

House Bill 341

By: Representatives Reeves of the 34<sup>th</sup>, Coomer of the 14<sup>th</sup>, Golick of the 40<sup>th</sup>, Kelley of the 16<sup>th</sup>, Strickland of the 111<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 16 and Code Section 17-10-6.2 of the Official Code of Georgia Annotated,  
2 relating to crimes and offenses and punishment for sexual offenders, respectively, so as to  
3 provide for mandatory terms of imprisonment for trafficking of individuals for sexual  
4 servitude; to change provisions relating to the model notice for the human trafficking hotline;  
5 to change provisions relating to punishment for other sexual offenses; to clarify provisions  
6 relating to the probation portion of a split sentence imposed for certain sexual offenses; to  
7 amend Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the State  
8 Sexual Offender Registry, so as to provide a conforming cross-reference; to provide for  
9 related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

12 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
13 amended by revising subsections (c) and (f) of Code Section 16-5-46, relating to trafficking  
14 of persons for labor or sexual servitude, as follows:

15 "(c) A person commits the offense of trafficking ~~a person~~ an individual for sexual servitude  
16 when that person knowingly subjects ~~another person~~ an individual to or maintains ~~another~~  
17 ~~person~~ an individual in sexual servitude or knowingly recruits, entices, harbors, transports,  
18 provides, patronizes, solicits, or obtains by any means ~~another person~~ an individual for the  
19 purpose of sexual servitude."

20 "(f)(1) Except as provided in paragraph (2) of this subsection, any person who commits  
21 the offense of trafficking an individual for labor or sexual servitude shall be guilty of a  
22 felony, and upon conviction thereof, shall be punished by imprisonment for not less than  
23 ten nor more than 20 years and a fine not to exceed \$100,000.00. Any person convicted  
24 of violating subsection (c) of this Code section and punished as provided in this  
25 paragraph shall, in addition, be subject to the sentencing and punishment provisions of  
26 Code Section 17-10-6.2.

27 (2) Any person who commits the offense of trafficking an individual for labor or sexual  
 28 servitude against an individual who is under the age of 18 years shall be guilty of a  
 29 felony, and upon conviction thereof, shall be punished by imprisonment for not less than  
 30 ten nor more than 20 years and a fine not to exceed \$100,000.00; provided, however, that  
 31 if the offense is committed against an individual under 18 years of age and such  
 32 individual under the age of 18 years was coerced or deceived into being trafficked for  
 33 labor or sexual servitude or if the offense is committed against an individual who has a  
 34 developmental disability, the person shall be guilty of a felony, and upon conviction  
 35 thereof, shall be punished by imprisonment for not less than 25 nor more than 50 years  
 36 or life imprisonment and a fine not to exceed \$100,000.00. Any person convicted of  
 37 violating subsection (c) of this Code section and punished as provided in this paragraph  
 38 shall, in addition, be subject to the sentencing and punishment provisions of Code Section  
 39 17-10-6.2."

40 **SECTION 2.**

41 Said title is further amended by revising subsection (c) and repealing subsection (e) of Code  
 42 Section 16-5-47, relating to posting model notice with human trafficking hotline information  
 43 in businesses and on the Internet, as follows:

44 "(c) ~~The On or before August 1, 2013, the Georgia Bureau of Investigation shall develop~~  
 45 ~~a model notice that complies with the requirements of this subsection and make the model~~  
 46 ~~notice is available for download on from its Internet website. Such notice shall be at least~~  
 47 ~~8 1/2 inches by 11 inches in size; and printed in a 16 point font in English, Spanish, and~~  
 48 ~~any other language deemed appropriate by the director of the Georgia Bureau of~~  
 49 ~~Investigation; and state the following: . Such model notice shall provide information giving~~  
 50 ~~individuals a method to contact the National Human Trafficking Hotline and the Statewide~~  
 51 ~~Georgia Hotline for Domestic Minor Trafficking.~~

52 ~~'Are you or someone you know being sold for sex or made/forced to work for little or no~~  
 53 ~~pay and cannot leave? Call the National Human Trafficking Resource Center at~~  
 54 ~~1-888-373-7888 for help. All victims of slavery and human trafficking have rights and~~  
 55 ~~are protected by international, federal, and state law.~~

56 The hotline is:

- 57 (1) ~~Anonymous and confidential;~~  
 58 (2) ~~Available 24 hours a day, seven days a week;~~  
 59 (3) ~~Able to provide help, referral to services, training, and general information;~~  
 60 (4) ~~Accessible in 170 languages;~~  
 61 (5) ~~Operated by a nonprofit, nongovernmental organization; and~~  
 62 (6) ~~Toll free."~~

63 **SECTION 3.**

64 Said title is further amended by revising subsection (a) of Code Section 16-6-13, relating to  
 65 penalties for violating Code Sections 16-6-9 through 16-6-12, as follows:

66 "(a) Except as otherwise provided in subsection (b) of this Code section, a person  
 67 convicted of ~~any of the offenses enumerated in Code Sections 16-6-10 through 16-6-12;~~

68 (1) Violating Code Section 16-6-10 shall be punished as for a misdemeanor of a high and  
 69 aggravated nature. ~~A person convicted of the offense enumerated in, and at the sole~~  
 70 discretion of the judge, all but 24 hours of any term of imprisonment imposed may be  
 71 suspended, stayed, or probated;

72 (2) Violating Code Section 16-6-9 shall be punished as for a misdemeanor;

73 (3) Violating Code Section 16-6-11 shall be punished as for a misdemeanor of a high and  
 74 aggravated nature, and at the sole discretion of the judge, all but 24 hours of any term of  
 75 imprisonment imposed may be suspended, stayed, or probated; or

76 (4) Violating Code Section 16-6-12 shall be punished as for a misdemeanor of a high and  
 77 aggravated nature, and at the sole discretion of the judge, all but 24 hours of any term of  
 78 imprisonment imposed may be suspended, stayed, or probated."

79 **SECTION 4.**

80 Said title is further amended by revising paragraph (1) of subsection (f) of Code Section  
 81 16-12-100, relating to sexual exploitation of children, as follows:

82 "(f)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, any  
 83 person who violates a provision of this Code section shall be guilty of a felony and, upon  
 84 conviction thereof, shall be punished by imprisonment for not less than five nor more  
 85 than 20 years and by a fine of not more than \$100,000.00; provided, however, that if the  
 86 person so convicted is a member of the immediate family of the victim, no fine shall be  
 87 imposed. Any person punished as provided in this paragraph shall, in addition, be subject  
 88 to the sentencing and punishment provisions of Code Section 17-10-6.2."

89 **SECTION 5.**

90 Code Section 17-10-6.2 of the Official Code of Georgia Annotated, relating to punishment  
 91 for sexual offenders, is amended by revising subsections (a) and (b) as follows:

92 "(a) As used in this Code section, the term 'sexual offense' means:

93 (1) Aggravated assault with the intent to rape, ~~as defined in violation of~~ Code Section  
 94 16-5-21;

95 (2) False imprisonment, ~~as defined in violation of~~ Code Section 16-5-41, if the victim  
 96 is not the child of the defendant and the victim is less than 14 years of age;

97 (3) Trafficking an individual for sexual servitude in violation of subsection (c) of Code  
 98 Section 16-5-46;  
 99 ~~(3)(4)~~ Sodomy, ~~as defined in violation of~~ Code Section 16-6-2, unless subject to the  
 100 provisions of subsection (d) of Code Section 16-6-2;  
 101 ~~(4)(5)~~ Statutory rape, ~~as defined in violation of~~ Code Section 16-6-3, if the person  
 102 convicted of the crime is 21 years of age or older;  
 103 ~~(5)(6)~~ Child molestation, ~~as defined in violation of~~ subsection (a) of Code Section  
 104 16-6-4, unless subject to the provisions of paragraph (2) of subsection (b) of Code  
 105 Section 16-6-4;  
 106 ~~(6)(7)~~ Enticing a child for indecent purposes, ~~as defined in violation of~~ Code Section  
 107 16-6-5, unless subject to the provisions of subsection (c) of Code Section 16-6-5;  
 108 ~~(7)(8)~~ Sexual assault against persons in custody, ~~as defined in violation of~~ Code Section  
 109 16-6-5.1;  
 110 ~~(8)(9)~~ Incest, ~~as defined in violation of~~ Code Section 16-6-22;  
 111 ~~(9)(10)~~ A second or subsequent conviction for sexual battery, ~~as defined in violation of~~  
 112 Code Section 16-6-22.1; or  
 113 ~~(10)(11)~~ Sexual exploitation of children, ~~as defined in violation of~~ Code Section  
 114 16-12-100, unless subject to the provisions of paragraph (2) or (3) of subsection (f) of  
 115 Code Section 16-12-100.  
 116 (b) Except as provided in subsection (c) of this Code section, and notwithstanding any  
 117 other provisions of law to the contrary, any person convicted of a sexual offense shall be  
 118 sentenced to a split sentence which shall include the minimum term of imprisonment  
 119 specified in the Code section applicable to ~~the~~ such sexual offense. No portion of the  
 120 mandatory minimum sentence imposed shall be suspended, stayed, probated, deferred, or  
 121 withheld by the ~~sentencing~~ court ~~and~~. Any such sentence shall include, in addition to the  
 122 mandatory term of imprisonment, an additional probated sentence of at least one year;  
 123 provided, however, that when a court imposes consecutive sentences for sexual offenses,  
 124 the requirement that the court impose a probated sentence of at least one year shall only  
 125 apply to the final consecutive sentence imposed. No person convicted of a sexual offense  
 126 shall be sentenced as a first offender pursuant to Article 3 of Chapter 8 of Title 42, ~~relating~~  
 127 ~~to probation for first offenders~~; or any other provision of Georgia law relating to the  
 128 sentencing of first offenders."

129

**SECTION 6.**

130 Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the State Sexual  
 131 Offender Registry, is amended by revising subparagraph (a)(10)(B.1) and adding a new  
 132 subparagraph to read as follows:

133 "(B.1) 'Dangerous sexual offense' with respect to convictions occurring ~~after June 30,~~  
134 between July 1, 2015, and June 30, 2017, means any criminal offense, or the attempt  
135 to commit any criminal offense, under Title 16 as specified in this paragraph or any  
136 offense under federal law or the laws of another state or territory of the United States  
137 which consists of the same or similar elements of the following offenses:

- 138 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
- 139 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who  
140 is less than 14 years of age, except by a parent;
- 141 (iii) Trafficking a person for sexual servitude in violation of Code Section 16-5-46;
- 142 (iv) Rape in violation of Code Section 16-6-1;
- 143 (v) Sodomy in violation of Code Section 16-6-2;
- 144 (vi) Aggravated sodomy in violation of Code Section 16-6-2;
- 145 (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted  
146 of the offense is 21 years of age or older;
- 147 (viii) Child molestation in violation of Code Section 16-6-4;
- 148 (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the  
149 person was convicted of a misdemeanor offense;
- 150 (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
- 151 (xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;
- 152 (xii) Incest in violation of Code Section 16-6-22;
- 153 (xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;
- 154 (xiv) Aggravated sexual battery in violation of Code Section 16-6-22.2;
- 155 (xv) Sexual exploitation of children in violation of Code Section 16-12-100;
- 156 (xvi) Electronically furnishing obscene material to minors in violation of Code  
157 Section 16-12-100.1;
- 158 (xvii) Computer pornography and child exploitation in violation of Code Section  
159 16-12-100.2;
- 160 (xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or
- 161 (xix) Any conduct which, by its nature, is a sexual offense against a victim who is a  
162 minor or an attempt to commit a sexual offense against a victim who is a minor.

163 (B.2) 'Dangerous sexual offense' with respect to convictions occurring after June 30,  
164 2017, means any criminal offense, or the attempt to commit any criminal offense, under  
165 Title 16 as specified in this paragraph or any offense under federal law or the laws of  
166 another state or territory of the United States which consists of the same or similar  
167 elements of the following offenses:

- 168 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;

- 169 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who  
 170 is less than 14 years of age, except by a parent;  
 171 (iii) Trafficking an individual for sexual servitude in violation of Code Section  
 172 16-5-46;  
 173 (iv) Rape in violation of Code Section 16-6-1;  
 174 (v) Sodomy in violation of Code Section 16-6-2;  
 175 (vi) Aggravated sodomy in violation of Code Section 16-6-2;  
 176 (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted  
 177 of the offense is 21 years of age or older;  
 178 (viii) Child molestation in violation of Code Section 16-6-4;  
 179 (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the  
 180 person was convicted of a misdemeanor offense;  
 181 (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;  
 182 (xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;  
 183 (xii) Incest in violation of Code Section 16-6-22;  
 184 (xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;  
 185 (xiv) Aggravated sexual battery in violation of Code Section 16-6-22.2;  
 186 (xv) Sexual exploitation of children in violation of Code Section 16-12-100;  
 187 (xvi) Electronically furnishing obscene material to minors in violation of Code  
 188 Section 16-12-100.1;  
 189 (xvii) Computer pornography and child exploitation in violation of Code Section  
 190 16-12-100.2;  
 191 (xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or  
 192 (xix) Any conduct which, by its nature, is a sexual offense against a victim who is a  
 193 minor or an attempt to commit a sexual offense against a victim who is a minor."

194 **SECTION 7.**

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