

The House Committee on Judiciary Non-civil offers the following substitute to HB 122:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 42-1-14 of the Official Code of Georgia Annotated, relating to risk
2 assessment classification, classification as "sexually dangerous predator," and electronic
3 monitoring of sexual offenders; Code Section 42-9-53, relating to preservation of documents,
4 classification of information and documents, divulgence of confidential state secrets, and
5 conduct of hearings; and Code Section 35-3-4, relating to powers and duties of the Georgia
6 Bureau of Investigation, so as to authorize the Sexual Offender Registration Review Board
7 to review and utilize records of the Board of Pardons and Paroles in making its assessments;
8 to maintain confidentiality of records of the Board of Pardons and Paroles; to provide for
9 related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

11
12 Code Section 42-1-14 of the Official Code of Georgia Annotated, relating to risk assessment
13 classification, classification as "sexually dangerous predator," and electronic monitoring of
14 sexual offenders, is amended by revising paragraph (2) of subsection (a) as follows:

15 "(2) A sexual offender shall be placed into Level I risk assessment classification, Level II
16 risk assessment classification, or sexually dangerous predator classification based upon
17 the board's assessment criteria and information obtained and reviewed by the board. The
18 sexual offender may provide the board with information, including, but not limited to,
19 psychological evaluations, sexual history polygraph information, treatment history, and
20 personal, social, educational, and work history and may agree to submit to a psychosexual
21 evaluation or sexual history polygraph conducted by the board. If the sexual offender has
22 undergone treatment through the Department of Corrections, such treatment records shall
23 also be submitted to the board for evaluation. The prosecuting attorney shall provide the
24 board with any information available to assist the board in rendering an opinion,
25 including, but not limited to, criminal history and records related to previous criminal

26 history. The board shall utilize the Georgia Bureau of Investigation to assist it in
 27 obtaining information relative to its evaluation of sexual offenders and the Georgia
 28 Bureau of Investigation shall provide the board with information as requested by the
 29 board. The board shall be authorized to obtain information from supervision records of
 30 the Board of Pardons and Paroles regarding such sexual offender, but such records shall
 31 remain confidential state secrets in accordance with Code Section 42-9-53 and shall not
 32 be made available to any other person or entity or be subject to subpoena unless
 33 declassified by the State Board of Pardons and Paroles. The clerk of court shall send a
 34 copy of the sexual offender's conviction to the board and notify the board that a sexual
 35 offender's evaluation will need to be performed. The board shall render its
 36 recommendation for risk assessment classification within:

- 37 (A) Sixty days of receipt of a request for an evaluation if the sexual offender is being
 38 sentenced pursuant to subsection (c) of Code Section 17-10-6.2;
- 39 (B) Six months prior to the sexual offender's proposed release from confinement if the
 40 offender is incarcerated;
- 41 (C) Sixty days of receipt of the required registration information from the sheriff when
 42 the sexual offender changes residence from another state or territory of the United
 43 States or any other place to this state and is not already classified;
- 44 (D) Sixty days if the sexual offender is sentenced to a probated or suspended sentence;
 45 and
- 46 (E) Ninety days if such classification is requested by the court pursuant to a petition
 47 filed under Code Section 42-1-19."

48 **SECTION 2.**

49 Code Section 42-9-53, relating to preservation of documents, classification of information
 50 and documents, divulgence of confidential state secrets, and conduct of hearings, is amended
 51 by revising subsection (b) as follows:

52 "(b) All information, both oral and written, received by the members of the board in the
 53 performance of their duties under this chapter and all records, papers, and documents
 54 coming into their possession by reason of the performance of their duties under this chapter
 55 shall be classified as confidential state secrets until declassified by the board; provided,
 56 however, that the board shall be authorized to disclose to an alleged violator of parole or
 57 conditional release the evidence introduced against him or her at a final hearing on the
 58 matter of revocation of parole or conditional release; provided, further, that the board may
 59 make supervision records of the board available to probation officials employed with the
 60 Department of Corrections and the Sexual Offender Registration Review Board, provided

61 that the same shall remain confidential and not available to any other person or subject to
62 subpoena unless declassified by the board."

63 **SECTION 3.**

64 Code Section 35-3-4, relating to powers and duties of the Georgia Bureau of Investigation,
65 is amended by revising paragraph (15) of subsection (a) as follows:

66 "(15)(A) Acquire, collect, analyze, and provide to the board any information which will
67 assist the board in determining a sexual offender's risk assessment classification in
68 accordance with the board's duties as specified in Code Section 42-1-14, including, but
69 not limited to, obtaining:

70 (i) Incident, investigative, supplemental, and arrest reports from law enforcement
71 agencies;

72 (ii) Records from clerks of court;

73 (iii) Records and information maintained by prosecuting attorneys;

74 (iv) Records maintained by state agencies, provided that any records provided by the
75 State Board of Pardons and Paroles that are classified as confidential state secrets
76 pursuant to Code Section 42-9-53 shall remain confidential and shall not be made
77 available to any other person or entity or be subject to subpoena unless declassified
78 by the State Board of Pardons and Paroles; and

79 (v) Other documents or information as requested by the board.

80 (B) As used in this paragraph, the term:

81 (i) 'Board' means the Sexual Offender Registration Review Board.

82 (ii) 'Risk assessment classification' means the level into which a sexual offender is
83 placed based on the board's assessment.

84 (iii) 'Sexual offender' has the same meaning as set forth in Code Section 42-1-12."

85 **SECTION 4.**

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