

House Bill 571 (AS PASSED HOUSE AND SENATE)

By: Representatives Ralston of the 7<sup>th</sup>, Keen of the 179<sup>th</sup>, and Golick of the 34<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

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

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

27 **SECTION 1.**

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

31 "(5.1) Appeals from decisions of superior courts reviewing decisions of the Sexual  
 32 Offender Registration Review Board;

33 (5.2) Appeals from decisions of superior courts granting or denying petitions for release  
 34 pursuant to Code Section 42-1-19;"

35 **SECTION 2.**

36 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
 37 amended by revising Code Section 16-6-5.1, relating to sexual assault against persons in  
 38 custody, as follows:

39 "16-6-5.1.

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

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

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

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

46 (4) 'Sexual contact' means any contact between the actor and a person not married to the  
 47 actor involving the intimate parts of either person for the purpose of sexual gratification  
 48 of the actor.

49 (5) 'School' means any educational program or institution instructing children at any  
 50 level, pre-kindergarten through twelfth grade, or the equivalent thereof if grade divisions  
 51 are not used.

52 ~~(b) A probation or parole officer or other custodian or supervisor of another person~~  
 53 ~~referred to in this Code section commits sexual assault when he or she engages in sexual~~  
 54 ~~contact with another person who is a probationer or parolee under the supervision of said~~  
 55 ~~probation or parole officer or who is in the custody of law or who is enrolled in a school~~  
 56 ~~or who is detained in or is a patient in a hospital or other institution and such actor has~~  
 57 ~~supervisory or disciplinary authority over such other person. A person convicted of sexual~~  
 58 ~~assault shall be punished by imprisonment for not less than ten nor more than 30 years;~~  
 59 ~~provided, however, that any person convicted of the offense of sexual assault under this~~  
 60 ~~subsection of a child under the age of 14 years shall be punished by imprisonment for not~~  
 61 ~~less than 25 nor more than 50 years. Any person convicted under this subsection of the~~

62 ~~offense of sexual assault shall, in addition, be subject to the sentencing and punishment~~  
 63 ~~provisions of Code Section 17-10-6.2.~~

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

67 ~~(A) In the custody of law; or~~

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

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

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

75 ~~(4) A person convicted of sexual assault under this subsection shall be punished by~~  
 76 ~~imprisonment for not less than ten nor more than 30 years; provided, however, that any~~  
 77 ~~person convicted of the offense of sexual assault under this subsection of a child under~~  
 78 ~~the age of 14 years shall be punished by imprisonment for not less than 25 nor more than~~  
 79 ~~50 years. Any person convicted under this subsection of the offense of sexual assault~~  
 80 ~~shall, in addition, be subject to the sentencing and punishment provisions of Code Section~~  
 81 ~~17-10-6.2.~~

82 ~~(d) A person who is an employee, agent, or volunteer at any facility licensed or required~~  
 83 ~~to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code~~  
 84 ~~Section 31-7-12, relating to personal care homes, or who is required to be licensed pursuant~~  
 85 ~~to Code Section 31-7-151 or 31-7-173, relating to home health care and hospices, commits~~  
 86 ~~sexual assault when such person engages in sexual contact with another person who has~~  
 87 ~~been admitted to or is receiving services from such facility, person, or entity. A person~~  
 88 ~~convicted of sexual assault pursuant to this subsection shall be punished by imprisonment~~  
 89 ~~for not less than ten nor more than 30 years, or a fine of not more than \$5,000.00, or both.~~  
 90 ~~Any violation of this subsection shall constitute a separate offense. Any person convicted~~  
 91 ~~under this subsection of the offense of sexual assault shall, in addition, be subject to the~~  
 92 ~~sentencing and punishment provisions of Code Section 17-10-6.2.~~

93 A person who has supervisory or disciplinary authority over another individual commits  
 94 sexual assault when that person:

95 (1) Is a teacher, principal, assistant principal, or other administrator of any school and  
 96 engages in sexual contact with such other individual who the actor knew or should have  
 97 known is enrolled at the same school; provided, however, that such contact shall not be  
 98 prohibited when the actor is married to such other individual;

99 (2) Is an employee or agent of any probation or parole office and engages in sexual  
100 contact with such other individual who the actor knew or should have known is a  
101 probationer or parolee under the supervision of the same probation or parole office;

102 (3) Is an employee or agent of a law enforcement agency and engages in sexual contact  
103 with such other individual who the actor knew or should have known is being detained  
104 by or is in the custody of any law enforcement agency;

105 (4) Is an employee or agent of a hospital and engages in sexual contact with such other  
106 individual who the actor knew or should have known is a patient or is being detained in  
107 the same hospital; or

108 (5) Is an employee or agent of a correctional facility, juvenile detention facility, facility  
109 providing services to a person with a disability, as such term is defined in Code Section  
110 37-1-1, or a facility providing child welfare and youth services, as such term is defined  
111 in Code Section 49-5-3, who engages in sexual contact with such other individual who  
112 the actor knew or should have known is in the custody of such facility.

113 (c) A person who is an actual or purported practitioner of psychotherapy commits sexual  
114 assault when he or she engages in sexual contact with another individual who the actor  
115 knew or should have known is the subject of the actor's actual or purported treatment or  
116 counseling or the actor uses the treatment or counseling relationship to facilitate sexual  
117 contact between the actor and such individual.

118 (d) A person who is an employee, agent, or volunteer at any facility licensed or required  
119 to be licensed under Code Section 31-7-3 or 31-7-12 or who is required to be licensed  
120 pursuant to Code Section 31-7-151 or 31-7-173 commits sexual assault when he or she  
121 engages in sexual contact with another individual who the actor knew or should have  
122 known had been admitted to or is receiving services from such facility or the actor.

123 (e) Consent of the victim shall not be a defense to a prosecution under this Code section.

124 (f) A person convicted of sexual assault shall be punished by imprisonment for not less  
125 than one nor more than 25 years or by a fine not to exceed \$100,000.00, or both; provided,  
126 however, that:

127 (1) Except as provided in paragraph (2) of this subsection, any person convicted of the  
128 offense of sexual assault of a child under the age of 16 years shall be punished by  
129 imprisonment for not less than 25 nor more than 50 years and shall, in addition, be  
130 subject to the sentencing and punishment provisions of Code Section 17-10-6.2; and

131 (2) If at the time of the offense the victim of the offense is at least 14 years of age but  
132 less than 16 years of age and the actor is 18 years of age or younger and is no more than  
133 four years older than the victim, such person shall be guilty of a misdemeanor and shall  
134 not be subject to the sentencing and punishment provisions of Code Section 17-10-6.2."

135 **SECTION 3.**

136 Said title is further amended by revising subsection (a) of Code Section 16-6-22, relating to  
 137 incest, as follows:

138 "(a) A person commits the offense of incest when ~~the~~ such person engages in sexual  
 139 intercourse or sodomy, as such term is defined in Code Section 16-6-2, with a person ~~to~~  
 140 whom he or she knows he or she is related to either by blood or by marriage as follows:

- 141 (1) Father and ~~daughter or stepdaughter~~ child or stepchild;
- 142 (2) Mother and ~~son or stepson~~ child or stepchild;
- 143 (3) Siblings ~~Brother and sister~~ of the whole blood or of the half blood;
- 144 (4) Grandparent and grandchild;
- 145 (5) Aunt and niece or nephew; or
- 146 (6) Uncle and niece or nephew."

147 **SECTION 4.**

148 Said title is further amended by revising subsection (b) of Code Section 16-7-29, relating to  
 149 interference with electronic monitoring devices, as follows:

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

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

158 **SECTION 5.**

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

163 Paragraph (1) is revised as follows:

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

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

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

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

171 ~~“(C) For purposes of subparagraph (a)(9)(B) of this Code section paragraph, conduct~~  
 172 ~~which is punished as a conviction for a misdemeanor or shall not be considered a~~  
 173 ~~criminal offense against a victim who is a minor, and conduct which is prosecuted~~  
 174 ~~adjudicated in juvenile court shall not be considered a criminal offense against a victim~~  
 175 ~~who is a minor.”~~

176 Paragraph (10) is revised as follows:

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

- 182 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
- 183 (ii) Rape in violation of Code Section 16-6-1;
- 184 (iii) Aggravated sodomy in violation of Code Section 16-6-2;
- 185 (iv) Aggravated child molestation in violation of Code Section 16-6-4; or
- 186 (v) Aggravated sexual battery in violation of Code Section 16-6-22.2.

187 (B) 'Dangerous sexual offense' with respect to convictions occurring after June 30,  
 188 2006, means any criminal offense, or the attempt to commit any criminal offense, under  
 189 Title 16 as specified in this paragraph or any offense under federal law or the laws of  
 190 another state or territory of the United States which consists of the same or similar  
 191 elements of the following offenses:

- 192 (i) Aggravated assault with the intent to rape in violation of Code Section ~~16-5-2~~  
 193 ~~16-5-21~~;
- 194 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who  
 195 is less than 14 years of age, except by a parent;
- 196 (iii) False imprisonment in violation of Code Section 16-5-41 which involves a  
 197 victim who is less than 14 years of age, except by a parent;
- 198 (iv) Rape in violation of Code Section 16-6-1;
- 199 (v) Sodomy in violation of Code Section 16-6-2;
- 200 (vi) Aggravated sodomy in violation of Code Section 16-6-2;
- 201 (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted  
 202 of the offense is 21 years of age or older;
- 203 (viii) Child molestation in violation of Code Section 16-6-4;
- 204 (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the  
 205 person was convicted of a misdemeanor offense;
- 206 (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;

- 207 (xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;  
 208 (xii) Incest in violation of Code Section 16-6-22;  
 209 (xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;  
 210 (xiv) Aggravated sexual battery in violation of Code Section ~~16-6-23~~ 16-6-22.2;  
 211 (xv) Sexual exploitation of children in violation of Code Section 16-12-100;  
 212 (xvi) Electronically furnishing obscene material to minors in violation of Code  
 213 Section 16-12-100.1;  
 214 (xvii) Computer pornography and child exploitation prevention in violation of Code  
 215 Section 16-12-100.2;  
 216 (xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or  
 217 (xix) Any conduct which, by its nature, is a sexual offense against a victim who is a  
 218 minor or an attempt to commit a sexual offense against a victim who is a minor.  
 219 ~~(B)(C)~~ For purposes of this paragraph, ~~conduct which is punished as a conviction~~ for  
 220 a misdemeanor or shall not be considered a dangerous sexual offense, and conduct  
 221 which is prosecuted adjudicated in juvenile court shall not be considered a dangerous  
 222 sexual offense."

223 Paragraph (16) is revised as follows:

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

- 225 (A) Name; social security number; age; race; sex; date of birth; height; weight; hair  
 226 color; eye color; fingerprints; and photograph;  
 227 (B) ~~Address of any permanent residence and address of any current temporary~~  
 228 ~~residence, within the this~~ state or out of state, and, if applicable in addition to the  
 229 address, a rural route address and a post office box;  
 230 (C) If the place of residence is a motor vehicle or trailer, ~~provide~~ the vehicle  
 231 identification number, the license tag number, and a description, including color  
 232 scheme, of the motor vehicle or trailer;  
 233 (D) If the place of residence is a mobile home, ~~provide~~ the mobile home location  
 234 permit number; the name and address of the owner of the home; a description, including  
 235 the color scheme of the mobile home; and, if applicable, a description of where the  
 236 mobile home is located on the property;  
 237 (E) If the place of residence is a manufactured home, ~~provide~~ the name and address of  
 238 the owner of the home; a description, including the color scheme of the manufactured  
 239 home; and, if applicable, a description of where the manufactured home is located on  
 240 the property;  
 241 (F) If the place of residence is a vessel, live-aboard vessel, or houseboat, ~~provide~~ the  
 242 hull identification number; the manufacturer's serial number; the name of the vessel,

243 live-aboard vessel, or houseboat; the registration number; and a description, including  
 244 color scheme, of the vessel, live-aboard vessel, or houseboat;  
 245 (F.1) If the place of residence is the status of homelessness, information as provided  
 246 under paragraph (2.1) of subsection (f) of this Code section;  
 247 (G) Date of employment, place of any employment, and address of employer;  
 248 (H) Place of vocation and address of the place of vocation;  
 249 (I) Vehicle make, model, color, and license tag number;  
 250 (J) If enrolled, employed, or carrying on a vocation at an institution of higher education  
 251 in this state, the name, address, and county of each institution, including each campus  
 252 attended, and enrollment or employment status; and  
 253 ~~(K) E-mail addresses, usernames, and user passwords; and~~  
 254 ~~(L) The name of the crime or crimes for which the sexual offender is registering and~~  
 255 ~~the date released from prison or placed on probation, parole, or supervised release."~~

256 Paragraph (20) is revised as follows:

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

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

264 Paragraph (21.1) is revised as follows:

265 ~~"(21.1) 'Username' means a string of characters chosen to uniquely identify an individual~~  
 266 ~~who uses a computer or other device with Internet capability to communicate with other~~  
 267 ~~individuals through the exchange of e-mail or instant messages or by participating in~~  
 268 ~~interactive online forums."~~

269 Paragraph (21.2) is revised as follows:

270 ~~"(21.2) 'User password' means a string of characters that enables an individual who uses~~  
 271 ~~a computer or other device with Internet capability to gain access to e-mail messages and~~  
 272 ~~interactive online forums."~~

## 273 SECTION 6.

274 Said article is further amended by revising paragraph (3) of subsection (b) of Code Section  
 275 42-1-12, relating to the State Sexual Offender Registry, as follows:

276 "(3) Inform the sexual offender that, if the sexual offender changes any of the required  
 277 registration information, other than residence address, the sexual offender shall give the  
 278 new information to the sheriff of the county with whom the sexual offender is registered

279 within 72 hours of the change of information; if the information is the sexual offender's  
 280 new residence address, the sexual offender shall give the information to the sheriff of the  
 281 county with whom the sexual offender last registered within 72 hours prior to moving and  
 282 to the sheriff of the county to which the sexual offender is moving within 72 hours ~~after~~  
 283 ~~the change of information~~ prior to moving;"

284 **SECTION 7.**

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

287 "(2) Is convicted on or after July 1, ~~2006~~ 1996, of a dangerous sexual offense;

288 (3) Has previously been convicted of a criminal offense against a victim who is a minor  
 289 and may be released from prison or placed on parole, supervised release, or probation on  
 290 or after July 1, 1996;

291 (4) Has previously been convicted of a sexually violent offense or dangerous sexual  
 292 offense and may be released from prison or placed on parole, supervised release, or  
 293 probation on or after July 1, 1996;

294 (5) Is a resident of Georgia who intends to reside in this state and who is convicted under  
 295 the laws of another state or the United States, under the Uniform Code of Military Justice,  
 296 or in a tribal court of a sexually violent offense, a criminal offense against a victim who  
 297 is a minor on or after July 1, 1999, or a dangerous sexual offense on or after July 1, ~~2006~~  
 298 1996;

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

305 **SECTION 8.**

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

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

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

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

314 (2.1) In the case of a sexual offender whose place of residence is the status of  
 315 homelessness, in lieu of the requirements of paragraph (2) of this subsection, register in  
 316 person with the sheriff of the county in which the sexual offender sleeps within 72 hours  
 317 after the sexual offender's release from prison or placement on parole, supervised release,  
 318 probation, or entry into this state and provide the location where he or she sleeps;

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

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

324 (5) Update the required registration information with the sheriff of the county in which  
 325 the sexual offender resides within 72 hours of any change to the required registration  
 326 information, other than ~~residence address~~; if where he or she resides or sleeps if such  
 327 person is homeless. If the information is the sexual offender's new residence address, the  
 328 sexual offender shall give the information regarding the sexual offender's new address  
 329 to the sheriff of the county with whom in which the sexual offender last registered within  
 330 72 hours prior to any change of residence address and to the sheriff of the county to  
 331 which the sexual offender is moving within 72 hours after prior to establishing the such  
 332 new residence address. If the sexual offender is homeless and the information is the  
 333 sexual offender's new sleeping location, within 72 hours of changing sleeping locations,  
 334 the sexual offender shall give the information regarding the sexual offender's new  
 335 sleeping location to the sheriff of the county in which the sexual offender last registered,  
 336 and if the county has changed, to the sheriff of the county to which the sexual offender  
 337 has moved; and

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

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

### 343 SECTION 9.

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

346 ~~"(g)(1) Any~~ A sexual offender required to register under this Code section ~~who meets the~~  
 347 ~~criteria set forth in paragraph (2) of this subsection may petition the superior court of the~~  
 348 ~~jurisdiction in which the sexual offender is registered to be released from the registration~~  
 349 ~~requirements and from the residency or employment restrictions of this Code section in~~

350 ~~accordance with the provisions of Code Section 42-1-19. The court may issue an order~~  
 351 ~~releasing the sexual offender from further registration if the court finds that the sexual~~  
 352 ~~offender does not pose a substantial risk of perpetrating any future dangerous sexual~~  
 353 ~~offense.~~

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

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

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

### 359 **SECTION 10.**

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

362 "(2) Electronically submit and update all information provided by the sexual offender  
 363 within two working business days to the Georgia Bureau of Investigation in a manner  
 364 prescribed by the Georgia Bureau of Investigation;

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

367 (A) In the sheriff's office;

368 (B) In any county administrative building;

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

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

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

374 (4) Update the public notices required by paragraph (3) of this Code section within two  
 375 working business days of the receipt of such information;"

### 376 **SECTION 11.**

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

379 "(n) Any individual who:

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

382 (2) Provides false information; or

383 (3) Fails to respond directly to the sheriff within of the county where he or she resides  
 384 or sleeps within 72 hours of prior to such individual's birthday

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

### 389 SECTION 12.

390 Said article is further amended by revising Code Section 42-1-14, relating to risk assessment  
 391 classifications, as follows:

392 "42-1-14.

393 (a)(1) The board shall determine the likelihood that a sexual offender will engage in  
 394 another crime against a victim who is a minor or a dangerous sexual offense. The board  
 395 shall make such determination for any sexual offender convicted on or after July 1, 2006,  
 396 of a criminal ~~act~~ offense against a victim who is a minor or a dangerous sexual offense  
 397 and for any sexual offender incarcerated on July 1, 2006, but convicted prior to July 1,  
 398 2006, of a criminal ~~act~~ offense against a victim who is a minor. ~~Such determination shall~~  
 399 ~~not be required to be made by the board until January 1, 2007; provided, however, that~~  
 400 ~~such persons shall be subject to this Code section. Any sexual offender who changes~~  
 401 ~~residence from another state or territory of the United States or any other place to this~~  
 402 ~~state and who is not already designated under Georgia law as a sexually dangerous~~  
 403 ~~predator, sexual predator, or a sexually violent predator shall have his or her required~~  
 404 ~~registration information forwarded by the sheriff of his or her county of registration to the~~  
 405 ~~board for the purpose of risk assessment classification. The board shall also make such~~  
 406 ~~determination upon the request of a superior court judge for purposes of considering a~~  
 407 ~~petition to be released from registration restrictions or residency or employment~~  
 408 ~~restrictions as provided for in Code Section 42-1-19.~~

409 (2) A sexual offender shall be placed into Level I risk assessment classification, Level  
 410 II risk assessment classification, or sexually dangerous predator classification based upon  
 411 the board's assessment criteria and information obtained and reviewed by the board. The  
 412 sexual offender may provide the board with information, including, but not limited to,  
 413 psychological evaluations, sexual history polygraph information, treatment history, and  
 414 personal, social, educational, and work history, and may agree to submit to a  
 415 psychosexual evaluation or sexual history polygraph conducted by the board. If the  
 416 sexual offender has undergone treatment through the Department of Corrections, such  
 417 treatment records shall also be submitted to the board for evaluation. The prosecuting  
 418 attorney shall provide the board with any information available to assist the board in  
 419 rendering an opinion, including, but not limited to, criminal history and records related  
 420 to previous criminal history. ~~On and after July 1, 2006, the~~ The clerk of court shall send

421 a copy of the sexual offender's conviction to the board and notify the board that a sexual  
 422 offender's evaluation will need to be performed. The board shall render its  
 423 recommendation for risk assessment classification within:

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

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

428 (C) Sixty days of receipt of the required registration information from the sheriff when  
 429 the sexual offender changes residence from another state or territory of the United  
 430 States or any other place to this state and is not already classified;

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

433 (E) Ninety days if such classification is requested by the court pursuant to a petition  
 434 filed under Code Section 42-1-19.

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

437 The board shall ~~send a copy of its~~ notify the sex offender by first-class mail of its  
 438 determination of risk assessment classification and shall send a copy of such  
 439 classification to the Georgia Bureau of Investigation, the Department of Corrections, the  
 440 sheriff of the county where the sexual offender is registered, and the sentencing court, if  
 441 applicable.

442 ~~(b)(1)~~ If the board determines that a sexual offender should be classified as a Level II risk  
 443 assessment classification or as a sexually dangerous predator, the sexual offender may  
 444 petition the board to reevaluate his or her classification. To file a petition for reevaluation,  
 445 the sexual offender shall be required to submit his or her written petition for reevaluation  
 446 to the board within 30 days from the date of the letter notifying the sexual offender of his  
 447 or her classification. The sexual offender shall have 60 days from the date of the  
 448 notification letter to submit information as provided in subsection (a) of this Code section  
 449 in support of the sexual offender's petition for reevaluation. If the sexual offender fails to  
 450 submit the petition or supporting documents within the time limits provided, the  
 451 classification shall be final. The board shall notify the sexual offender by first-class mail  
 452 of its decision on the petition for reevaluation of risk assessment classification and shall  
 453 send a copy of such notification to the Georgia Bureau of Investigation, the Department of  
 454 Corrections, the sheriff of the county where the sexual offender is registered, and the  
 455 sentencing court, if applicable. If the sexual offender has been sentenced pursuant to  
 456 subsection (c) of Code Section 17-10-6.2, after receiving a recommendation from the board  
 457 that he or she be classified as a sexually dangerous predator, the sexual offender may

458 ~~request that the sentencing court set a date to conduct a hearing affording the sexual~~  
459 ~~offender the opportunity to present testimony or evidence relevant to the recommended~~  
460 ~~classification. After the hearing and within 60 days of receiving the report, the court shall~~  
461 ~~issue a ruling as to whether or not the sexual offender shall be classified as a sexually~~  
462 ~~dangerous predator. If the court determines the sexual offender to be a sexually dangerous~~  
463 ~~predator, such fact shall be communicated in writing to the appropriate official, the Georgia~~  
464 ~~Bureau of Investigation, and the sheriff of the county where the sexual offender resides.~~

465 ~~(2) If the sexual offender received a sentence of imprisonment and was sentenced for a~~  
466 ~~dangerous sexual offense on or after July 1, 2006, or if the sexual offender is incarcerated~~  
467 ~~on July 1, 2006, for a crime against a victim who is a minor, after receiving a~~  
468 ~~recommendation from the board that he or she be classified as a sexually dangerous~~  
469 ~~predator, the sexual offender may request that the sentencing court set a date to conduct~~  
470 ~~a hearing affording the sexual offender the opportunity to present testimony or evidence~~  
471 ~~relevant to the recommended classification. After the hearing and within 60 days of~~  
472 ~~receiving the report, the court shall issue a ruling as to whether or not the sexual offender~~  
473 ~~shall be classified as a sexually dangerous predator. If the court determines the sexual~~  
474 ~~offender to be a sexually dangerous predator, such fact shall be communicated in writing~~  
475 ~~to the appropriate official, the Georgia Bureau of Investigation, and the sheriff of the~~  
476 ~~county where the sexual offender resides.~~

477 (c) A sexual offender who is classified by the board as a Level II risk assessment  
478 classification or as a sexually dangerous predator may file a petition for judicial review of  
479 his or her classification within 30 days of the date of the notification letter or, if the sexual  
480 offender has requested reevaluation pursuant to subsection (b) of this Code section, within  
481 30 days of the date of the letter denying the petition for reevaluation. The petition for  
482 judicial review shall name the board as defendant, and the petition shall be filed in the  
483 superior court of the county where the offices of the board are located. Within 30 days  
484 after service of the appeal on the board, the board shall submit a summary of its findings  
485 to the court and mail a copy, by first-class mail, to the sexual offender. The findings of the  
486 board shall be considered prima-facie evidence of the classification. The court shall also  
487 consider any relevant evidence submitted, and such evidence and documentation shall be  
488 mailed to the parties as well as submitted to the court. The court may hold a hearing to  
489 determine the issue of classification. The court may uphold the classification of the board,  
490 or, if the court finds by a preponderance of the evidence that the sexual offender is not  
491 placed in the appropriate classification level, the court shall place the sexual offender in the  
492 appropriate risk assessment classification. The court's determination shall be forwarded  
493 by the clerk of the court to the board, the sexual offender, the Georgia Bureau of  
494 Investigation, and the sheriff of the county where the sexual offender is registered. Any

495 ~~sexual offender who changes residence from another state or territory of the United States~~  
496 ~~to this state and who is not designated as a sexually dangerous predator, sexual predator,~~  
497 ~~or a sexually violent predator shall have his or her required registration information~~  
498 ~~forwarded by the sheriff of his or her county of registration to the board for the purpose of~~  
499 ~~risk assessment classification. After receiving a recommendation from the board that he~~  
500 ~~or she be classified as a sexually dangerous predator, the sexual offender may, within 30~~  
501 ~~days after the issuance of such classification, request a hearing before an administrative law~~  
502 ~~judge. Such hearing shall be conducted in accordance with Chapter 13 of Title 50, the~~  
503 ~~'Georgia Administrative Procedure Act.'~~ The decision of the administrative law judge shall  
504 ~~constitute the final decision of the board subject to the right of judicial review in~~  
505 ~~accordance with Chapter 13 of Title 50. If the final determination is that the sexual~~  
506 ~~offender is classified as a sexually dangerous predator, such fact shall be communicated~~  
507 ~~in writing to the appropriate official, the Georgia Bureau of Investigation, and the sheriff~~  
508 ~~of the county where the sexual offender resides.~~

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

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

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

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

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

522 Such electronic monitoring system shall be worn by a sexually dangerous predator for the  
523 remainder of his or her natural life. The sexually dangerous predator shall pay the cost of  
524 such system to the Department of Corrections if the sexually dangerous predator is on  
525 probation; to the State Board of Pardons and Paroles if the sexually dangerous predator is  
526 on parole; and to the sheriff after the sexually dangerous predator completes his or her term  
527 of probation and parole or if the sexually dangerous predator has moved to this state from  
528 another state, territory, or country. The electronic monitoring system shall be placed upon  
529 the sexually dangerous predator prior to his or her release from confinement. If the sexual  
530 offender is not in custody, within 72 hours of the decision classifying the sexual offender  
531 as a sexually dangerous predator ~~by the court~~ in accordance with subsection (b) of this

532 Code section or a final decision pursuant to subsection (c) of this Code section, whichever  
 533 applies to the sexual offender's situation, the sexually dangerous predator shall report to the  
 534 sheriff of the county of his or her residence for purposes of having the electronic  
 535 monitoring system placed on the sexually dangerous predator.

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

540 **SECTION 13.**

541 Said article is further amended by revising Code Section 42-1-15, relating to restriction on  
 542 registered offenders residing, working, or loitering within certain distance of child care  
 543 facilities, churches, schools, or areas where minors congregate, photographing of minors,  
 544 penalty for violations, and civil causes of action, as follows:

545 "42-1-15.

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

547 (1) 'Individual' means a person who is required to register pursuant to Code Section  
 548 42-1-12.

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

551 ~~(2)~~(3) 'Minor' means any individual person who is under 18 years of age.

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

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

562 (b) On and after July 1, 2008, no ~~No~~ individual shall reside within 1,000 feet of any child  
 563 care facility, church, school, or area where minors congregate if the commission of the  
 564 act for which such individual is required to register occurred on or after July 1, 2008.  
 565 Such distance shall be determined by measuring from the outer boundary of the property  
 566 on which the individual resides to the outer boundary of the property of the child care  
 567 facility, church, school, or area where minors congregate at their closest points.

568 (c)(1) On and after July 1, 2008, no ~~No~~ individual shall be employed by or volunteer at  
 569 any child care facility, school, or church or by or at any business or entity that is located  
 570 within 1,000 feet of a child care facility, a school, or a church if the commission of the  
 571 act for which such individual is required to register occurred on or after July 1, 2008.

572 Such distance shall be determined by measuring from the outer boundary of the property  
 573 of the location at which such individual is employed or volunteers to the outer boundary  
 574 of the child care facility, school, or church at their closest points.

575 (2) On or after July 1, 2008, no ~~No~~ individual who is a sexually dangerous predator shall  
 576 be employed by or volunteer at any business or entity that is located within 1,000 feet of  
 577 an area where minors congregate if the commission of the act for which such individual  
 578 is required to register occurred on or after July 1, 2008. Such distance shall be  
 579 determined by measuring from the outer boundary of the property of the location at which  
 580 the sexually dangerous predator is employed or volunteers to the outer boundary of the  
 581 area where minors congregate at their closest points.

582 ~~(d) No individual shall intentionally photograph a minor without the consent of the minor's~~  
 583 ~~parent or guardian.~~

584 ~~(e)(d)~~ Notwithstanding any ordinance or resolution adopted pursuant to Code Section  
 585 16-6-24 or subsection (d) of Code Section 16-11-36, it shall be unlawful for any individual  
 586 ~~required to register pursuant to Code Section 42-1-12~~ to loiter, as prohibited by Code  
 587 Section 16-11-36, at any child care facility, school, or area where minors congregate.

588 ~~(f)(e)~~(1) If an individual owns or leases real property and resides on such property and  
 589 a child care facility, church, school, or area where minors congregate thereafter locates  
 590 itself within 1,000 feet of such property, or if an individual has established employment  
 591 at a location and a child care facility, church, or school thereafter locates itself within  
 592 1,000 feet of such employment, or if a sexual predator has established employment and  
 593 an area where minors congregate thereafter locates itself within 1,000 feet of such  
 594 employment, such individual shall not be guilty of a violation of subsection (b) or (c) of  
 595 this Code section, as applicable, if such individual successfully complies with  
 596 subsection ~~(g)~~ (f) of this Code section.

597 (2) An individual owning or leasing real property and residing on such property or being  
 598 employed within 1,000 feet of a prohibited location, as specified in subsection (b) or (c)  
 599 of this Code section, shall not be guilty of a violation of this Code section if such  
 600 individual had established such property ownership, leasehold, or employment prior to  
 601 July 1, ~~2006~~ 2008, and such individual successfully complies with subsection ~~(g)~~ (f) of  
 602 this Code section.

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

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

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

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

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

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

623 ~~(h)(1) Any individual who knowingly violates subsection (d) of this Code section shall~~  
 624 ~~be guilty of a misdemeanor of a high and aggravated nature.~~

625 ~~(2)(g) Any individual who knowingly violates any other any provision of this Code~~  
 626 ~~section, except subsection (d) of this Code section, shall be guilty of a felony and shall be~~  
 627 ~~punished by imprisonment for not less than ten nor more than 30 years.~~

628 ~~(i)(h) Nothing in this Code section shall create, either directly or indirectly, any civil cause~~  
 629 ~~of action against or result in criminal prosecution of any person, firm, corporation,~~  
 630 ~~partnership, trust, or association other than an individual required to be registered under~~  
 631 ~~Code Section 42-1-12."~~

#### 632 **SECTION 14.**

633 Said article is further amended by adding three new Code sections to read as follows:

634 "42-1-16.

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

636 (1) 'Area where minors congregate' shall include all public and private parks and  
 637 recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums,  
 638 school bus stops, and public and community swimming pools.

639 (2) 'Individual' means a person who is required to register pursuant to Code Section  
 640 42-1-12.

641 (3) 'Lease' means a right of occupancy pursuant to a written and valid lease or rental  
642 agreement.

643 (4) 'Minor' means any person who is under 18 years of age.

644 (b) Any individual who committed an act between July 1, 2006, and June 30, 2008, for  
645 which such individual is required to register shall not reside within 1,000 feet of any child  
646 care facility, church, school, or area where minors congregate. Such distance shall be  
647 determined by measuring from the outer boundary of the property on which the individual  
648 resides to the outer boundary of the property of the child care facility, church, school, or  
649 area where minors congregate at their closest points.

650 (c)(1) Any individual who committed an act between July 1, 2006, and June 30, 2008,  
651 for which such individual is required to register shall not be employed by any child care  
652 facility, school, or church or by or at any business or entity that is located within 1,000  
653 feet of a child care facility, a school, or a church. Such distance shall be determined by  
654 measuring from the outer boundary of the property of the location at which such  
655 individual is employed to the outer boundary of the child care facility, school, or church  
656 at their closest points.

657 (2) Any individual who committed an act between July 1, 2006, and June 30, 2008, for  
658 which such individual is required to register who is a sexually dangerous predator shall  
659 not be employed by any business or entity that is located within 1,000 feet of an area  
660 where minors congregate. Such distance shall be determined by measuring from the  
661 outer boundary of the property of the location at which the sexually dangerous predator  
662 is employed to the outer boundary of the area where minors congregate at their closest  
663 points.

664 (d) Notwithstanding any ordinance or resolution adopted pursuant to Code Section 16-6-24  
665 or subsection (d) of Code Section 16-11-36, it shall be unlawful for any individual to loiter,  
666 as prohibited by Code Section 16-11-36, at any child care facility, school, or area where  
667 minors congregate.

668 (e)(1) If an individual owns or leases real property and resides on such property and a  
669 child care facility, church, school, or area where minors congregate thereafter locates  
670 itself within 1,000 feet of such property, or if an individual has established employment  
671 at a location and a child care facility, church, or school thereafter locates itself within  
672 1,000 feet of such employment, or if a sexual predator has established employment and  
673 an area where minors congregate thereafter locates itself within 1,000 feet of such  
674 employment, such individual shall not be guilty of a violation of subsection (b) or (c) of  
675 this Code section, as applicable, if such individual successfully complies with subsection  
676 (f) of this Code section.

677 (2) An individual owning or leasing real property and residing on such property or being  
 678 employed within 1,000 feet of a prohibited location, as specified in subsection (b) or (c)  
 679 of this Code section, shall not be guilty of a violation of this Code section if such  
 680 individual had established such property ownership, leasehold, or employment prior to  
 681 July 1, 2006, and such individual successfully complies with subsection (f) of this Code  
 682 section.

683 (f)(1) If an individual is notified that he or she is in violation of subsection (b) or (c) of  
 684 this Code section, and if such individual claims that he or she is exempt from such  
 685 prohibition pursuant to subsection (e) of this Code section, such individual shall provide  
 686 sufficient proof demonstrating his or her exemption to the sheriff of the county where the  
 687 individual is registered within ten days of being notified of any such violation.

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

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

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

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

703 (g) Any individual who knowingly violates this Code section shall be guilty of a felony  
 704 and shall be punished by imprisonment for not less than ten nor more than 30 years.

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

709 42-1-17.

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

711 (1) 'Area where minors congregate' shall include all public and private parks and  
 712 recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums, and

713 similar facilities providing programs or services directed towards persons under 18 years  
714 of age.

715 (2) 'Child care facility' means all public and private pre-kindergarten facilities, day-care  
716 centers, and preschool facilities.

717 (3) 'Individual' means a person who is required to register pursuant to Code Section  
718 42-1-12.

719 (4) 'Lease' means a right of occupancy pursuant to a written and valid lease or rental  
720 agreement.

721 (5) 'Minor' means any person who is under 18 years of age.

722 (b) Any individual who committed an act between June 4, 2003, and June 30, 2006, for  
723 which such individual is required to register shall not reside within 1,000 feet of any child  
724 care facility, school, or area where minors congregate. Such distance shall be determined  
725 by measuring from the outer boundary of the property on which the individual resides to  
726 the outer boundary of the property of the child care facility, school, or area where minors  
727 congregate at their closest points.

728 (c)(1) If an individual owns or leases real property and resides on such property and a  
729 child care facility, school, or area where minors congregate thereafter locates itself within  
730 1,000 feet of such property, such individual shall not be guilty of a violation of subsection  
731 (b) of this Code section if such individual successfully complies with subsection (d) of  
732 this Code section.

733 (2) An individual owning or leasing real property and residing on such property within  
734 1,000 feet of a prohibited location, as specified in subsection (b) of this Code section,  
735 shall not be guilty of a violation of this Code section if such individual had established  
736 such property ownership or leasehold prior to June 4, 2003, and such individual  
737 successfully complies with subsection (d) of this Code section.

738 (d)(1) If an individual is notified that he or she is in violation of subsection (b) of this  
739 Code section, and if such individual claims that he or she is exempt from such prohibition  
740 pursuant to subsection (c) of this Code section, such individual shall provide sufficient  
741 proof demonstrating his or her exemption to the sheriff of the county where the individual  
742 is registered within ten days of being notified of any such violation.

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

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

751 (4) Documentation provided pursuant to this subsection may be required to be date  
 752 specific, depending upon the individual's exemption claim.

753 (e) Any individual who knowingly violates this Code section shall be guilty of a felony  
 754 and shall be punished by imprisonment for not less than one nor more than three years.

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

759 42-1-18.

760 (a) As used in this Code section, the term 'photograph' means to take any picture, film or  
 761 digital photograph, motion picture film, videotape, or similar visual representation or image  
 762 of a person.

763 (b) No individual shall intentionally photograph a minor without the consent of the minor's  
 764 parent or guardian.

765 (c) Any individual who knowingly violates this Code section shall be guilty of a  
 766 misdemeanor of a high and aggravated nature."

767 **SECTION 15.**

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

769 "42-1-19.

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

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

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

777 (B) Is totally and permanently disabled as such term is defined in Code Section  
 778 49-4-80; or

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

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

- 783 (3) Is required to register solely because he or she was convicted of kidnapping or false  
 784 imprisonment involving a minor and such offense did not involve a sexual offense against  
 785 such minor or an attempt to commit a sexual offense against such minor. For purposes  
 786 of this paragraph, the term 'sexual offense' means any offense listed in division  
 787 (a)(10)(B)(i) or (a)(10)(B)(iv) through (a)(10)(B)(xix) of Code Section 42-1-12; or  
 788 (4) Has completed all prison, parole, supervised release, and probation for the offense  
 789 which required registration pursuant to Code Section 42-1-12 and meets the criteria set  
 790 forth in subparagraphs (c)(1)(A) through (c)(1)(F) of Code Section 17-10-6.2.
- 791 (b)(1) A petition for release pursuant to this Code section shall be filed in the superior  
 792 court of the jurisdiction in which the individual was convicted; provided, however, that  
 793 if the individual was not convicted in this state, such petition shall be filed in the superior  
 794 court of the county where the individual resides.
- 795 (2) Such petition shall be served on the district attorney of the jurisdiction where the  
 796 petition is filed, the sheriff of the county where the petition is filed, and the sheriff of the  
 797 county where the individual resides. Service on the district attorney and sheriff may be  
 798 had by mailing a copy of the petition with a proper certificate of service.
- 799 (3) If a petition for release is denied, another petition for release shall not be filed within  
 800 a period of two years from the date of the final order on a previous petition.
- 801 (c)(1) An individual who meets the requirements of paragraph (1), (2), or (3) of  
 802 subsection (a) of this Code section shall be considered for release from registration  
 803 requirements and from residency or employment restrictions.
- 804 (2) An individual who meets the requirements of paragraph (4) of subsection (a) of this  
 805 Code section may be considered for release from registration requirements and from  
 806 residency or employment restrictions only if:
- 807 (A) Ten years have elapsed since the individual completed all prison, parole,  
 808 supervised release, and probation for the offense which required registration pursuant  
 809 to Code Section 42-1-12; or
- 810 (B) The individual has been classified by the board as a Level I risk assessment  
 811 classification, provided that if the board has not done a risk assessment classification  
 812 for such individual, the court shall order such classification to be completed prior to  
 813 considering the petition for release.
- 814 (d) In considering a petition pursuant to this Code section, the court may consider:
- 815 (1) Any evidence introduced by the petitioner;  
 816 (2) Any evidence introduced by the district attorney or sheriff; and  
 817 (3) Any other relevant evidence.
- 818 (e) The court shall hold a hearing on the petition if requested by the petitioner.

819 (f) The court may issue an order releasing the individual from registration requirements  
820 or residency or employment restrictions, in whole or part, if the court finds by a  
821 preponderance of the evidence that the individual does not pose a substantial risk of  
822 perpetrating any future dangerous sexual offense. The court may release an individual  
823 from such requirements or restrictions for a specific period of time. The court shall send  
824 a copy of any order releasing an individual from any requirements or restrictions to the  
825 sheriff and the district attorney of the jurisdiction where the petition is filed, to the sheriff  
826 of the county where the individual resides, to the Department of Corrections, and to the  
827 Georgia Bureau of Investigation."

828 **SECTION 16.**

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

831 **SECTION 17.**

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