

## House Bill 341 (COMMITTEE SUBSTITUTE)

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

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **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~~;

17 (1) Subjects an individual to or maintains ~~another person~~ an individual in sexual  
18 servitude ~~or knowingly recruits~~;

19 (2) Recruits, entices, harbors, transports, provides, or obtains by any means ~~another~~  
20 person an individual for the purpose of sexual servitude; or

21 (3) Patronizes or solicits by any means an individual for the purpose of sexual servitude."

22 "(f)(1) Except as provided in paragraph (2) of this subsection, any person who commits  
23 the offense of trafficking an individual for labor ~~or sexual~~ servitude shall be guilty of a  
24 felony, and upon conviction thereof, shall be punished by imprisonment for not less than  
25 ten nor more than 20 years and a fine not to exceed \$100,000.00.

26 (2) Any person who commits the offense of trafficking an individual for labor or sexual  
 27 servitude against an individual who is ~~under the age of 18 years shall be guilty of a~~  
 28 ~~felony, and upon conviction thereof, shall be punished by imprisonment for not less than~~  
 29 ~~ten nor more than 20 years and a fine not to exceed \$100,000.00; provided, however, that~~  
 30 ~~if the offense is committed against an individual~~ under 18 years of age and such  
 31 individual under the age of 18 years was coerced or deceived into being trafficked for  
 32 labor or sexual servitude or if the offense is committed against an individual who has a  
 33 developmental disability, the person shall be guilty of a felony, and upon conviction  
 34 thereof, shall be punished by imprisonment for not less than 25 nor more than 50 years  
 35 or life imprisonment and a fine not to exceed \$100,000.00.

36 (3) Except as provided in paragraph (4) of this subsection, any person who violates  
 37 subsection (c) of this Code section shall be guilty of a felony, and upon conviction  
 38 thereof, shall be punished by imprisonment for not less than ten nor more than 20 years  
 39 and a fine not to exceed \$100,000.00; provided, however, that if such conduct is a  
 40 violation of paragraph (3) of subsection (c) of this Code section and is committed against  
 41 an individual who is 16 or 17 years of age, such person shall be punished by  
 42 imprisonment for not less than five nor more than 20 years.

43 (4) Any person who violates subsection (c) of this Code section committed against an  
 44 individual under 18 years of age and such individual under the age of 18 years was  
 45 coerced or deceived into a violation of subsection (c) of this Code section or if the offense  
 46 is committed against an individual who has a developmental disability, the person shall  
 47 be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for  
 48 not less than 25 nor more than 50 years or life imprisonment and a fine not to exceed  
 49 \$100,000.00."

50 **SECTION 2.**

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

54 "(c) ~~The On or before August 1, 2013, the Georgia Bureau of Investigation shall develop~~  
 55 a model notice that complies with the requirements of this subsection and make the model  
 56 notice is available for download on from its Internet website. Such notice shall be at least  
 57 8 1/2 inches by 11 inches in size; and printed in a 16 point font in English, Spanish, and  
 58 any other language deemed appropriate by the director of the Georgia Bureau of  
 59 Investigation, and state the following: Such model notice shall provide information giving  
 60 individuals a method to contact the National Human Trafficking Hotline and the Statewide  
 61 Georgia Hotline for Domestic Minor Trafficking.

62 ~~'Are you or someone you know being sold for sex or made/forced to work for little or no~~  
 63 ~~pay and cannot leave? Call the National Human Trafficking Resource Center at~~  
 64 ~~1-888-373-7888 for help. All victims of slavery and human trafficking have rights and~~  
 65 ~~are protected by international, federal, and state law.~~

66 ~~The hotline is:~~

- 67 ~~(1) Anonymous and confidential;~~
- 68 ~~(2) Available 24 hours a day, seven days a week;~~
- 69 ~~(3) Able to provide help, referral to services, training, and general information;~~
- 70 ~~(4) Accessible in 170 languages;~~
- 71 ~~(5) Operated by a nonprofit, nongovernmental organization; and~~
- 72 ~~(6) Toll free."~~

### 73 **SECTION 3.**

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

76 "(a) Except as otherwise provided in subsection (b) of this Code section, a person  
 77 convicted of ~~any of the offenses enumerated in Code Sections 16-6-10 through 16-6-12~~  
 78 violating:

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

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

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

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

### 90 **SECTION 4.**

91 Said title is further amended by revising paragraph (1) of subsection (f) of Code Section  
 92 16-12-100, relating to sexual exploitation of children, as follows:

93 "(f)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, any  
 94 person who violates a provision of this Code section shall be guilty of a felony and, upon  
 95 conviction thereof, shall be punished by imprisonment for not less than five nor more  
 96 than 20 years and by a fine of not more than \$100,000.00; provided, however, that if the

97 person so convicted is a member of the immediate family of the victim, no fine shall be  
 98 imposed. Any person punished as provided in this paragraph shall, in addition, be subject  
 99 to the sentencing and punishment provisions of Code Section 17-10-6.2."

100

### SECTION 5.

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

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

104 (1) Aggravated assault with the intent to rape, ~~as defined~~ in violation of Code Section  
 105 16-5-21;

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

108 (3) Sodomy, ~~as defined~~ in violation of Code Section 16-6-2, unless subject to the  
 109 provisions of subsection (d) of Code Section 16-6-2;

110 (4) Statutory rape, ~~as defined~~ in violation of Code Section 16-6-3, if the person convicted  
 111 of the crime is 21 years of age or older;

112 (5) Child molestation, ~~as defined~~ in violation of subsection (a) of Code Section 16-6-4,  
 113 unless subject to the provisions of paragraph (2) of subsection (b) of Code Section  
 114 16-6-4;

115 (6) Enticing a child for indecent purposes, ~~as defined~~ in violation of Code Section  
 116 16-6-5, unless subject to the provisions of subsection (c) of Code Section 16-6-5;

117 (7) Sexual assault against persons in custody, ~~as defined~~ in violation of Code Section  
 118 16-6-5.1;

119 (8) Incest, ~~as defined~~ in violation of Code Section 16-6-22;

120 (9) A second or subsequent conviction for sexual battery, ~~as defined~~ in violation of Code  
 121 Section 16-6-22.1; or

122 (10) Sexual exploitation of children, ~~as defined~~ in violation of Code Section 16-12-100,  
 123 unless subject to the provisions of paragraph (2) or (3) of subsection (f) of Code Section  
 124 16-12-100.

125 (b) Except as provided in subsection (c) of this Code section, and notwithstanding any  
 126 other provisions of law to the contrary, any person convicted of a sexual offense shall be  
 127 sentenced to a split sentence which shall include the minimum term of imprisonment  
 128 specified in the Code section applicable to ~~the~~ such sexual offense. No portion of the  
 129 mandatory minimum sentence imposed shall be suspended, stayed, probated, deferred, or  
 130 withheld by the ~~sentencing~~ court ~~and~~. Any such sentence shall include, in addition to the  
 131 mandatory term of imprisonment, an additional probated sentence of at least one year;  
 132 provided, however, that when a court imposes consecutive sentences for sexual offenses,

133 the requirement that the court impose a probated sentence of at least one year shall only  
 134 apply to the final consecutive sentence imposed. No person convicted of a sexual offense  
 135 shall be sentenced as a first offender pursuant to Article 3 of Chapter 8 of Title 42, ~~relating~~  
 136 ~~to probation for first offenders~~, or any other provision of Georgia law relating to the  
 137 sentencing of first offenders."

138 **SECTION 6.**

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

142 "(B.1) 'Dangerous sexual offense' with respect to convictions occurring ~~after June 30,~~  
 143 ~~2015~~ between July 1, 2015, and June 30, 2017, means any criminal offense, or the  
 144 attempt to commit any criminal offense, under Title 16 as specified in this ~~paragraph~~  
 145 subparagraph or any offense under federal law or the laws of another state or territory  
 146 of the United States which consists of the same or similar elements of the following  
 147 offenses:

- 148 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
- 149 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who
- 150 is less than 14 years of age, except by a parent;
- 151 (iii) Trafficking a person for sexual servitude in violation of Code Section 16-5-46;
- 152 (iv) Rape in violation of Code Section 16-6-1;
- 153 (v) Sodomy in violation of Code Section 16-6-2;
- 154 (vi) Aggravated sodomy in violation of Code Section 16-6-2;
- 155 (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted
- 156 of the offense is 21 years of age or older;
- 157 (viii) Child molestation in violation of Code Section 16-6-4;
- 158 (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the
- 159 person was convicted of a misdemeanor offense;
- 160 (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
- 161 (xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;
- 162 (xii) Incest in violation of Code Section 16-6-22;
- 163 (xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;
- 164 (xiv) Aggravated sexual battery in violation of Code Section 16-6-22.2;
- 165 (xv) Sexual exploitation of children in violation of Code Section 16-12-100;
- 166 (xvi) Electronically furnishing obscene material to minors in violation of Code
- 167 Section 16-12-100.1;

- 168 (xvii) Computer pornography and child exploitation in violation of Code Section  
169 16-12-100.2;
- 170 (xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or  
171 (xix) Any conduct which, by its nature, is a sexual offense against a victim who is a  
172 minor or an attempt to commit a sexual offense against a victim who is a minor.
- 173 (B.2) 'Dangerous sexual offense' with respect to convictions occurring after June 30,  
174 2017, means any criminal offense, or the attempt to commit any criminal offense, under  
175 Title 16 as specified in this subparagraph or any offense under federal law or the laws  
176 of another state or territory of the United States which consists of the same or similar  
177 elements of the following offenses:
- 178 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;  
179 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who  
180 is less than 14 years of age, except by a parent;  
181 (iii) Trafficking an individual for sexual servitude in violation of Code Section  
182 16-5-46;  
183 (iv) Rape in violation of Code Section 16-6-1;  
184 (v) Sodomy in violation of Code Section 16-6-2;  
185 (vi) Aggravated sodomy in violation of Code Section 16-6-2;  
186 (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted  
187 of the offense is 21 years of age or older;  
188 (viii) Child molestation in violation of Code Section 16-6-4;  
189 (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the  
190 person was convicted of a misdemeanor offense;  
191 (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;  
192 (xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;  
193 (xii) Incest in violation of Code Section 16-6-22;  
194 (xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;  
195 (xiv) Aggravated sexual battery in violation of Code Section 16-6-22.2;  
196 (xv) Sexual exploitation of children in violation of Code Section 16-12-100;  
197 (xvi) Electronically furnishing obscene material to minors in violation of Code  
198 Section 16-12-100.1;  
199 (xvii) Computer pornography and child exploitation in violation of Code Section  
200 16-12-100.2;  
201 (xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or  
202 (xix) Any conduct which, by its nature, is a sexual offense against a victim who is a  
203 minor or an attempt to commit a sexual offense against a victim who is a minor."

204

**SECTION 7.**

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