

House Bill 261

By: Representative Ballinger of the 23rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated,
2 relating to the Sexual Offender Registration Review Board, so as to change the name of the
3 board; to change provisions relating to the appointment of board members; to change
4 provisions relating to the board's personnel; to provide for reconsideration of certain
5 classifications under certain circumstances; to revise provisions relating to restrictions on a
6 sexual offender's employment and volunteerism; to require notification when individual is
7 pardoned; to correct cross-references; to provide for related matters; to repeal conflicting
8 laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **PART I**

11 **SECTION 1-1.**

12 Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to the
13 Sexual Offender Registration Review Board, is amended by revising Code Section 42-1-13,
14 relating to the Sexual Offender Registration Review Board, composition, appointment,
15 administration, duties, and immunity from liability, as follows:

16 "42-1-13.

17 (a) The Sexual Offender ~~Registration~~ Risk Review Board shall be composed of three
18 professionals licensed under Title 43 and knowledgeable in the field of the behavior and
19 treatment of sexual offenders; at least one representative from a victims' rights advocacy
20 group or agency; and at least two representatives from law enforcement, each of whom is
21 either employed by a law enforcement agency as a certified peace officer under Title 35
22 or retired from such employment. The members of the board shall be appointed by the
23 commissioner of behavioral health and developmental disabilities for terms of four years.
24 On and after July 1, 2006, successors to the members of the board shall be appointed by
25 the Governor. Members of the board shall take office on the first day of September

26 immediately following the expired term of that office and shall serve for a term of four
 27 years and until the appointment of their respective successors. No member shall serve on
 28 the board more than two consecutive terms. Vacancies occurring on the board, other than
 29 those caused by expiration of a term of office, shall be filled in the same manner as the
 30 original appointment to the position vacated for the remainder of the unexpired term and
 31 until a successor is appointed. Members shall be entitled to an expense allowance and
 32 travel cost reimbursement the same as members of certain other boards and commissions
 33 as provided in Code Section 45-7-21.

34 (b) The board shall be attached to the Department of Behavioral Health and
 35 Developmental Disabilities for administrative purposes and, provided there is adequate
 36 funding, shall:

37 (1) Exercise its quasi-judicial, rule-making, or policy-making functions independently
 38 of the department and without approval or control of the department;

39 (2) Prepare its budget, if any, and submit its budgetary requests, if any, through the
 40 department; and

41 (3) Hire its own personnel, including but not limited to administrative personnel, and
 42 clinical evaluators, and investigators.

43 ~~(c) Any investigator who, as of June 30, 2012, was employed by the board shall be~~
 44 ~~transferred to the Georgia Bureau of Investigation on July 1, 2012, and shall no longer be~~
 45 ~~under the administration or supervision of the board, except as required to provide the~~
 46 ~~board with information as set forth in paragraph (15) of subsection (a) of Code~~
 47 ~~Section 35-3-4~~ All of the investigator positions which were formerly assigned to the board
 48 on June 30, 2012, and were transferred to the Georgia Bureau of Investigation on
 49 July 1, 2012, shall be transferred back to the administration and supervision of the board
 50 on July 1, 2019, provided that one of the positions shall remain with the Georgia Bureau
 51 of Investigation to facilitate the provision of information to the board from the Georgia
 52 Crime Information Center and the National Crime Information Center. The executive
 53 director of the board shall arrange administratively for the transfer of any equipment
 54 relating to the transfer of ~~such~~ personnel.

55 (d) Members of the such board shall be immune from liability for good faith conduct under
 56 this article."

57 **SECTION 1-2.**

58 Said article is further amended by revising subsection (b) of Code Section 42-1-14, relating
 59 to risk assessment classification, classification as "sexually dangerous predator," and
 60 electronic monitoring, as follows:

61 "(b)(1) If the board determines that a sexual offender should be classified as a Level II
 62 risk assessment classification or as a sexually dangerous predator, the sexual offender
 63 may petition ~~the~~ such board to reevaluate his or her classification. To file a petition for
 64 reevaluation, the sexual offender shall be required to submit his or her written petition for
 65 reevaluation to ~~the~~ such board within 30 days from the date of the letter notifying the
 66 sexual offender of his or her classification. The sexual offender shall have 60 days from
 67 the date of the notification letter to submit information as provided in subsection (a) of
 68 this Code section in support of the sexual offender's petition for reevaluation. If the
 69 sexual offender fails to submit the petition or supporting documents within the time limits
 70 provided, the classification shall be final. ~~The~~ Such board shall notify the sexual offender
 71 by first-class mail of its decision on the petition for reevaluation of risk assessment
 72 classification and shall send a copy of such notification to the Georgia Bureau of
 73 Investigation, the Department of Corrections, the Department of Community Supervision,
 74 the sheriff of the county where the sexual offender is registered, and the sentencing court,
 75 if applicable.

76 (2) After a sexual offender has been classified as Level II risk assessment classification
 77 or a sexually dangerous predator for five years and requests a reevaluation by the board,
 78 such board shall reevaluate such classification. Such sexual offender shall submit all
 79 supporting documentation in support of reclassification at the time such request is
 80 submitted. If such sexual offender fails to submit supporting documents with the request
 81 for reevaluation, the previous classification shall be final. Such board shall notify the
 82 sexual offender by first-class mail of its decision on the reevaluation of risk assessment
 83 classification and shall send a copy of such notification to the Georgia Bureau of
 84 Investigation, the Department of Corrections, the Department of Community Supervision,
 85 the sheriff of the county where the sexual offender is registered, and the sentencing court,
 86 if applicable, if there is a change in classification."

87 **SECTION 1-3.**

88 Said article is further amended by revising subsection (c) and paragraph (2) of subsection (e),
 89 of Code Section 42-1-15, relating to restriction on registered offenders residing, working, or
 90 loitering within certain distance of child care facilities, churches, schools, or areas where
 91 minors congregate, penalties, and civil causes of action, as follows:

92 "(c)(1) ~~On and after~~ From July 1, 2008, until June 30, 2019, no individual shall be
 93 employed by or volunteer at any child care facility, school, or church or by or at any
 94 business or entity that is located within 1,000 feet of a child care facility, a school, or a
 95 church if the commission of the act for which such individual is required to register
 96 occurred on or after July 1, 2008. On and after July 1, 2019, no individual shall be

97 employed by or volunteer at any child care facility, school, or church or by or at any
 98 business or entity that is located within 100 yards of a child care facility, a school, or a
 99 church if the commission of the act for which such individual is required to register
 100 occurred on or after July 1, 2008. Such distance shall be determined by measuring from
 101 the outer boundary of the property of the location at which such individual is ~~employed~~
 102 ~~or volunteers~~ actually carrying out or performing the functions of his or her job or
 103 volunteer duties to the outer boundary of the child care facility, school, or church at their
 104 closest points.

105 (2) ~~On or after~~ From July 1, 2008, until June 30, 2019, no individual who is a sexually
 106 dangerous predator shall be employed by or volunteer at any business or entity that is
 107 located within 1,000 feet of an area where minors congregate if the commission of the act
 108 for which such individual is required to register occurred on or after July 1, 2008. On or
 109 after July 1, 2019, no individual who is a sexually dangerous predator shall be employed
 110 by or volunteer at any business or entity that is located within 100 yards of an area where
 111 minors congregate if the commission of the act for which such individual is required to
 112 register occurred on or after July 1, 2008. Such distance shall be determined by
 113 measuring from the outer boundary of the property of the location at which the sexually
 114 dangerous predator is ~~employed or volunteers~~ actually carrying out or performing the
 115 functions of his or her job or volunteer duties to the outer boundary of the area where
 116 minors congregate at their closest points."

117 "(2) An individual owning or leasing real property and residing on such property or being
 118 employed within 1,000 feet of a prohibited location, as specified in subsection (b) or (c)
 119 of this Code section, shall not be guilty of a violation of this Code section if such
 120 individual had established such property ownership, leasehold, or employment prior to
 121 July 1, 2008, and such individual successfully complies with subsection (f) of this Code
 122 section. An individual being employed within 100 yards of a prohibited location after
 123 July 1, 2019, as specified in subsection (c) of this Code section, shall not be guilty of a
 124 violation of this Code section if such individual had established such employment prior
 125 to July 1, 2019, and such individual successfully complies with subsection (f) of this
 126 Code section."

127 **PART II**
 128 **SECTION 2-1.**

129 Said article is further amended by revising paragraphs (12), (13), and (14) of subsection (i)
 130 of Code Section 42-1-12, relating to the State Sexual Offender Registry, as follows:

131 "(12) If required by Code Section 42-1-14, place any electronic monitoring system on
 132 the sexually dangerous predator and explain its operation and cost; and
 133 (13) Provide current information on names and addresses of all registered sexual
 134 offenders to campus police with jurisdiction for the campus of an institution of higher
 135 education if the campus is within the sheriff's jurisdiction; ~~and~~
 136 ~~(14) Collect the annual \$250.00 registration fee from the sexual offender and transmit~~
 137 ~~such fees to the state for deposit into the general fund."~~

138 **PART III**

139 **SECTION 3-1.**

140 The Official Code of Georgia Annotated is amended by replacing "Sexual Offender
 141 Registration Review Board" with "Sexual Offender Risk Review Board" wherever the
 142 former occurs in:

- 143 (1) Code Section 5-6-35, relating to cases requiring application for appeal, requirements
 144 for application, exhibits, response, issuance of appellate court order regarding appeal,
 145 procedure, supersedeas, jurisdiction of appeal, and appeals involving nonmonetary
 146 judgments in custody cases;
- 147 (2) Code Section 17-10-6.2, punishment for sexual offenders;
- 148 (3) Code Section 35-3-4, relating to the powers and duties of the Georgia Bureau of
 149 Investigation;
- 150 (4) Code Section 42-1-12, relating to the State Sexual Offender Registry; and
- 151 (5) Code Section 42-9-53, relating to preservation of documents, classification of
 152 information and documents, divulgence of confidential state secrets, and conduct of
 153 hearings.

154 **PART IV**

155 **SECTION 4-1.**

156 Article 2 of Chapter 9 of Title 42 of the Official Code of Georgia Annotated, relating to
 157 grants of pardons, paroles, and other relief, is amended by adding a new Code section to read
 158 as follows:

159 "42-9-62.

160 When the board issues a pardon to a sexual offender who has been placed in the Level I
 161 risk assessment classification, Level II risk assessment classification, or sexually dangerous
 162 predator classification by the Sexual Offender Risk Review Board, the board shall
 163 immediately notify the Sexual Offender Risk Review Board in writing of such decision."

164

PART V

165

SECTION 5-1.

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