

Senate Bill 52

By: Senators Harp of the 29th, Douglas of the 17th, Staton of the 18th, Murphy of the 27th,  
Butler of the 55th and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to  
2 general provisions for penal institutions, so as to provide for a registry for persons convicted  
3 of certain theft crimes; to provide for definitions; to provide that certain metal thieves register  
4 prior to release from prison; to require each sheriff to maintain and update a list of all metal  
5 thieves residing in the county; to provide for duties and responsibilities for sheriffs, the  
6 Department of Corrections, the Georgia Bureau of Investigation, and metal thieves; to require  
7 registered metal thieves to verify required registration information with the sheriff whenever  
8 any changes occur to certain information and verify information at least annually within 72  
9 hours of the metal thief's birthday; to provide for a procedure for certain metal thieves to  
10 petition a court to be relieved of registration requirements; to provide for punishment for  
11 failure to comply with registration requirements; to provide for other related matters; to  
12 provide for an effective date and applicability; to repeal conflicting laws; and for other  
13 purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to general  
17 provisions for penal institutions, is amended by adding a new Article 3 to read as follows:

18 "ARTICLE 3

19 42-1-20.

20 (a) As used in this article, the term:

21 (1) 'Address' means the street or route address of the thief's residence. For purposes of  
22 this Code section, the term does not mean a post office box.

23 (2) 'Appropriate official' means:

24 (A) With respect to a thief who is sentenced to probation without any sentence of  
25 incarceration in the state prison system or who is sentenced pursuant to Article 3 of  
26 Chapter 8 of this title, relating to first offenders, the Division of Probation of the  
27 Department of Corrections;

28 (B) With respect to a thief who is sentenced to a period of incarceration in a prison  
29 under the jurisdiction of the Department of Corrections and who is subsequently  
30 released from prison or placed on probation, the commissioner of corrections or his or  
31 her designee;

32 (C) With respect to a thief who is placed on parole, the chairperson of the State Board  
33 of Pardons and Paroles or his or her designee; and

34 (D) With respect to a thief who is placed on probation through a private probation  
35 agency, the director of the private probation agency or his or her designee.

36 (3) 'Conviction' includes a final judgment of conviction entered upon a verdict or finding  
37 of guilty of a crime, a plea of guilty, or a plea of nolo contendere. A defendant who is  
38 discharged without adjudication of guilt and who is not considered to have a criminal  
39 conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall  
40 be subject to the registration requirements of this Code section for the period of time prior  
41 to the defendant's discharge after completion of his or her sentence or upon the defendant  
42 being adjudicated guilty. Unless otherwise required by federal law, a defendant who is  
43 discharged without adjudication of guilt and who is not considered to have a criminal  
44 conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall  
45 not be subject to the registration requirements of this Code section upon the defendant's  
46 discharge.

47 (4) 'Criminal offense involving metal' means:

48 (A) Theft by taking in violation of Code Section 16-8-2, theft by conversion in  
49 violation of Code Section 16-8-4, or theft by receiving stolen property in violation of  
50 Code Section 16-8-7 if the subject of the theft was ferrous metals or regulated metal  
51 property, as such terms are defined in Code Section 10-1-350;

52 (B) Criminal damage to property in the first degree in violation of paragraph (2) of  
53 subsection (a) of Code Section 16-7-22;

54 (C) A criminal violation of Article 14 of Chapter 1 of Title 10; or

55 (D) Any offense under federal law or the laws of another state or territory of the United  
56 States which consist of the same or similar elements of such offenses.

57 For purposes of this paragraph, conduct which is punished as for a misdemeanor or which  
58 is prosecuted in juvenile court shall not be considered a criminal offense involving metal.

59 (5) 'Required registration information' means:

- 60 (A) Name; social security number; age; race; sex; date of birth; height; weight; hair  
61 color; eye color; fingerprints; and photograph;  
62 (B) Address of any permanent residence and address of any current temporary  
63 residence, within the state or out of state, and, if applicable in addition to the address,  
64 a rural route address and a post office box;  
65 (C) If the place of residence is a motor vehicle or trailer, the vehicle identification  
66 number, the license tag number, and a description, including color scheme, of the motor  
67 vehicle or trailer;  
68 (D) If the place of residence is a mobile home, the mobile home location permit  
69 number; the name and address of the owner of the home; a description, including the  
70 color scheme of the mobile home; and, if applicable, a description of where the mobile  
71 home is located on the property;  
72 (E) If the place of residence is a manufactured home, the name and address of the  
73 owner of the home; a description, including the color scheme of the manufactured  
74 home; and, if applicable, a description of where the manufactured home is located on  
75 the property;  
76 (F) If the place of residence is a vessel, live-aboard vessel, or houseboat, the hull  
77 identification number; the manufacturer's serial number; the name of the vessel,  
78 live-aboard vessel, or houseboat; the registration number; and a description, including  
79 color scheme, of the vessel, live-aboard vessel, or houseboat;  
80 (G) Date of employment, place of any employment, and address of employer;  
81 (H) Place of vocation and address of the place of vocation;  
82 (I) The make, model, color, and license tag number of any vehicle owned or used by  
83 the thief; and  
84 (J) The name of the crime or crimes for which the thief is registering and the date  
85 released from prison or placed on probation, parole, or supervised release.  
86 (6) 'Thief' means any individual:  
87 (A) Who has been convicted of a criminal offense involving metal; or  
88 (B) Who has been convicted under the laws of another state or territory, under the laws  
89 of the United States, under the Uniform Code of Military Justice, or in a tribal court of  
90 a criminal offense involving metal.  
91 (7) 'Vocation' means any full-time, part-time, or volunteer employment with or without  
92 compensation exceeding 14 consecutive days or for an aggregate period of time  
93 exceeding 30 days during any calendar year.  
94 (b) Before a thief who is required to register under this Code section is released from  
95 prison or placed on parole, supervised release, or probation, the appropriate official shall:  
96 (1) Inform the thief of the obligation to register and how to maintain registration;

- 97 (2) Obtain the information necessary for the required registration information;  
98 (3) Inform the thief that, if the thief changes any of the required registration information,  
99 other than residence address, the thief shall give the new information to the sheriff of the  
100 county with whom the thief is registered within 72 hours of the change of information;  
101 if the information is the thief's new residence address, the thief shall give the information  
102 to the sheriff of the county with whom the thief last registered within 72 hours prior to  
103 moving and to the sheriff of the county to which the thief is moving within 72 hours after  
104 the change of information;  
105 (4) Inform the thief that he or she shall also register in any state where he or she is  
106 employed or carries on a vocation;  
107 (5) Inform the thief that, if he or she changes residence to another state, the thief shall  
108 register the new address with the sheriff of the county with whom the thief last registered  
109 and that the thief shall also register with a designated law enforcement agency in the new  
110 state within 72 hours after establishing residence in the new state if the new state has a  
111 metal theft registry;  
112 (6) Obtain fingerprints and a current photograph of the thief;  
113 (7) Require the thief to read and sign a form stating that the obligations of the thief have  
114 been explained; and  
115 (8) Obtain and forward any information obtained from the clerk of court pursuant to  
116 Code Section 42-5-50 to the sheriff's office of the county in which the thief will reside.  
117 (c) The Department of Corrections shall:  
118 (1) Forward to the Georgia Bureau of Investigation a copy of the form stating that the  
119 obligations of the thief have been explained;  
120 (2) Forward any required registration information to the Georgia Bureau of Investigation;  
121 (3) Forward the thief's fingerprints and photograph to the sheriff's office of the county  
122 where the thief is going to reside; and  
123 (4) Keep all records of thieves in a secure facility until official proof of death of a  
124 registered thief; thereafter, the records shall be destroyed in accordance with Code  
125 Sections 15-1-10, 15-6-62, and 15-6-62.1.  
126 (d) No thief shall be released from prison or placed on parole, supervised release, or  
127 probation until:  
128 (1) The appropriate official has provided the Georgia Bureau of Investigation and the  
129 sheriff's office in the county where the thief will be residing with the thief's required  
130 registration information; and  
131 (2) The thief's name has been added to the list of thieves maintained by the Georgia  
132 Bureau of Investigation and the sheriff's office as required by this Code section.  
133 (e) Registration pursuant to this Code section shall be required by any individual who:

- 134 (1) Is convicted on or after July 1, 2009, of a criminal offense involving metal;  
135 (2) Is a resident of Georgia who intends to reside in this state and who is convicted under  
136 the laws of another state or the United States, under the Uniform Code of Military Justice,  
137 or in a tribal court of a criminal offense involving metal on or after July 1, 2009; or  
138 (3) Is a nonresident thief who enters this state for the purpose of employment or any  
139 other reason for a period exceeding 14 consecutive days or for an aggregate period of  
140 time exceeding 30 days during any calendar year regardless of whether such thief is  
141 required to register under federal law, military law, tribal law, or the laws of another state  
142 or territory.
- 143 (f) Any thief required to register under this Code section shall:
- 144 (1) Provide the required registration information to the appropriate official before being  
145 released from prison or placed on parole, supervised release, or probation;  
146 (2) Register with the sheriff of the county in which the thief resides within 72 hours after  
147 the thief's release from prison or placement on parole, supervised release, probation, or  
148 entry into this state;  
149 (3) Maintain the required registration information with the sheriff of the county in which  
150 the thief resides;  
151 (4) Renew the required registration information with the sheriff of the county in which  
152 the thief resides by reporting to the sheriff within 72 hours prior to such thief's birthday  
153 each year to be photographed and fingerprinted;  
154 (5) Update the required registration information with the sheriff of the county in which  
155 the thief resides within 72 hours of any change to the required registration information,  
156 other than residence address; if the information is the thief's new residence address, the  
157 thief shall give the information to the sheriff of the county with whom the thief last  
158 registered within 72 hours prior to any change of residence address and to the sheriff of  
159 the county to which the thief is moving within 72 hours after establishing the new  
160 residence; and
- 161 (6) Continue to comply with the registration requirements of this Code section for the  
162 entire life of the thief, including ensuing periods of incarceration.
- 163 (g) Any thief required to register under this Code section may petition the superior court  
164 of the jurisdiction in which the thief is registered to be released from the registration  
165 requirements of this Code section. The court may issue an order releasing the thief from  
166 further registration if the court finds that the thief does not pose a substantial risk of  
167 perpetrating any future criminal offenses involving metal.
- 168 (h)(1) The appropriate official or sheriff shall, within 72 hours after receipt of the  
169 required registration information, forward such information to the Georgia Bureau of  
170 Investigation. Once the data is entered into the Criminal Justice Information System by

171 the appropriate official or sheriff, the Georgia Crime Information Center shall notify the  
 172 sheriff of the thief's county of residence, either permanent or temporary, the sheriff of the  
 173 county of employment, and the sheriff of the county where the thief attends an institution  
 174 of higher education within 24 hours of entering the data or any change to the data.

175 (2) The Georgia Bureau of Investigation shall:

176 (A) Transmit all information, including the conviction data and fingerprints, to the  
 177 Federal Bureau of Investigation within 24 hours of entering the data;

178 (B) Establish operating policies and procedures concerning record ownership, quality,  
 179 verification, modification, and cancellation; and

180 (C) Perform mail out and verification duties as follows:

181 (i) Send each month Criminal Justice Information System network messages to  
 182 sheriffs listing thieves due for verification;

183 (ii) Create a photo image file from original entries and provide such entries to sheriffs  
 184 to assist in thief identification and verification;

185 (iii) Mail a nonforwardable verification form to the last reported address of the thief  
 186 within ten days prior to the thief's birthday;

187 (iv) If the thief changes residence to another state, notify the law enforcement agency  
 188 with which the thief shall register in the new state if the new state has a metal theft  
 189 registry; and

190 (v) Maintain records required under this Code section.

191 (i) The sheriff's office in each county shall:

192 (1) Prepare and maintain a list of all thieves residing in each county. Such list shall  
 193 include the thief's name; age; physical description; address; crime of conviction,  
 194 including conviction date and the jurisdiction of the conviction; and photograph;

195 (2) Electronically submit and update all information provided by the thief within two  
 196 working days to the Georgia Bureau of Investigation in a manner prescribed by the  
 197 Georgia Bureau of Investigation;

198 (3) Maintain and post a list of every thief residing in each county:

199 (A) In the sheriff's office;

200 (B) In any county administrative building;

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

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

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

206 (4) Update the public notices required by paragraph (3) of this Code section within two  
 207 working days;

- 208 (5) Inform the public of the presence of thieves in each community;  
209 (6) Update the list of thieves residing in the county upon receipt of new information  
210 affecting the residence address of a thief or upon the registration of a thief moving into  
211 the county by virtue of release from prison, relocation from another county, conviction  
212 in another state, federal court, military tribunal, or tribal court;  
213 (7) Within 72 hours of the receipt of changed required registration information, notify  
214 the Georgia Bureau of Investigation through the Criminal Justice Information System of  
215 each change of information;  
216 (8) Retain the verification form stating that the thief still resides at the address last  
217 reported;  
218 (9) Enforce the criminal provisions of this Code section. The sheriff may request the  
219 assistance of the Georgia Bureau of Investigation to enforce the provisions of this Code  
220 section;  
221 (10) Cooperate and communicate with other sheriffs' offices in this state and in the  
222 United States to maintain current data on the location of thieves;  
223 (11) Determine the appropriate time of day for reporting by thieves, which shall be  
224 consistent with the reporting requirements of this Code section.  
225 (j)(1) The sheriff of the county where the thief resides or last registered shall be the  
226 primary law enforcement official charged with communicating the whereabouts of the  
227 thief and any changes in required registration information to the sheriff's office of the  
228 county or counties where the thief is employed, volunteers, attends an institution of  
229 higher education, or moves.  
230 (2) The sheriff's office may post the list of thieves in any public building in addition to  
231 those locations enumerated in subsection (h) of this Code section.  
232 (k) The Georgia Crime Information Center shall create the Criminal Justice Information  
233 System network transaction screens by which appropriate officials shall enter original data  
234 required by this Code section. Screens shall also be created for sheriffs' offices for the  
235 entry of record confirmation data; employment; changes of residence, institutions of higher  
236 education, or employment; or other pertinent data to assist in thief identification.  
237 (l) Within ten days of the filing of a defendant's discharge and exoneration of guilt  
238 pursuant to Article 3 of Chapter 8 of this title, the clerk of court shall transmit the order of  
239 discharge and exoneration to the Georgia Bureau of Investigation and any sheriff  
240 maintaining records required under this Code section.  
241 (m) Any individual who:  
242 (1) Is required to register under this Code section and who fails to comply with the  
243 requirements of this Code section;  
244 (2) Provides false information; or

245 (3) Fails to respond directly to the sheriff within 72 hours of such individual's birthday  
246 shall be guilty of a felony and shall be punished by imprisonment for not less than one nor  
247 more than ten years.

248 (n) The information collected pursuant to this Code section shall be treated as private data  
249 except that:

250 (1) Such information may be disclosed to law enforcement agencies for law enforcement  
251 purposes;

252 (2) Such information may be disclosed to government agencies conducting confidential  
253 background checks; and

254 (3) The Georgia Bureau of Investigation or any sheriff maintaining records required  
255 under this Code section shall, in addition to the requirements of this Code section to  
256 inform the public of the presence of thieves in each community, release such other  
257 relevant information collected under this Code section that is necessary to protect the  
258 public concerning thieves required to register under this Code section, except that the  
259 identity of a victim of an offense that requires registration under this Code section shall  
260 not be released.

261 (o) The Board of Public Safety is authorized to promulgate rules and regulations necessary  
262 for the Georgia Bureau of Investigation and the Georgia Crime Information Center to  
263 implement and carry out the provisions of this Code section.

264 (p) Law enforcement agencies, employees of law enforcement agencies, and state officials  
265 shall be immune from liability for good faith conduct under this article."

266 **SECTION 2.**

267 This Act shall become effective on July 1, 2009, and shall apply to all persons convicted on  
268 and after such date.

269 **SECTION 3.**

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