

Senate Bill 300

By: Senators Ramsey, Sr. of the 43rd, Henson of the 41st, Stoner of the 6th and James of the 35th

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 change certain provisions relating to sexual assault against persons in
3 custody, certain patients, and other persons subject to the authority of a supervisor or
4 disciplinary person; to remove a consent defense to sexual assault on certain persons; to
5 provide for the offense of sexual enticement of a student; to define certain terms; to provide
6 that it shall be unlawful for certain persons to entice a person enrolled in an elementary or
7 secondary school to commit sexual contact; to provide for a penalty; to repeal conflicting
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

11 Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual offenses,
12 is amended by revising Code Section 16-6-5.1, relating to sexual assault against persons in
13 custody, sexual assault against person detained or patient in hospital or other institution, and
14 sexual assault by practitioner of psychotherapy against a patient, as follows:

15 "16-6-5.1.

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

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

18 (2) 'Educational institution' means a public or private elementary or secondary school.

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

21 ~~(3)~~(4) 'Psychotherapy' means the professional treatment or counseling of a mental or
22 emotional illness, symptom, or condition.

23 ~~(4)~~(5) 'Sexual contact' means any contact between the actor and a person not married to
24 the actor involving the intimate parts of either person for the purpose of sexual
25 gratification of the actor.

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

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

41 ~~(A)~~(1) In the custody of law; or

42 ~~(B)~~(2) Detained in or is a patient in a hospital or other institution.

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

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

49 ~~(4) A person convicted of sexual assault under this subsection shall be punished by~~
 50 ~~imprisonment for not less than ten nor more than 30 years; provided, however, that any~~
 51 ~~person convicted of the offense of sexual assault under this subsection of a child under~~
 52 ~~the age of 14 years shall be punished by imprisonment for not less than 25 nor more than~~
 53 ~~50 years. Any person convicted under this subsection of the offense of sexual assault~~
 54 ~~shall, in addition, be subject to the sentencing and punishment provisions of Code Section~~
 55 ~~17-10-6.2.~~

56 ~~(d)~~(e) A person who is an employee, agent, or volunteer at any facility licensed or required
 57 to be licensed under Code Section 31-7-3, relating to long-term care facilities, or Code
 58 Section 31-7-12, relating to personal care homes, or who is required to be licensed pursuant
 59 to Code Section 31-7-151 or 31-7-173, relating to home health care and hospices,
 60 respectively, commits sexual assault when such person engages in sexual contact with
 61 another person who has been admitted to or is receiving services from such facility, person,
 62 or entity. ~~A person convicted of sexual assault pursuant to this subsection shall be~~

63 ~~punished by imprisonment for not less than ten nor more than 30 years, or a fine of not~~
 64 ~~more than \$5,000.00, or both. Any violation of this subsection shall constitute a separate~~
 65 ~~offense. Any person convicted under this subsection of the offense of sexual assault shall,~~
 66 ~~in addition, be subject to the sentencing and punishment provisions of Code Section~~
 67 ~~17-10-6.2.~~

68 (f) A person who is an educator, employee, agent, or volunteer at any educational
 69 institution commits sexual assault when such person engages in sexual contact with another
 70 person who is enrolled in such educational institution as a student.

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

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

79 (i) The offense of sexual assault shall be considered a separate offense and shall not merge
 80 with any other offense."

81 **SECTION 2.**

82 Said chapter is further amended by adding a new Code section to read as follows:

83 "16-6-5.2.

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

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

86 (2) 'Educational institution' means a public or private elementary or secondary school.

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

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

91 (5) 'Sexual enticement of a student' means a violation of subsection (b) of this Code
 92 section.

93 (b) It is unlawful for any person who is an educator, employee, agent, or volunteer at any
 94 educational institution knowingly to employ, persuade, induce, entice, or coerce another
 95 person who is enrolled in such educational institution as a student to engage in any sexual
 96 contact with such educator, employee, agent, or volunteer or with any other person.

97 (c) A person convicted of sexual enticement of a student under this Code section shall,
 98 upon a first offense, be punished as for a misdemeanor of a high and aggravated nature.

99 Upon a second and each subsequent offense, such person shall be punished by a fine not
100 to exceed \$50,000.00 or by imprisonment for not more than five years or both."

101 **SECTION 3.**

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