

House Bill 611

By: Representative Allison of the 8<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual  
2 offenses, so as to provide for the offense of sexual assault against a person under the care or  
3 supervision of certain persons; to provide for definitions; to provide for a penalty; to provide  
4 for related matters; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual offenses,  
8 is amended by revising Code Section 16-6-5.1, relating to sexual assault against persons in  
9 custody, detainees, patients in the hospital or other institution, or by practitioners of  
10 psychotherapy against patients, as follows:

11 "16-6-5.1.

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

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

14 (2) 'Hospital' means an institution which is primarily engaged in providing to inpatients,  
15 by or under the supervision of physicians, diagnostic services and therapeutic services for  
16 medical diagnosis, treatment, and care of injured, disabled, or sick persons or  
17 rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such  
18 term includes public, private, psychiatric, rehabilitative, geriatric, osteopathic, and other  
19 specialty hospitals.

20 (3) 'Intimate parts' means the genital area, groin, inner thighs, buttocks, or breasts of a  
21 person.

22 ~~(3)~~(4) 'Psychotherapy' means the professional treatment or counseling of a mental or  
23 emotional illness, symptom, or condition.

24 ~~(4)~~(5) 'Sexual contact' means any contact between the actor and a person not married to  
25 the actor involving the intimate parts of either person for the purpose of sexual  
26 gratification of the actor.

27 (b) A probation or parole officer or other custodian or supervisor of another person  
 28 referred to in this Code section commits sexual assault when he or she engages in sexual  
 29 contact with another person who is a probationer or parolee under the supervision of said  
 30 probation or parole officer or who is in the custody of law or who is enrolled in a school  
 31 or who is detained in or is a patient in a hospital or other institution and such actor has  
 32 supervisory or disciplinary authority over such other person. ~~A person convicted of sexual  
 33 assault shall be punished by imprisonment for not less than ten nor more than 30 years;  
 34 provided, however, that any person convicted of the offense of sexual assault under this  
 35 subsection of a child under the age of 14 years shall be punished by imprisonment for not  
 36 less than 25 nor more than 50 years. Any person convicted under this subsection of the  
 37 offense of sexual assault shall, in addition, be subject to the sentencing and punishment  
 38 provisions of Code Section 17-10-6.2.~~

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

42 (A) ~~In~~ in the custody of law; ~~or,~~

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

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

49 (3) A person who is an employee, agent, or volunteer at any facility licensed or required  
 50 to be licensed pursuant to Code Section 31-7-3, relating to long-term care facilities, Code  
 51 Section 31-7-12, relating to personal care homes, Code Section 31-7-151, relating to  
 52 home health agencies, or Code Section 31-7-173, relating to hospices, commits sexual  
 53 assault when such person engages in sexual contact with another person who has been  
 54 admitted to or is receiving services from such facility, person, or entity.

55 ~~(4) A person convicted of sexual assault under this subsection shall be punished by~~  
 56 ~~imprisonment for not less than ten nor more than 30 years; provided, however, that any~~  
 57 ~~person convicted of the offense of sexual assault under this subsection of a child under~~  
 58 ~~the age of 14 years shall be punished by imprisonment for not less than 25 nor more than~~  
 59 ~~50 years. Any person convicted under this subsection of the offense of sexual assault~~  
 60 ~~shall, in addition, be subject to the sentencing and punishment provisions of Code Section~~  
 61 ~~17-10-6.2. A person commits sexual assault when such person is engaged in or~~  
 62 ~~responsible for providing diagnostic services or therapeutic services for medical~~  
 63 ~~diagnosis, treatment, and care of injured, disabled, or sick persons or rehabilitation~~

64 services for the rehabilitation of injured, disabled, or sick persons and such person  
65 engages in sexual contact with such injured, disabled, or sick person in a hospital or other  
66 institution.

67 ~~(3)(d)~~ Consent of the victim shall not be a defense to a prosecution under this subsection  
68 Code section.

69 ~~(d)(e)~~ A person who is an employee, agent, or volunteer at any facility licensed or required  
70 ~~to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code~~  
71 ~~Section 31-7-12, relating to personal care homes, or who is required to be licensed pursuant~~  
72 ~~to Code Section 31-7-151 or 31-7-173, relating to home health care and hospices, commits~~  
73 ~~sexual assault when such person engages in sexual contact with another person who has~~  
74 ~~been admitted to or is receiving services from such facility, person, or entity. A person~~  
75 ~~convicted of sexual assault pursuant to this subsection shall be punished by imprisonment~~  
76 ~~for not less than ten nor more than 30 years, or a fine of not more than \$5,000.00, or both.~~  
77 ~~Any violation of this subsection shall constitute a separate offense. Any person convicted~~  
78 ~~under this subsection of the offense of sexual assault shall, in addition, be subject to the~~  
79 ~~sentencing and punishment provisions of Code Section 17-10-6.2. A person convicted of~~  
80 sexual assault pursuant to this Code section shall be punished by imprisonment for not less  
81 than ten nor more than 30 years; provided, however, that any person convicted of the  
82 offense of sexual assault under this subsection of a child under the age of 14 years shall be  
83 punished by imprisonment for not less than 25 nor more than 50 years. Multiple violations  
84 of this Code section shall constitute separate offenses. Any person convicted under this  
85 subsection of the offense of sexual assault shall, in addition, be subject to the sentencing  
86 and punishment provisions of Code Section 17-10-6.2."

87 **SECTION 2.**

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