

Senate Bill 157

By: Senators Harp of the 29th, Cowser of the 46th, Orrock of the 36th, Adelman of the 42nd, Butler of the 55th and others

**AS PASSED SENATE**

A BILL TO BE ENTITLED

AN ACT

1 To change and enact provisions of law relating to classification of sexual offenders, sexual  
2 offender registration, and restrictions on sexual offenders' residences, workplaces, and  
3 activities; to amend Code Section 5-6-35 of the Official Code of Georgia Annotated, relating  
4 to appeals requiring an application for appeal, so as to make such Code section applicable  
5 to appeals from decisions of superior courts reviewing a decision of the Sexual Offender  
6 Registration Review Board; to amend Article 1 of Chapter 10 of Title 17 of the Official Code  
7 of Georgia Annotated, relating to procedures for sentencing in criminal cases, so as to  
8 provide that, with respect to sexual offenses committed after a certain date in this state,  
9 classification shall be by the sentencing court rather than the Sexual Offender Registration  
10 Review Board; to amend Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia  
11 Annotated, relating to classification and registration of sexual offenders and regulation of the  
12 conduct of such offenders, so as to revise provisions relating to registration of sexual  
13 offenders; to change certain definitions; to require the Department of Corrections to forward  
14 certain information to sheriffs; to provide for registration and reporting by sexual offenders  
15 who do not have a residence address; to provide for taking of palm prints and DNA samples  
16 in certain cases; to change certain provisions relative to relief from registration; to change  
17 provisions relating to residence, workplace, and volunteering restrictions; to change  
18 provisions relating to the time frame a sheriff has to update certain information; to remove  
19 annual registration fees; to change registration criteria for persons moving to this state; to  
20 change certain penalty provisions; to change restrictions on volunteer and religious activities;  
21 to revise provisions relative to classification of sex offenders; to revise certain definitions;  
22 to change provisions relative to the process of classification by the Sexual Offender  
23 Registration Review Board and review of such classifications; to provide for procedure and  
24 review; to provide a mechanism for certain elderly and disabled sexual offenders to petition  
25 the superior court to be released from certain residency requirements; to provide for other  
26 related matters; to provide for an effective date; to repeal conflicting laws; and for other  
27 purposes.

28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

29 **SECTION 1.**

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

33 "(5.1) Appeals from decisions of superior courts reviewing decisions of the Sexual  
34 Offender Registration Review Board;"

35 **SECTION 2.**

36 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to  
37 procedures for sentencing in criminal cases, is amended by adding a new Code section to  
38 read as follows:

39 "17-10-6.4.

40 (a) As used in this Code section, any term which is defined in Article 2 of Chapter 1 of  
41 Title 42 shall have the meaning specified in that article.

42 (b) With respect to a sexual offender convicted in this state of a crime committed on or  
43 after the effective date of this Code section, the sentencing court shall determine the  
44 likelihood that a sexual offender will engage in another crime against a victim who is a  
45 minor or a dangerous sexual offense. A sexual offender shall as a part of the sentencing  
46 process be placed into Level I risk assessment classification, Level II risk assessment  
47 classification, or sexually dangerous predator classification based upon the court's review  
48 of:

49 (1) A risk assessment profile of the offender to be completed by the Department of  
50 Corrections prior to sentencing, which profile has been approved for such use by the  
51 Board of Corrections;

52 (2) Any evidence introduced by the prosecution; and

53 (3) Any evidence introduced by the defense.

54 Sexual history polygraph information shall also be admissible for this purpose.

55 (c) All information considered by the court in its determination of the classification shall  
56 be a matter of public record, unless the court determines that some specific portion of such  
57 information would invade the privacy of a person other than the sexual offender, in which  
58 case the court may enter an order sealing that specific portion of the record.

59 (d) Any appeal of the court's determination of classification shall be combined with any  
60 other appeal arising from the conviction, so that there shall be a single appeal of all issues  
61 in the case."

62 **SECTION 3.**

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

67 Paragraph (1) of subsection (a) is revised as follows:

68 "(1) 'Address' means the street or route address of the sexual offender's residence. For  
69 purposes of this Code section, the term ~~does~~ shall not mean a post office box, ~~and~~  
70 ~~homeless does not constitute an address.~~ The term shall include any place where the  
71 sexual offender sleeps, such as a shelter or structure that can be located by a street  
72 address or other description, including, but not limited to, apartments, buildings, motels,  
73 hotels, homeless shelters, and parked vehicles."

74 Paragraph (6) of subsection (a) is revised as follows:

75 "(6) 'Child care facility' means all public and private pre-kindergarten facilities, day-care  
76 centers, child care learning centers, preschool facilities, and long-term care facilities for  
77 children. Such term shall not include private, in-home child day care which is not  
78 licensed by this state."

79 Divisions (a)(9)(A)(i) and (a)(9)(A)(ii) are revised as follows:

80 "(i) Kidnapping of a minor, except by a parent, when the offense by its nature is a  
81 sexual offense against a minor or an attempt to commit a sexual offense against a  
82 minor;  
83 (ii) False imprisonment of a minor, except by a parent, when the offense by its nature  
84 is a sexual offense against a minor or an attempt to commit a sexual offense against  
85 a minor;"

86 Divisions (a)(9)(B)(i) and (a)(9)(B)(ii) are revised as follows:

87 "(i) Kidnapping of a minor, except by a parent, when the offense by its nature is a  
88 sexual offense against a minor or an attempt to commit a sexual offense against a  
89 minor;  
90 (ii) False imprisonment of a minor, except by a parent, when the offense by its nature  
91 is a sexual offense against a minor or an attempt to commit a sexual offense against  
92 a minor;"

93 Subparagraph (a)(9)(C) is revised as follows:

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

98 Subparagraph (a)(16)(K) is revised as follows:

99 "(K) E-mail addresses; and usernames; ~~and user passwords;~~ and"

100 Paragraph (17) of subsection (a) is revised as follows:

101 "(17) 'Risk assessment classification' means the ~~notification level into which a sexual~~  
 102 ~~offender is placed based on the board's assessment~~ classification of a sexual offender as  
 103 a Level I risk assessment, Level II risk assessment, or sexually dangerous predator by the  
 104 board or a court sentencing under Code Section 17-10-6.4."

105 Paragraph (21) of subsection (a) is revised as follows:

106 "(21) 'Sexually dangerous predator' means a sexual offender:

107 (A) Who was designated as a sexually violent predator between July 1, 1996, and June  
 108 30, 2006; or

109 (B) Who is determined by the Sexual Offender Registration Review Board or a court  
 110 sentencing under Code Section 17-10-6.4 to be at risk of perpetrating any future  
 111 dangerous sexual offense."

#### 112 SECTION 4.

113 Said article is further amended in Code Section 42-1-12, relating to the State Sexual Offender  
 114 Registry, by revising paragraphs (1) and (8) of subsection (b) as follows:

115 "(1) Inform the sexual offender of the obligation to register, ~~the amount of the~~  
 116 ~~registration fee,~~ and how to maintain registration;"

117 "(8) At least 15 days prior to such release, obtain ~~Obtain~~ and forward any information  
 118 obtained from the clerk of court pursuant to Code Section 42-5-50 to the sheriff's office  
 119 of the county in which the sexual offender will reside; and"

#### 120 SECTION 5.

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

123 "~~Forward the sexual offender's fingerprints and photograph~~ At least 15 days prior to  
 124 the sexual offender's release from prison, placement on parole or supervised release, or  
 125 within three business days after a sexual offender's placement on probation, the following  
 126 information shall be forwarded to the sheriff's office of the county where the sexual  
 127 offender is going to reside;

128 (A) The sexual offender's fingerprints, palm print, and photograph;

129 (B) The sexual offender's crime of conviction, including conviction date and the  
 130 jurisdiction of the conviction; and

131 (C) The sexual offender's address;"

132 **SECTION 6.**

133 Said article is further amended in Code Section 42-1-12, relating to the State Sexual Offender  
 134 Registry, by revising paragraph (6) of subsection (e) as follows:

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

141 **SECTION 7.**

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

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

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

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

150 (2.1) In the case of a sexual offender who does not have a residence address, in lieu of  
 151 the requirements of paragraph (2) of this subsection, register in person with the sheriff  
 152 of the county in which the sexual offender sleeps within 72 hours after the sexual  
 153 offender's release from prison or placement on parole, supervised release, probation, or  
 154 entry into this state and:

155 (A) Provide the places where he or she sleeps, eats, and works and other places which  
 156 he or she frequents; and

157 (B) Report weekly in person to the sheriff of the county in which he or she sleeps on  
 158 a day specified by the sheriff during normal business hours and update any changes in  
 159 the information required under subparagraph (A) of this paragraph;

160 (3) Maintain the required registration information with the sheriff of the county in which  
 161 the sexual offender resides or sleeps, is employed, or attends an institution of higher  
 162 education;

163 (4) Renew the required registration information with the sheriff of ~~the~~ each county in  
 164 which the sexual offender resides or sleeps, is employed, or attends an institution of  
 165 higher education by reporting in person to the sheriff within 72 hours prior to such  
 166 offender's birthday each year to be photographed, palm printed, and fingerprinted and  
 167 provide a noninvasive DNA sample if none has previously been taken; provided,

168 however, that such offender shall only be photographed in the county where such  
 169 offender resides; and provided, further, that the taking of palm prints and fingerprints  
 170 shall be optional for each county sheriff;

171 (5) Update the required registration information with the sheriff of the county in which  
 172 the sexual offender resides or sleeps ~~within~~ 72 hours of prior to any change to the  
 173 required registration information, other than residence address; ~~if~~. If the information is  
 174 the sexual offender's new residence address, the sexual offender shall give the  
 175 information regarding the sexual offender's new residence address to the sheriff of the  
 176 county with whom the sexual offender last registered and to the sheriff of the county to  
 177 which the sexual offender is moving within 72 hours prior to any change of residence  
 178 address ~~and~~. The sexual offender shall give information regarding a change in  
 179 employment location or a change in attendance at an institution of higher education to the  
 180 sheriff of ~~the~~ each county to which the sexual offender is moving within 72 hours after  
 181 establishing ~~the~~ such new residence place of employment or attendance at an institution  
 182 of higher education; and

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

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

#### 188 **SECTION 8.**

189 Said article is further amended in Code Section 42-1-12, relating to the State Sexual Offender  
 190 Registry, by revising subparagraph (g)(2)(B) as follows:

191 ~~"(B) Have had ten years elapse since his or her release from prison, parole, supervised~~  
 192 ~~release, or probation completed his or her sentence, including any period of parole or~~  
 193 ~~probation."~~

#### 194 **SECTION 9.**

195 Said article is further amended in Code Section 42-1-12, relating to the State Sexual Offender  
 196 Registry, by revising paragraph (1) of subsection (h) as follows:

197 ~~"(h)(1) The appropriate official or sheriff shall, within 72 hours~~ three working days after  
 198 receipt of the required registration information, forward such information to the Georgia  
 199 Bureau of Investigation. Once the data is entered into the Criminal Justice Information  
 200 System by the appropriate official or sheriff, the Georgia Crime Information Center shall  
 201 notify the sheriff of the sexual offender's county of residence, either permanent or  
 202 temporary, the sheriff of the county of employment, and the sheriff of the county where

203 the sexual offender attends an institution of higher education within 24 hours of entering  
 204 the data or any change to the data."

205 **SECTION 10.**

206 Said article is further amended in Code Section 42-1-12, relating to the State Sexual Offender  
 207 Registry, by revising paragraphs (2), (3), (4), (6), (7), (12), (13), and (14) of subsection (i)  
 208 as follows:

209 "(2) Electronically submit and update all information provided by the sexual offender  
 210 within ~~two~~ three working days to the Georgia Bureau of Investigation in a manner  
 211 prescribed by the Georgia Bureau of Investigation;

212 (3) Maintain ~~and post~~ a list of every sexual offender residing in each county and  
 213 electronically submit and update such list for posting or electronic access:

214 (A) In the sheriff's office;

215 (B) In any county administrative building;

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

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

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

221 (4) Update the public notices required by paragraph (3) of this Code section within ~~two~~  
 222 three working days;"

223 "(6) Update the list of sexual offenders residing in the county upon receipt of new  
 224 information affecting the residence address of a sexual offender or upon the registration  
 225 of a sexual offender moving into the county by virtue of release from prison, relocation  
 226 from another county, or conviction in another state, federal court, military tribunal, or  
 227 tribal court. Such list, and any additions to such list, shall be delivered, physically or  
 228 electronically, within ~~72 hours~~ three working days of updating the list of sexual offenders  
 229 residing in the county, to all schools or institutions of higher education located in the  
 230 county;

231 (7) Within ~~72 hours~~ three working days of the receipt of changed required registration  
 232 information, notify the Georgia Bureau of Investigation through the Criminal Justice  
 233 Information System of each change of information;"

234 "(12) If required by Code Section 42-1-14, place any electronic monitoring system on  
 235 the sexually dangerous predator and explain its operation and cost; and

236 (13) Provide current information on names and addresses of all registered sexual  
 237 offenders to campus police with jurisdiction for the campus of an institution of higher  
 238 education if the campus is within the sheriff's jurisdiction; ~~and~~

239 ~~(14) Collect the annual \$250.00 registration fee from the sexual offender and transmit~~  
 240 ~~such fees to the state for deposit into the general fund."~~

241 **SECTION 11.**

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

244 "(n) Any individual who:

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

247 (2) Provides false information; or

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

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

253 **SECTION 12.**

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

256 "42-1-14.

257 (a)(1) With respect to crimes committed in this state on or after the effective date of this  
 258 paragraph classification of sexual offenders shall be by the sentencing court as provided  
 259 in Code Section 17-10-6.4; and no action shall be taken by the board with respect to such  
 260 sexual offenders.

261 (2) With respect to sexual offenders other than those committing crimes in this state on  
 262 or after the effective date of paragraph (1) of this subsection the ~~The~~ board shall  
 263 determine the likelihood that a sexual offender will engage in another crime against a  
 264 victim who is a minor or a dangerous sexual offense. The board shall make such  
 265 determination for any sexual offender convicted on or after July 1, 2006, of a criminal act  
 266 against a minor or a dangerous sexual offense and for any sexual offender incarcerated  
 267 on July 1, 2006, but convicted prior to July 1, 2006, of a criminal act against a minor. In  
 268 addition, any sexual offender who changes residence from another state or territory of the  
 269 United States to this state and who is not already designated under Georgia law as a  
 270 sexually dangerous predator, sexual predator, or a sexually violent predator shall have his  
 271 or her required registration information forwarded by the sheriff of his or her county of  
 272 registration to the board for the purpose of risk assessment classification. Such

273 ~~determination shall not be required to be made by the board until January 1, 2007;~~  
274 ~~provided, however, that such persons shall be subject to this Code section.~~

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

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

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

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

296 (4) The board shall notify the sex offender by first class mail of its determination of send  
297 a copy of its risk assessment classification and shall send a copy of such classification to  
298 the Georgia Bureau of Investigation, the Department of Corrections, the sheriff of the  
299 county where the sexual offender resides, sexual offender, and the sentencing court, if  
300 applicable.

301 (b)(1) ~~If the sexual offender has been sentenced pursuant to subsection (c) of Code~~  
302 ~~Section 17-10-6.2, after receiving a recommendation from the board that he or she be~~  
303 ~~classified as a sexually dangerous predator, the sexual offender may request that the~~  
304 ~~sentencing court set a date to conduct a hearing affording the sexual offender the~~  
305 ~~opportunity to present testimony or evidence relevant to the recommended classification.~~  
306 ~~After the hearing and within 60 days of receiving the report, the court shall issue a ruling~~  
307 ~~as to whether or not the sexual offender shall be classified as a sexually dangerous~~  
308 ~~predator. If the court determines the sexual offender to be a sexually dangerous predator,~~  
309 ~~such fact shall be communicated in writing to the appropriate official, the Georgia Bureau~~

310 ~~of Investigation, and the sheriff of the county where the sexual offender resides. If the~~  
311 ~~board determines that a sexual offender should be classified as a sexually dangerous~~  
312 ~~predator, the sexual offender may petition the board to reevaluate his or her classification.~~  
313 ~~To file a petition for reevaluation, the sexual offender shall be required to submit his or~~  
314 ~~her written petition for reevaluation to the board within 20 days from the date of the letter~~  
315 ~~notifying the sexual offender of his or her classification. The sexual offender shall have~~  
316 ~~60 days from the date of the notification letter to submit information as provided in~~  
317 ~~subsection (a) of this Code section in support of the sexual offender's petition for~~  
318 ~~reevaluation. If the sexual offender fails to submit the petition or supporting documents~~  
319 ~~within the time limits provided, the classification shall be final. The board shall notify~~  
320 ~~the sexual offender by first class mail of its decision on the petition for reevaluation of~~  
321 ~~risk assessment classification and shall send a copy of such notification to the Georgia~~  
322 ~~Bureau of Investigation, the Department of Corrections, the sheriff of the county where~~  
323 ~~the sexual offender resides, and the sentencing court, if applicable.~~

324 ~~(2) If the sexual offender received a sentence of imprisonment and was sentenced for a~~  
325 ~~dangerous sexual offense on or after July 1, 2006, or if the sexual offender is incarcerated~~  
326 ~~on July 1, 2006, for a crime against a victim who is a minor, after receiving a~~  
327 ~~recommendation from the board that he or she be classified as a sexually dangerous~~  
328 ~~predator, the sexual offender may request that the sentencing court set a date to conduct~~  
329 ~~a hearing affording the sexual offender the opportunity to present testimony or evidence~~  
330 ~~relevant to the recommended classification. After the hearing and within 60 days of~~  
331 ~~receiving the report, the court shall issue a ruling as to whether or not the sexual offender~~  
332 ~~shall be classified as a sexually dangerous predator. If the court determines the sexual~~  
333 ~~offender to be a sexually dangerous predator, such fact shall be communicated in writing~~  
334 ~~to the appropriate official, the Georgia Bureau of Investigation, and the sheriff of the~~  
335 ~~county where the sexual offender resides. A sexual offender who is classified by the~~  
336 ~~board as a sexually dangerous predator may file a petition for judicial review of his or her~~  
337 ~~classification within 30 days of the date of the notification letter, or, if the sexual offender~~  
338 ~~has requested reevaluation, within 30 days of the date of the letter denying the petition~~  
339 ~~for reevaluation. The petition for judicial review shall name the board as defendant and~~  
340 ~~the petition shall be filed in the superior court of the county where the offices of the board~~  
341 ~~are located. Within 30 days after service of the appeal on the board, the board shall~~  
342 ~~submit a summary of its findings to the trial court and mail a copy, by first class mail, to~~  
343 ~~the sexual offender. The findings of the board shall be considered prima-facie evidence~~  
344 ~~of the classification. The superior court may uphold the classification of the board or if~~  
345 ~~the superior court finds, by a preponderance of the evidence, that the sexual offender is~~  
346 ~~not a sexually dangerous predator, then the sexual offender shall be placed into Level II~~

347 risk assessment classification. The determination made by the superior court shall be  
 348 forwarded by the clerk of the superior court to the board, the Georgia Bureau of  
 349 Investigation, and the sheriff of the county where the sexual offender resides.

350 ~~(c) Any sexual offender who changes residence from another state or territory of the~~  
 351 ~~United States to this state and who is not designated as a sexually dangerous predator,~~  
 352 ~~sexual predator, or a sexually violent predator shall have his or her required registration~~  
 353 ~~information forwarded by the sheriff of his or her county of registration to the board for the~~  
 354 ~~purpose of risk assessment classification. After receiving a recommendation from the~~  
 355 ~~board that he or she be classified as a sexually dangerous predator, the sexual offender~~  
 356 ~~may, within 30 days after the issuance of such classification, request a hearing before an~~  
 357 ~~administrative law judge. Such hearing shall be conducted in accordance with Chapter 13~~  
 358 ~~of Title 50, the 'Georgia Administrative Procedure Act.' The decision of the administrative~~  
 359 ~~law judge shall constitute the final decision of the board subject to the right of judicial~~  
 360 ~~review in accordance with Chapter 13 of Title 50. If the final determination is that the~~  
 361 ~~sexual offender is classified as a sexually dangerous predator, such fact shall be~~  
 362 ~~communicated in writing to the appropriate official, the Georgia Bureau of Investigation,~~  
 363 ~~and the sheriff of the county where the sexual offender resides.~~

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

366 ~~(e)~~ (d) Any sexually dangerous predator shall be required to wear an electronic monitoring  
 367 system that shall have, at a minimum:

- 368 (1) The capacity to locate and record the location of a sexually dangerous predator by a  
 369 link to a global positioning satellite system;
- 370 (2) The capacity to timely report or record a sexually dangerous predator's presence near  
 371 or within a crime scene or in a prohibited area or the sexually dangerous predator's  
 372 departure from specific geographic locations; and
- 373 (3) An alarm that is automatically activated and broadcasts the sexually dangerous  
 374 predator's location if the global positioning satellite monitor is removed or tampered with  
 375 by anyone other than a law enforcement official designated to maintain and remove or  
 376 replace the equipment.

377 Such electronic monitoring system shall be worn by a sexually dangerous predator for the  
 378 remainder of his or her natural life. The sexually dangerous predator shall pay the cost of  
 379 such system to the Department of Corrections if the sexually dangerous predator is on  
 380 probation; to the State Board of Pardons and Paroles if the sexually dangerous predator is  
 381 on parole; and to the sheriff after the sexually dangerous predator completes his or her term  
 382 of probation and parole or if the sexually dangerous predator has moved to this state from  
 383 another state, territory, or country. The electronic monitoring system shall be placed upon

384 the sexually dangerous predator prior to his or her release from confinement. If the sexual  
 385 offender is not in custody, within 72 hours of the decision classifying the sexual offender  
 386 as a sexually dangerous predator ~~by the court~~ in accordance with subsection (b) of this  
 387 Code section ~~or a final decision pursuant to subsection (c) of this Code section, whichever~~  
 388 ~~applies to the sexual offender's situation,~~ or Code Section 17-16.4 the sexually dangerous  
 389 predator shall report to the sheriff of the county of his or her residence for purposes of  
 390 having the electronic monitoring system placed on the sexually dangerous predator.

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

### 395 **SECTION 13.**

396 Said article is further amended in Code Section 42-1-15, relating to restriction on registered  
 397 offenders residing, working, or loitering within certain distance of child care facilities,  
 398 churches, schools, or areas where minors congregate, photographing of minors, penalty for  
 399 violations, and civil causes of action, by adding a new paragraph to subsection (a) to read as  
 400 follows:

401 "(4) 'Volunteer' means to engage in an activity in which one could be and ordinarily  
 402 would be employed with or without compensation, including, but not limited to, being  
 403 involved with or assisting with minors as a teacher or teaching assistant or with minors  
 404 who are not supervised by someone other than a sexual offender; provided, however,  
 405 such term shall not be construed to preclude participating in activities limited to persons  
 406 who are 18 years of age or older or being a participant in worship services or engaging  
 407 in religious activities that do not include supervising, teaching, directing or otherwise  
 408 participating with minors who are not supervised by someone other than a sexual  
 409 offender."

### 410 **SECTION 14.**

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

412 "42-1-16.

413 A superior court may issue an order releasing an individual from any residency  
 414 requirements of this article if the individual or someone acting on behalf of the individual  
 415 petitions the superior court of the jurisdiction in which such individual resides to be  
 416 released from the residency requirements of this article, the court finds by a preponderance  
 417 of the evidence that the individual does not pose a substantial risk of perpetrating any  
 418 future dangerous sexual offense, and the individual:

- 419 (1) Resides in a hospice facility, skilled nursing home, residential care facility for the  
420 elderly, or nursing home;  
421 (2) Is totally and permanently disabled as such term is defined in Code Section 49-4-80;  
422 or  
423 (3) Is otherwise seriously physically incapacitated due to illness or injury."

424 **SECTION 15.**

425 This Act shall become effective on the thirtieth day after the date on which this Act is  
426 approved by the Governor or becomes law without such approval.

427 **SECTION 16.**

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