

Senate Bill 39

By: Senators Unterman of the 45th, Shafer of the 48th, Beach of the 21st, Orrock of the 36th, Butler of the 55th and others

AS PASSED SENATE

**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 increase the penalty provisions relating to pimping and pandering; to
3 amend Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the State
4 Sexual Offender Registry, so as to require registration on the State Sexual Offender Registry
5 when an individual is convicted for a third or subsequent time for certain types of pandering;
6 to provide for related matters; to repeal conflicting laws; and for other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual offenses,
10 is amended by revising Code Section 16-6-12, relating to pandering, as follows:

11 "16-6-12.

12 A person commits the offense of pandering when he or she ~~solicits~~:

13 (1) Solicits a person to perform an act of prostitution in his or her own behalf ~~or~~;

14 (2) Solicits a person to perform an act of prostitution in behalf of a third person; or

15 (3) Knowingly ~~when he or she knowingly~~ assembles persons at a fixed place for the
16 purpose of being solicited by others to perform an act of prostitution."

17 **SECTION 2.**

18 Said chapter is further amended by revising subsection (a) and paragraph (2) of subsection
19 (b) of Code Section 16-6-13, relating to penalties for violating Code Sections 16-6-9 through
20 16-6-12, as follows:

21 "(a) Except as otherwise provided in subsection (b) of this Code section, a person
22 convicted of violating:

23 (1) Code Section 16-6-10 shall be punished as for a misdemeanor of a high and
24 aggravated nature, and at the sole discretion of the judge, all but 24 hours of any term of
25 imprisonment imposed may be suspended, stayed, or probated;

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

27 (3) Code Section 16-6-11 shall be ~~punished as for a misdemeanor of a high and~~
 28 ~~aggravated nature, and at the sole discretion of the judge, all but 24 hours of any term of~~
 29 ~~imprisonment imposed may be suspended, stayed, or probated~~ guilty of a felony and shall
 30 be punished by a term of imprisonment of not less than one year nor more than ten years;

31 or

32 (4) Code Section 16-6-12 for a first or second offense shall be punished as for a
 33 misdemeanor of a high and aggravated nature, and at the sole discretion of the judge, all
 34 but 24 hours of any term of imprisonment imposed may be suspended, stayed, or
 35 probated, provided that upon a third or subsequent conviction for such offense he or she
 36 shall be guilty of a felony and punished by imprisonment of not less than one nor more
 37 than ten years."

38 "(2) A person convicted of any of the offenses enumerated in Code Sections 16-6-10
 39 through 16-6-12 when such offense involves the conduct of a person under the age of 16
 40 years shall be guilty of a felony and shall be punished by imprisonment for a period of
 41 not less than ten nor more than 30 years; and a fine of not more than \$100,000.00, ~~or~~
 42 ~~both."~~

43 SECTION 3.

44 Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the State Sexual
 45 Offender Registry, is amended by revising subparagraph (a)(10)(B.2) and adding a new
 46 subparagraph to read as follows:

47 "(B.2) 'Dangerous sexual offense' with respect to convictions occurring ~~after June 30,~~
 48 ~~2017~~ between July 1, 2017, and June 30, 2018, means any criminal offense, or the
 49 attempt to commit any criminal offense, under Title 16 as specified in this subparagraph
 50 or any offense under federal law or the laws of another state or territory of the United
 51 States which consists of the same or similar elements of the following offenses:

- 52 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
- 53 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who
- 54 is less than 14 years of age, except by a parent;
- 55 (iii) Trafficking an individual for sexual servitude in violation of Code Section
- 56 16-5-46;
- 57 (iv) Rape in violation of Code Section 16-6-1;
- 58 (v) Sodomy in violation of Code Section 16-6-2;
- 59 (vi) Aggravated sodomy in violation of Code Section 16-6-2;
- 60 (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted
- 61 of the offense is 21 years of age or older;

- 62 (viii) Child molestation in violation of Code Section 16-6-4;
- 63 (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the
- 64 person was convicted of a misdemeanor offense;
- 65 (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
- 66 (xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;
- 67 (xii) Incest in violation of Code Section 16-6-22;
- 68 (xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;
- 69 (xiv) Aggravated sexual battery in violation of Code Section 16-6-22.2;
- 70 (xv) Sexual exploitation of children in violation of Code Section 16-12-100;
- 71 (xvi) Electronically furnishing obscene material to minors in violation of Code
- 72 Section 16-12-100.1;
- 73 (xvii) Computer pornography and child exploitation in violation of Code Section
- 74 16-12-100.2;
- 75 (xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or
- 76 (xix) Any conduct which, by its nature, is a sexual offense against a victim who is a
- 77 minor or an attempt to commit a sexual offense against a victim who is a minor.
- 78 (B.3) 'Dangerous sexual offense' with respect to convictions occurring after June 30,
- 79 2018, means any criminal offense, or the attempt to commit any criminal offense, under
- 80 Title 16 as specified in this subparagraph or any offense under federal law or the laws
- 81 of another state or territory of the United States which consists of the same or similar
- 82 elements of the following offenses:
- 83 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
- 84 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who
- 85 is less than 14 years of age, except by a parent;
- 86 (iii) Trafficking an individual for sexual servitude in violation of Code Section
- 87 16-5-46;
- 88 (iv) Rape in violation of Code Section 16-6-1;
- 89 (v) Sodomy in violation of Code Section 16-6-2;
- 90 (vi) Aggravated sodomy in violation of Code Section 16-6-2;
- 91 (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted
- 92 of the offense is 21 years of age or older;
- 93 (viii) Child molestation in violation of Code Section 16-6-4;
- 94 (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the
- 95 person was convicted of a misdemeanor offense;
- 96 (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
- 97 (xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;

- 98 (xii) A third or subsequent conviction for pandering in violation of paragraph (2)
99 or (3) of Code Section 16-6-12;
100 (xiii) Incest in violation of Code Section 16-6-22;
101 (xiv) A second conviction for sexual battery in violation of Code Section 16-6-22.1;
102 (xv) Aggravated sexual battery in violation of Code Section 16-6-22.2;
103 (xvi) Sexual exploitation of children in violation of Code Section 16-12-100;
104 (xvii) Electronically furnishing obscene material to minors in violation of Code
105 Section 16-12-100.1;
106 (xviii) Computer pornography and child exploitation in violation of Code Section
107 16-12-100.2;
108 (xix) Obscene telephone contact in violation of Code Section 16-12-100.3; or
109 (xx) Any conduct which, by its nature, is a sexual offense against a victim who is a
110 minor or an attempt to commit a sexual offense against a victim who is a minor."

111 **SECTION 4.**

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