in violation of Code
 97 Section 16-12-100.1;
- 98 (xvii) Computer pornography and child exploitation prevention in violation of Code
 99 Section 16-12-100.2;
- 100 (xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or
- 101 (xix) Any conduct which, by its nature, is a sexual offense against a victim who is a
 102 minor or an attempt to commit a sexual offense against a victim who is a minor.
- 103 ~~(B)(C)~~ For purposes of this paragraph, ~~conduct which is punished as a conviction~~ for
 104 a misdemeanor ~~or shall not be considered a dangerous sexual offense, and conduct~~
 105 which is ~~prosecuted~~ adjudicated in juvenile court shall not be considered a dangerous
 106 sexual offense."

107 Paragraph (16) is revised as follows:

108 "(16) 'Required registration information' means:

- 109 (A) Name; social security number; age; race; sex; date of birth; height; weight; hair
 110 color; eye color; fingerprints; and photograph;
- 111 (B) ~~Address of any permanent residence and address of any current temporary~~
 112 ~~residence, within the this state or out of state, and, if applicable in addition to the~~
 113 ~~address, a rural route address and a post office box;~~
- 114 (C) If the place of residence is a motor vehicle or trailer, ~~provide~~ the vehicle
 115 identification number, the license tag number, and a description, including color
 116 scheme, of the motor vehicle or trailer;
- 117 (D) If the place of residence is a mobile home, ~~provide~~ the mobile home location
 118 permit number; the name and address of the owner of the home; a description, including
 119 the color scheme of the mobile home; and, if applicable, a description of where the
 120 mobile home is located on the property;
- 121 (E) If the place of residence is a manufactured home, ~~provide~~ the name and address of
 122 the owner of the home; a description, including the color scheme of the manufactured
 123 home; and, if applicable, a description of where the manufactured home is located on
 124 the property;
- 125 (F) If the place of residence is a vessel, live-aboard vessel, or houseboat, ~~provide~~ the
 126 hull identification number; the manufacturer's serial number; the name of the vessel,
 127 live-aboard vessel, or houseboat; the registration number; and a description, including
 128 color scheme, of the vessel, live-aboard vessel, or houseboat;
- 129 (F.1) If the place of residence is the status of homelessness, information as provided
 130 under paragraph (2.1) of subsection (f) of this Code section;
- 131 (G) Date of employment, place of any employment, and address of employer;
- 132 (H) Place of vocation and address of the place of vocation;

- 133 (I) Vehicle make, model, color, and license tag number;
- 134 (J) If enrolled, employed, or carrying on a vocation at an institution of higher education
135 in this state, the name, address, and county of each institution, including each campus
136 attended, and enrollment or employment status; and
- 137 ~~(K) E-mail addresses, usernames, and user passwords; and~~
- 138 ~~(L)~~ The name of the crime or crimes for which the sexual offender is registering and
139 the date released from prison or placed on probation, parole, or supervised release."

140 Paragraph (20) is revised as follows:

141 "(20) 'Sexual offender' means any individual:

- 142 (A) Who has been convicted of a criminal offense against a victim who is a minor or
143 any dangerous sexual offense; ~~or~~
- 144 (B) Who has been convicted under the laws of another state or territory, under the laws
145 of the United States, under the Uniform Code of Military Justice, or in a tribal court of
146 a criminal offense against a victim who is a minor or a dangerous sexual offense; or
- 147 (C) Who is required to register pursuant to subsection (e) of this Code section."

148 Paragraph (21.1) is revised as follows:

149 ~~"(21.1) 'Username' means a string of characters chosen to uniquely identify an individual
150 who uses a computer or other device with Internet capability to communicate with other
151 individuals through the exchange of e-mail or instant messages or by participating in
152 interactive online forums."~~

153 Paragraph (21.2) is revised as follows:

154 ~~"(21.2) 'User password' means a string of characters that enables an individual who uses
155 a computer or other device with Internet capability to gain access to e-mail messages and
156 interactive online forums."~~

157 **SECTION 4.**

158 Said article is further amended by revising paragraphs (2) through (6) of subsection (e) of
159 Code Section 42-1-12, relating to the State Sexual Offender Registry, as follows:

- 160 "(2) Is convicted on or after July 1, ~~2006~~ 1996, of a dangerous sexual offense;
- 161 (3) Has previously been convicted of a criminal offense against a victim who is a minor
162 and may be released from prison or placed on parole, supervised release, or probation on
163 or after July 1, 1996;
- 164 (4) Has previously been convicted of a sexually violent offense or dangerous sexual
165 offense and may be released from prison or placed on parole, supervised release, or
166 probation on or after July 1, 1996;
- 167 (5) Is a resident of Georgia who intends to reside in this state and who is convicted under
168 the laws of another state or the United States, under the Uniform Code of Military Justice,

169 or in a tribal court of a sexually violent offense, a criminal offense against a victim who
 170 is a minor on or after July 1, 1999, or a dangerous sexual offense on or after July 1, 2006
 171 1996;

172 (6) Is a nonresident ~~sexual offender~~ who changes residence from ~~another state or territory~~
 173 ~~of the United States~~ any other place to Georgia who is required to register as a sexual
 174 offender under federal law, military law, tribal law, or the laws of another state or
 175 territory, ~~regardless of when the conviction occurred~~ or who has been convicted in this
 176 state of a criminal offense against a victim who is a minor or any dangerous sexual
 177 offense;"

178 SECTION 5.

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

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

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

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

187 (2.1) In the case of a sexual offender whose place of residence is the status of
 188 homelessness, in lieu of the requirements of paragraph (2) of this subsection, register in
 189 person with the sheriff of the county in which the sexual offender sleeps within 72 hours
 190 after the sexual offender's release from prison or placement on parole, supervised release,
 191 probation, or entry into this state and provide the location where he or she sleeps;

192 (3) Maintain the required registration information with the sheriff of ~~the~~ each county in
 193 which the sexual offender resides or sleeps;

194 (4) Renew the required registration information with the sheriff of the county in which
 195 the sexual offender resides or sleeps by reporting in person to the sheriff within 72 hours
 196 prior to such offender's birthday each year to be photographed and fingerprinted;

197 (5) Update the required registration information with the sheriff of the county in which
 198 the sexual offender resides within 72 hours of any change to the required registration
 199 information, other than ~~residence address~~; if where he or she resides or sleeps if such
 200 person is homeless. If the information is the sexual offender's new residence address, the
 201 sexual offender shall give the information regarding the sexual offender's new address
 202 to the sheriff of the county with whom in which the sexual offender last registered within
 203 at least 72 hours but not more than 10 days prior to any change of ~~residence~~ address and
 204 to the sheriff of the county to which the sexual offender is moving within 72 hours after

205 establishing ~~the such~~ new residence address. If the sexual offender is homeless and the
 206 information is the sexual offender's new sleeping location, within 48 hours of changing
 207 sleeping locations, the sexual offender shall give the information regarding the sexual
 208 offender's new sleeping location to the sheriff of the county in which the sexual offender
 209 last registered, and if the county has changed, to the sheriff of the county to which the
 210 sexual offender has moved;

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

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

216 SECTION 6.

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

219 "~~(g)(1) Any~~ A sexual offender required to register under this Code section ~~who meets the~~
 220 ~~criteria set forth in paragraph (2) of this subsection~~ may petition ~~the superior court of the~~
 221 ~~jurisdiction in which the sexual offender is registered~~ to be released from the registration
 222 requirements and from the residency or employment restrictions of this Code section in
 223 accordance with the provisions of Code Section 42-1-16. ~~The court may issue an order~~
 224 ~~releasing the sexual offender from further registration if the court finds that the sexual~~
 225 ~~offender does not pose a substantial risk of perpetrating any future dangerous sexual~~
 226 ~~offense:~~

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

229 ~~(A) Have been sentenced pursuant to subsection (c) of Code Section 17-10-6.2; and~~

230 ~~(B) Have had ten years elapse since his or her release from prison, parole, supervised~~
 231 ~~release, or probation."~~

232 SECTION 7.

233 Said article is further amended by revising paragraphs (2), (3), and (4) of subsection (i) of
 234 Code Section 42-1-12, relating to the State Sexual Offender Registry, as follows:

235 "(2) Electronically submit and update all information provided by the sexual offender
 236 within ~~two working days~~ 72 hours to the Georgia Bureau of Investigation in a manner
 237 prescribed by the Georgia Bureau of Investigation;

238 (3) Maintain and ~~post~~ provide a list, manually or electronically, of every sexual offender
 239 residing in each county so that it may be available for inspection:

- 240 (A) In the sheriff's office;
- 241 (B) In any county administrative building;
- 242 (C) In the main administrative building for any municipal corporation;
- 243 (D) In the office of the clerk of the superior court so that such list is available to the
- 244 public; and
- 245 (E) On a website maintained by the sheriff of the county for the posting of general
- 246 information;
- 247 (4) Update the public notices required by paragraph (3) of this Code section within ~~two~~
- 248 ~~working days~~ 72 hours of receipt of such information;"

249 **SECTION 8.**

250 Said article is further amended by revising subsection (n) of Code Section 42-1-12, relating

251 to the State Sexual Offender Registry, as follows:

252 "(n) Any individual who:

- 253 (1) Is required to register under this Code section and who fails to comply with the
- 254 requirements of this Code section;
- 255 (2) Provides false information; or
- 256 (3) Fails to respond directly to the sheriff ~~within~~ of the county where he or she resides
- 257 or sleeps within 72 hours ~~of~~ prior to such individual's birthday
- 258 shall be guilty of a felony and shall be punished by imprisonment for not less than ~~ten~~ one
- 259 nor more than 30 years; provided, however, that upon the conviction of the second offense
- 260 under this subsection, the defendant shall be punished by imprisonment for ~~life~~ not less
- 261 than five nor more than 30 years."

262 **SECTION 9.**

263 Said article is further amended by revising Code Section 42-1-14, relating to risk assessment

264 classifications, as follows:

265 "42-1-14.

- 266 (a)(1) The board shall determine the likelihood that a sexual offender will engage in
- 267 another crime against a victim who is a minor or a dangerous sexual offense. The board
- 268 shall make such determination for any sexual offender convicted on or after July 1, 2006,
- 269 of a criminal ~~act~~ offense against a victim who is a minor or a dangerous sexual offense
- 270 and for any sexual offender incarcerated on July 1, 2006, but convicted prior to July 1,
- 271 2006, of a criminal ~~act~~ offense against a victim who is a minor. ~~Such determination shall~~
- 272 ~~not be required to be made by the board until January 1, 2007; provided, however, that~~
- 273 ~~such persons shall be subject to this Code section.~~ Any sexual offender who changes
- 274 residence from another state or territory of the United States to this state and who is not

275 already designated under Georgia law as a sexually dangerous predator, sexual predator,
 276 or a sexually violent predator shall have his or her required registration information
 277 forwarded by the sheriff of his or her county of registration to the board for the purpose
 278 of risk assessment classification. The board shall also make such determination upon the
 279 request of a superior court judge for purposes of considering a petition to be released
 280 from registration restrictions or residency or employment restrictions as provided for in
 281 Code Section 42-1-16.

282 (2) A sexual offender shall be placed into Level I risk assessment classification, Level
 283 II risk assessment classification, or sexually dangerous predator classification based upon
 284 the board's assessment criteria and information obtained and reviewed by the board. The
 285 sexual offender may provide the board with information, including, but not limited to,
 286 psychological evaluations, sexual history polygraph information, treatment history, and
 287 personal, social, educational, and work history, and may agree to submit to a
 288 psychosexual evaluation or sexual history polygraph conducted by the board. If the
 289 sexual offender has undergone treatment through the Department of Corrections, such
 290 treatment records shall also be submitted to the board for evaluation. The prosecuting
 291 attorney shall provide the board with any information available to assist the board in
 292 rendering an opinion, including, but not limited to, criminal history and records related
 293 to previous criminal history. On and after July 1, 2006, the clerk of court shall send a
 294 copy of the sexual offender's conviction to the board and notify the board that a sexual
 295 offender's evaluation will need to be performed. The board shall render its
 296 recommendation for risk assessment classification within:

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

299 ~~(2)(B)~~ (B) Six months prior to the sexual offender's proposed release from confinement if
 300 the offender is incarcerated; and

301 (C) Sixty days of receipt of the required registration information from the sheriff when
 302 the sexual offender changes residence from another state or territory of the United
 303 States to this state and is not already classified;

304 (D) Sixty days if the sexual offender is sentenced to a probated or suspended sentence;
 305 and

306 (E) Ninety days if such classification is requested by the court pursuant to a petition
 307 filed under Code Section 42-1-16.

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

310 The board shall ~~send a copy of its~~ notify the sex offender by first-class mail of its
 311 determination of risk assessment classification and shall send a copy of such

312 classification to the Georgia Bureau of Investigation, the Department of Corrections, the
313 sheriff of the county where the sexual offender is registered, and the sentencing court, if
314 applicable.

315 (b)(1) If the board determines that a sexual offender should be classified as a Level II risk
316 assessment classification or as a sexually dangerous predator, the sexual offender may
317 petition the board to reevaluate his or her classification. To file a petition for reevaluation,
318 the sexual offender shall be required to submit his or her written petition for reevaluation
319 to the board within 30 days from the date of the letter notifying the sexual offender of his
320 or her classification. The sexual offender shall have 60 days from the date of the
321 notification letter to submit information as provided in subsection (a) of this Code section
322 in support of the sexual offender's petition for reevaluation. If the sexual offender fails to
323 submit the petition or supporting documents within the time limits provided, the
324 classification shall be final. The board shall notify the sexual offender by first-class mail
325 of its decision on the petition for reevaluation of risk assessment classification and shall
326 send a copy of such notification to the Georgia Bureau of Investigation, the Department of
327 Corrections, the sheriff of the county where the sexual offender is registered, and the
328 sentencing court, if applicable. If the sexual offender has been sentenced pursuant to
329 subsection (c) of Code Section 17-10-6.2, after receiving a recommendation from the board
330 that he or she be classified as a sexually dangerous predator, the sexual offender may
331 request that the sentencing court set a date to conduct a hearing affording the sexual
332 offender the opportunity to present testimony or evidence relevant to the recommended
333 classification. After the hearing and within 60 days of receiving the report, the court shall
334 issue a ruling as to whether or not the sexual offender shall be classified as a sexually
335 dangerous predator. If the court determines the sexual offender to be a sexually dangerous
336 predator, such fact shall be communicated in writing to the appropriate official, the Georgia
337 Bureau of Investigation, and the sheriff of the county where the sexual offender resides.

338 ~~(2) If the sexual offender received a sentence of imprisonment and was sentenced for a~~
339 ~~dangerous sexual offense on or after July 1, 2006, or if the sexual offender is incarcerated~~
340 ~~on July 1, 2006, for a crime against a victim who is a minor, after receiving a~~
341 ~~recommendation from the board that he or she be classified as a sexually dangerous~~
342 ~~predator, the sexual offender may request that the sentencing court set a date to conduct~~
343 ~~a hearing affording the sexual offender the opportunity to present testimony or evidence~~
344 ~~relevant to the recommended classification. After the hearing and within 60 days of~~
345 ~~receiving the report, the court shall issue a ruling as to whether or not the sexual offender~~
346 ~~shall be classified as a sexually dangerous predator. If the court determines the sexual~~
347 ~~offender to be a sexually dangerous predator, such fact shall be communicated in writing~~

348 ~~to the appropriate official, the Georgia Bureau of Investigation, and the sheriff of the~~
349 ~~county where the sexual offender resides.~~

350 (c) A sexual offender who is classified by the board as a Level II risk assessment
351 classification or as a sexually dangerous predator may file a petition for judicial review of
352 his or her classification within 30 days of the date of the notification letter or, if the sexual
353 offender has requested reevaluation pursuant to subsection (b) of this Code section, within
354 30 days of the date of the letter denying the petition for reevaluation. The petition for
355 judicial review shall name the board as defendant, and the petition shall be filed in the
356 superior court of the county where the offices of the board are located. Within 30 days
357 after service of the appeal on the board, the board shall submit a summary of its findings
358 to the court and mail a copy, by first-class mail, to the sexual offender. The findings of the
359 board shall be considered prima-facie evidence of the classification. The court shall also
360 consider any relevant evidence submitted, and such evidence and documentation shall be
361 mailed to the parties as well as submitted to the court. The court may hold a hearing to
362 determine the issue of classification. The court may uphold the classification of the board,
363 or, if the court finds by a preponderance of the evidence that the sexual offender is not
364 placed in the appropriate classification level, the court shall place the sexual offender in the
365 appropriate risk assessment classification. The court's determination shall be forwarded
366 by the clerk of the court to the board, the sexual offender, the Georgia Bureau of
367 Investigation, and the sheriff of the county where the sexual offender is registered. Any
368 ~~sexual offender who changes residence from another state or territory of the United States~~
369 ~~to this state and who is not designated as a sexually dangerous predator, sexual predator,~~
370 ~~or a sexually violent predator shall have his or her required registration information~~
371 ~~forwarded by the sheriff of his or her county of registration to the board for the purpose of~~
372 ~~risk assessment classification. After receiving a recommendation from the board that he~~
373 ~~or she be classified as a sexually dangerous predator, the sexual offender may, within 30~~
374 ~~days after the issuance of such classification, request a hearing before an administrative law~~
375 ~~judge. Such hearing shall be conducted in accordance with Chapter 13 of Title 50, the~~
376 ~~'Georgia Administrative Procedure Act.'~~ The decision of the administrative law judge shall
377 constitute the final decision of the board subject to the right of judicial review in
378 accordance with Chapter 13 of Title 50. If the final determination is that the sexual
379 offender is classified as a sexually dangerous predator, such fact shall be communicated
380 in writing to the appropriate official, the Georgia Bureau of Investigation, and the sheriff
381 of the county where the sexual offender resides:

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

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

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

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

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

395 Such electronic monitoring system shall be worn by a sexually dangerous predator for the
396 remainder of his or her natural life. The sexually dangerous predator shall pay the cost of
397 such system to the Department of Corrections if the sexually dangerous predator is on
398 probation; to the State Board of Pardons and Paroles if the sexually dangerous predator is
399 on parole; and to the sheriff after the sexually dangerous predator completes his or her term
400 of probation and parole or if the sexually dangerous predator has moved to this state from
401 another state, territory, or country. The electronic monitoring system shall be placed upon
402 the sexually dangerous predator prior to his or her release from confinement. If the sexual
403 offender is not in custody, within 72 hours of the decision classifying the sexual offender
404 as a sexually dangerous predator ~~by the court~~ in accordance with subsection (b) of this
405 Code section ~~or a final decision pursuant to subsection (c) of this Code section, whichever~~
406 ~~applies to the sexual offender's situation~~, the sexually dangerous predator shall report to the
407 sheriff of the county of his or her residence for purposes of having the electronic
408 monitoring system placed on the sexually dangerous predator.

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

413 **SECTION 10.**

414 Said article is further amended by revising subsections (a) and (e) through (g) of Code
415 Section 42-1-15, relating to restriction on registered offenders residing, working, or loitering
416 within certain distance of child care facilities, churches, schools, or areas where minors
417 congregate, photographing of minors, penalty for violations, and civil causes of action, as
418 follows:

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

420 (1) 'Individual' means a person who is required to register pursuant to Code Section
421 42-1-12.

422 (2) 'Lease' means a right of occupancy pursuant to a written and valid lease or rental
423 agreement.

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

425 ~~(3)~~(4) 'Photograph' means to take any picture, film or digital photograph, motion picture
426 film, videotape, or similar visual representation or image of a person.

427 (5) 'Volunteer' means to engage in an activity in which one could be, and ordinarily
428 would be, employed for compensation, and which activity involves working with,
429 assisting, or being engaged in activities with minors; provided, however, that such term
430 shall not include participating in activities limited to persons who are 18 years of age or
431 older or participating in worship services or engaging in religious activities or activities
432 at a place of worship that do not include supervising, teaching, directing, or otherwise
433 participating with minors who are not supervised by an adult who is not an individual
434 required to register pursuant to Code Section 42-1-12."

435 "(e) Notwithstanding any ordinance or resolution adopted pursuant to Code Section
436 16-6-24 or subsection (d) of Code Section 16-11-36, it shall be unlawful for any individual
437 ~~required to register pursuant to Code Section 42-1-12~~ to loiter, as prohibited by Code
438 Section 16-11-36, at any child care facility, school, or area where minors congregate.

439 (f)(1) If an individual owns or leases real property and resides on such property and a
440 child care facility, church, school, or area where minors congregate thereafter locates
441 itself within 1,000 feet of such property, or if an individual has established employment
442 at a location and a child care facility, church, or school thereafter locates itself within
443 1,000 feet of such employment, or if a sexual predator has established employment and
444 an area where minors congregate thereafter locates itself within 1,000 feet of such
445 employment, such individual shall not be guilty of a violation of subsection (b) or (c) of
446 this Code section, as applicable, if such individual successfully complies with
447 subsection (g) of this Code section.

448 (2) An individual owning or leasing real property and residing on such property or being
449 employed within 1,000 feet of a prohibited location, as specified in subsection (b) or (c)
450 of this Code section, shall not be guilty of a violation of this Code section if such
451 individual had established such property ownership, leasehold, or employment prior to
452 July 1, 2006, and such individual successfully complies with subsection (g) of this Code
453 section.

454 (g)(1) If an individual is notified that he or she is in violation of subsection (b) or (c) of
455 this Code section, and if such individual claims that he or she is exempt from such

456 prohibition pursuant to subsection (f) of this Code section, such individual shall provide
 457 sufficient proof demonstrating his or her exemption to the sheriff of the county where the
 458 individual is registered within ten days of being notified of any such violation.

459 (2) For purposes of providing proof of residence, the individual may provide a driver's
 460 license, government issued identification, or any other documentation evidencing where
 461 the individual's habitation is fixed. For purposes of providing proof of property
 462 ownership, the individual shall provide a copy of his or her warranty deed, quitclaim
 463 deed, or voluntary deed, or other documentation evidencing property ownership.

464 (3) For purposes of providing proof of a leasehold, the individual shall provide a copy
 465 of the applicable lease agreement. Leasehold exemptions shall only be for the duration
 466 of the executed lease.

467 (4) For purposes of providing proof of employment, the individual may provide an
 468 Internal Revenue Service Form W-2, a pay check, or a notarized verification of
 469 employment from the individual's employer, or other documentation evidencing
 470 employment. Such employment documentation shall evidence the location in which such
 471 individual actually carries out or performs the functions of his or her job.

472 (5) Documentation provided pursuant to this subsection may be required to be date
 473 specific, depending upon the individual's exemption claim."

474

SECTION 11.

475 Said article is further amended by adding a new Code section to read as follows:

476 "42-1-16.

477 (a) An individual required to register pursuant to Code Section 42-1-12 may petition a
 478 superior court for release from registration requirements and from any residency or
 479 employment restrictions of this article if the individual:

480 (1) Has completed all prison, parole, supervised release, and probation for the offense
 481 which required registration pursuant to Code Section 42-1-12; and

482 (A) Is confined to a hospice facility, skilled nursing home, residential care facility for
 483 the elderly, or nursing home;

484 (B) Is totally and permanently disabled as such term is defined in Code Section
 485 49-4-80; or

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

487 (2) Was sentenced for a crime that became punishable as a misdemeanor on or after
 488 July 1, 2006, and meets the criteria set forth in subparagraphs (c)(1)(A) through (c)(1)(F)
 489 of Code Section 17-10-6.2;

490 (3) Is required to register solely because he or she was convicted of kidnapping or false
 491 imprisonment involving a minor and such offense did not involve a sexual offense against

492 such minor or an attempt to commit a sexual offense against such minor. For purposes
 493 of this paragraph, the term 'sexual offense' means any offense listed in division
 494 (a)(10)(B)(i) or (a)(10)(B)(iv) through (a)(10)(B)(xix) of Code Section 42-1-12; or
 495 (4) Has completed all prison, parole, supervised release, and probation for the offense
 496 which required registration pursuant to Code Section 42-1-12 and meets the criteria set
 497 forth in subparagraphs (c)(1)(A) through (c)(1)(F) of Code Section 17-10-6.2.
 498 (b)(1) A petition for release pursuant to this Code section shall be filed in the superior
 499 court of the jurisdiction in which the individual was convicted; provided, however, that
 500 if the individual was not convicted in this state, such petition shall be filed in the superior
 501 court of the county where the individual resides.
 502 (2) Such petition shall be served on the district attorney and the sheriff of the county
 503 where the petition is filed. Service on the district attorney and sheriff may be had by
 504 mailing a copy of the petition with a proper certificate of service.
 505 (3) If a petition for release is denied, another petition for release shall not be filed within
 506 a period of two years from the date of the final order on a previous petition.
 507 (c)(1) An individual who meets the requirements of paragraph (1), (2), or (3) of
 508 subsection (a) of this Code section shall be considered for release from registration
 509 requirements and from residency or employment restrictions.
 510 (2) An individual who meets the requirements of paragraph (4) of subsection (a) of this
 511 Code section may be considered for release from registration requirements and from
 512 residency or employment restrictions only if:
 513 (A) Ten years have elapsed since the individual completed all prison, parole,
 514 supervised release, and probation for the offense which required registration pursuant
 515 to Code Section 42-1-12; or
 516 (B) The individual has been classified by the board as a Level I risk assessment
 517 classification, provided that if the board has not done a risk assessment classification
 518 for such individual, the court shall order such classification to be completed prior to
 519 considering the petition for release.
 520 (d) In considering a petition pursuant to this Code section, the court may consider:
 521 (1) Any evidence introduced by the petitioner;
 522 (2) Any evidence introduced by the district attorney or sheriff; and
 523 (3) Any other relevant evidence.
 524 (e) The court shall hold a hearing on the petition if requested by the petitioner.
 525 (f) The court may issue an order releasing the sexual offender from registration
 526 requirements or residency or employment restrictions, in whole or part, if the court finds
 527 by a preponderance of the evidence that the individual does not pose a substantial risk of
 528 perpetrating any future dangerous sexual offense. The court may release an individual

529 from such requirements or restrictions for a specific period of time. The court shall send
530 a copy of any order releasing a sexual offender from any requirements or restrictions to the
531 sheriff and the district attorney of the jurisdiction where the petition is filed, to the
532 Department of Corrections, and to the Georgia Bureau of Investigation."

533 **SECTION 12.**

534 This Act shall become effective upon its approval by the Governor or upon its becoming law
535 without such approval.

536 **SECTION 13.**

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