

The House Committee on Judiciary Non-Civil offers the following substitute to HB 994:

A BILL TO BE ENTITLED
AN ACT

1 To revise provisions to advance the enforcement of laws and responses to certain criminal
2 activities; to amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated,
3 relating to the Juvenile Code, so as to revise and to provide for provisions relating to
4 addressing criminal gang activities; to provide for transfers from juvenile court to superior
5 court under certain procedures and circumstances; to require participation in criminal gang
6 intervention programs under certain circumstances; to amend Chapter 15 of Title 16 of the
7 Official Code of Georgia Annotated, relating to street gang terrorism and prevention, so as
8 to revise the definition of "criminal gang activity" and prohibited criminal gang activities in
9 regards to street gang terrorism and prevention; to subject persons who commit criminal gang
10 activity to certain actions and remedies; to provide for enjoinder by the superior court
11 regarding participation in criminal gang activity; to amend Article 2 of Chapter 1 of Title 42
12 of the Official Code of Georgia Annotated, relating to Sexual Offender Registration Review
13 Board, so as to revise dangerous sexual offenses that are applicable to the State Sexual
14 Offender Registry; to amend Chapter 4A of Title 49 of the Official Code of Georgia
15 Annotated, relating to the Department of Juvenile Justice, so as to revise the powers and
16 duties of the department; to provide for related matters; to repeal conflicting laws; and for
17 other purposes.

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

19 **SECTION 1.**

20 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to the Juvenile
21 Code, is amended by revising subsection (a) of Code Section 15-11-561, relating to waiver
22 of juvenile court jurisdiction and transfer to superior court, as follows:

23 "(a) After a petition alleging delinquency has been filed but before the adjudication
24 hearing, the court on its own motion may, or on a motion by a prosecuting attorney shall,
25 ~~the court may~~ convene a hearing to determine whether to transfer the offense to the
26 appropriate superior court for criminal trial if the court determines that:

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- 27 (1) There is probable cause to believe that a child committed the alleged offense;
- 28 (2) Such child is not committable to an institution for the developmentally disabled or
- 29 mentally ill; and
- 30 (3) The petition alleges that such child:
- 31 (A) Was at least 15 years of age at the time of the commission of the offense and
- 32 committed an act which would be a felony if committed by an adult; or
- 33 (B) Was 13 or 14 years of age and either committed an act for which the punishment
- 34 is loss of life or confinement for life in a penal institution or committed aggravated
- 35 battery resulting in serious bodily injury to an alleged victim who is not a public safety
- 36 officer as such term is defined in Code Section 16-5-19."

37 **SECTION 2.**

38 Said chapter is further amended by revising subsection (a) of Code Section 15-11-562,

39 relating to transfer criteria and written report, as follows:

40 "(a) The criteria that the juvenile court shall consider in determining whether to transfer

41 an alleged delinquent child as set forth in subsection (a) of Code Section 15-11-561 to

42 superior court and the criteria that the superior court shall consider in determining whether

43 to transfer any case involving a child 13 to 17 years of age alleged to have committed any

44 act described in paragraph (3), (5), (6), (7), (9), or (10) of subsection (b) of Code

45 Section 15-11-560 to juvenile court as set forth in subsection (e) of Code

46 Section 15-11-560 includes, but shall not be limited to:

- 47 (1) The age of such child;
- 48 (2) The seriousness of the alleged offense, especially if personal injury resulted;
- 49 (3) Whether the protection of the community requires transfer of jurisdiction;
- 50 (4) Whether the alleged offense involved violence or was committed in an aggressive or
- 51 premeditated manner;
- 52 (5) The impact of the alleged offense on the alleged victim, including the permanence
- 53 of any physical or emotional injury sustained, health care expenses incurred, and lost
- 54 earnings suffered;
- 55 (6) The culpability of such child including such child's level of planning and
- 56 participation in the alleged offense;
- 57 (7) Whether the alleged offense is a part of a repetitive pattern of offenses which
- 58 indicates that such child may be beyond rehabilitation in the juvenile justice system;
- 59 (8) The record and history of such child, including experience with the juvenile justice
- 60 system, other courts, supervision, commitments to juvenile institutions, and other
- 61 placements;

- 62 (9) The sophistication and maturity of such child as determined by consideration of his
 63 or her home and environmental situation, emotional condition, and pattern of living;
 64 (10) The program and facilities available to the juvenile court in considering disposition;
 65 ~~and~~
 66 (11) Whether or not a child can benefit from the treatment or rehabilitative programs
 67 available to the juvenile court; ~~and~~
 68 (12) Evidence of a child's participation in criminal gang activity."

69 **SECTION 3.**

70 Said chapter is further amended by revising subsection (c) of Code Section 15-11-602,
 71 relating to disposition of class A or class B designated felony act, as follows:

72 "(c) An order for a child adjudicated for a class A designated felony act placing such child
 73 in restrictive custody shall provide that:

- 74 (1) Such child shall be placed in DJJ custody for an initial period of up to 60 months;
 75 (2) Such child shall be confined for a period set by the order in a secure residential
 76 facility, except as provided in subsection (e) of this Code section. All time spent in a
 77 secure residential facility or nonsecure residential facility shall be counted toward the
 78 confinement period set by the order;
 79 (3) After a period of confinement set by the court, such child shall be placed under
 80 intensive supervision not to exceed 12 months;
 81 (4) Such child shall not be released from intensive supervision unless by court order; ~~and~~
 82 (5) All home visits shall be carefully arranged and monitored by DJJ personnel while
 83 such child is placed in a secure residential facility or nonsecure residential facility; ~~and~~
 84 (6) Regarding a child who has been adjudicated to have engaged in criminal gang
 85 activity, such child shall participate in an evidenced-based intervention program that has
 86 demonstrated efficacy in addressing factors that impact adolescent gang involvement.
 87 The child must complete the intervention program before being discharged from the
 88 custody of or released under supervision by the department."

89 **SECTION 4.**

90 Chapter 15 of Title 16 of the Official Code of Georgia Annotated, relating to street gang
 91 terrorism and prevention, is amended by revising Code Section 16-15-3, relating to
 92 definitions, as follows:

93 "16-15-3.

94 As used in this chapter, the term:

- 95 (1) 'Criminal gang activity' means the commission, attempted commission, conspiracy
 96 to commit, or the solicitation, coercion, or intimidation of another person to commit any
 97 of the following offenses ~~on or after~~ between July 1, 2006, and June 30, 2020:
- 98 (A) Any offense defined as racketeering activity by Code Section 16-14-3;
 - 99 (B) Any offense defined in Article 7 of Chapter 5 of this title, relating to stalking;
 - 100 (C) Any offense defined in Code Section 16-6-1 as rape, 16-6-2 as aggravated
 101 sodomy, 16-6-3 as statutory rape, or 16-6-22.2 as aggravated sexual battery;
 - 102 (D) Any offense defined in Article 3 of Chapter 10 of this title, relating to escape and
 103 other offenses related to confinement;
 - 104 (E) Any offense defined in Article 4 of Chapter 11 of this title, relating to dangerous
 105 instrumentalities and practices;
 - 106 (F) Any offense defined in Code Section 42-5-15, 42-5-16, 42-5-17, 42-5-18,
 107 or 42-5-19, relating to the security of state or county correctional facilities;
 - 108 (G) Any offense defined in Code Section 49-4A-11, relating to aiding or encouraging
 109 a child to escape from custody;
 - 110 (H) Any offense of criminal trespass or criminal damage to property resulting from any
 111 act of gang related painting on, tagging, marking on, writing on, or creating any form
 112 of graffiti on the property of another;
 - 113 (I) Any criminal offense committed in violation of the laws of the United States or its
 114 territories, dominions, or possessions, any of the several states, or any foreign nation
 115 which, if committed in this state, would be considered criminal gang activity under this
 116 Code section; and
 - 117 (J) Any criminal offense in the State of Georgia, any other state, or the United States
 118 that involves violence, possession of a weapon, or use of a weapon, whether designated
 119 as a felony or not, and regardless of the maximum sentence that could be imposed or
 120 actually was imposed.
- 121 (2) 'Criminal gang activity' ~~on and after~~ between April 18, 2019, and June 30, 2020, shall
 122 also mean the commission, attempted commission, conspiracy to commit, or the
 123 solicitation, coercion, or intimidation of another person to commit on and after
 124 April 18, 2019, any offense defined in Code Section 16-5-46 as trafficking persons for
 125 labor servitude or sexual servitude, 16-6-10 as keeping a place of prostitution, 16-6-11
 126 as pimping, or 16-6-12 as pandering.
- 127 (3) 'Criminal gang activity' means the commission, attempted commission, conspiracy
 128 to commit, or the solicitation, coercion, or intimidation of another person to commit any
 129 of the following offenses on or after July 1, 2020:
- 130 (A) Any offense defined as racketeering activity by Code Section 16-14-3;
 - 131 (B) Any offense defined in Article 7 of Chapter 5 of this title, relating to stalking;

132 (C) Any offense defined in Code Section 16-5-46 as trafficking persons for labor
 133 servitude or sexual servitude, 16-6-10 as keeping a place of prostitution, 16-6-11 as
 134 pimping, or 16-6-12 as pandering;

135 (D) Any offense defined in Code Section 16-6-1 as rape, 16-6-2 as aggravated
 136 sodomy, 16-6-3 as statutory rape, 16-6-4 as child molestation or aggravated child
 137 molestation, 16-6-5 as enticing a child for indecent purposes, or 16-6-22.2 as
 138 aggravated sexual battery;

139 (E) Any offense defined in Article 3 of Chapter 10 of this title, relating to escape and
 140 other offenses related to confinement;

141 (F) Any offense defined in Article 4 of Chapter 11 of this title, relating to dangerous
 142 instrumentalities and practices;

143 (G) Any offense defined in Code Section 42-5-15, 42-5-16, 42-5-17, 42-5-18,
 144 or 42-5-19, relating to the security of state or county correctional facilities;

145 (H) Any offense defined in Code Section 49-4A-11, relating to aiding or encouraging
 146 a child to escape from custody;

147 (I) Any offense of criminal trespass or criminal damage to property resulting from any
 148 act of gang related painting on, tagging, marking on, writing on, or creating any form
 149 of graffiti on the property of another;

150 (J) Any criminal offense committed in violation of the laws of the United States or its
 151 territories, dominions, or possessions, any of the several states, or any foreign nation
 152 which, if committed in this state, would be considered criminal gang activity under this
 153 Code section;

154 (K) Any criminal offense in the State of Georgia, any other state, or the United States
 155 that involves violence, possession of a weapon, or use of a weapon, whether designated
 156 as a felony or not, and regardless of the maximum sentence that could be imposed or
 157 actually was imposed; and

158 (L) Any criminal offense in the State of Georgia that involves obstructing or hindering
 159 law enforcement officers that is designated as a felony or any criminal offense in any
 160 other state or the United States that involves obstructing or hindering law enforcement
 161 officers which, if committed within this state, would constitute a felony.

162 ~~(3)~~(4) 'Criminal street gang' means any organization, association, or group of three or
 163 more persons associated in fact, whether formal or informal, which engages in criminal
 164 gang activity as defined in paragraph (1) of this Code section. The existence of such
 165 organization, association, or group of individuals associated in fact may be established
 166 by evidence of a common name or common identifying signs, symbols, tattoos, graffiti,
 167 or attire or other distinguishing characteristics, including, but not limited to, common
 168 activities, customs, or behaviors. Such term shall not include three or more persons,

169 associated in fact, whether formal or informal, who are not engaged in criminal gang
170 activity."

171 **SECTION 5.**

172 Said chapter is further amended by revising subsections Code Section 16-15-4, relating to
173 participation in criminal gang activity prohibited, as follows:

174 "16-15-4.

175 (a) It shall be unlawful for any person employed by or associated with a criminal street
176 gang to conduct or participate in criminal gang activity through the commission of any
177 offense enumerated in paragraph ~~(4)~~ (3) of Code Section 16-15-3.

178 (b) It shall be unlawful for any person to commit any offense enumerated in paragraph ~~(4)~~
179 (3) of Code Section 16-15-3 with the intent to obtain or earn membership ~~or maintain or~~
180 ~~increase his or her status~~ or position in a criminal street gang.

181 (c) It shall be unlawful for any person to commit any offense enumerated in paragraph (3)
182 of Code Section 16-15-3 with the intent to maintain his or her status or position in a
183 criminal street gang.

184 (d) It shall be unlawful for any person to commit any offense enumerated in paragraph (3)
185 of Code Section 16-15-3 with the intent to increase his or her status or position in a
186 criminal street gang.

187 ~~(e)~~(e) It shall be unlawful for any person to acquire or maintain, directly or indirectly,
188 through criminal gang activity or proceeds derived therefrom any interest in or control of
189 any real or personal property of any nature, including money.

190 ~~(d)~~(f) It shall be unlawful for any person who occupies a position of organizer, supervisory
191 position, or any other position of management or leadership with regard to a criminal street
192 gang to engage in, directly or indirectly, or conspire to engage in criminal gang activity.

193 ~~(e)~~(g) It shall be unlawful for any person to cause, encourage, solicit, recruit, or coerce
194 another to become a member or associate of a criminal street gang, to participate in a
195 criminal street gang, or to conduct or participate in criminal gang activity.

196 ~~(f)~~(h) It shall be unlawful for any person to communicate, directly or indirectly; with
197 another, any threat of injury or damage to the person or property of the other person or of
198 any associate or relative of the other person with the intent to deter such person from
199 assisting a member or associate of a criminal street gang to withdraw from such criminal
200 street gang.

201 ~~(g)~~(i) It shall be unlawful for any person to communicate, directly or indirectly; with
202 another, any threat of injury or damage to the person or property of the other person or of
203 any associate or relative of the other person with the intent to punish or retaliate against
204 such person for having withdrawn from a criminal street gang.

205 ~~(h)~~(j) It shall be unlawful for any person to communicate, directly or indirectly; with
 206 another, any threat of injury or damage to the person or property of the other person or of
 207 any associate or relative of the other person with the intent to punish or retaliate against
 208 such person for refusing to or encouraging another to refuse to become or obtain the status
 209 of a member or associate of a criminal street gang.

210 ~~(i)~~(k) It shall be unlawful for any person to communicate, directly or indirectly; with
 211 another, any threat of injury or damage to the person or property of the other person or of
 212 any associate or relative of the other person with the intent to punish or retaliate against
 213 such person for providing statements or testimony against criminal street gangs or any
 214 criminal street gang member or associate.

215 ~~(j)~~(l) In addition to the prohibitions set forth in Code Section 16-10-93, it shall be unlawful
 216 for any person to communicate, directly or indirectly; with another, any threat of injury or
 217 damage to the person or property of the other person or of any associate or relative of the
 218 other person with the intent to intimidate, deter, or prevent such person from
 219 communicating to any law enforcement or corrections officer, prosecuting attorney, or
 220 judge information relating to criminal street gangs, criminal street gang members or
 221 associates, or criminal gang activity.

222 ~~(k)~~(m)(1) Any person who violates subsection (a), (b), ~~or~~ (c), (d), or (e) of this Code
 223 section shall be guilty of a felony and, upon conviction thereof, in addition to any other
 224 penalty imposed, shall be sentenced to imprisonment for five years but not more than 20
 225 years or pay a fine of not less than \$10,000.00 nor more than \$15,000.00, or both.

226 (2) Any person who violates subsection (a) of this Code section through the commission
 227 of a violation of Code Section 42-5-18 shall be guilty of a felony and upon conviction
 228 thereof, in addition to any other penalty imposed, shall be sentenced to a mandatory
 229 minimum term of imprisonment of two years but not more than 20 years which shall be
 230 served consecutively to any other sentence imposed, and no portion of the mandatory
 231 minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld
 232 by the sentencing court.

233 (3) Any person who violates subsection ~~(d)~~ (f) of this Code section shall be guilty of a
 234 felony and upon conviction thereof, in addition to any other penalty imposed, shall be
 235 sentenced to imprisonment for five years but not more than 20 years which shall be
 236 served consecutively to any other sentence imposed.

237 (4) Any person who violates subsection ~~(e), (f), (g), (h), (i), or (j)~~ (g), (h), (i), (j), (k), or
 238 (l) of this Code section shall be guilty of a felony and upon conviction thereof, in addition
 239 to any other penalty imposed, shall be sentenced to imprisonment for five years but not
 240 more than 20 years.

241 ~~(h)~~(n) In addition to any other penalty provided by this Code section, all sentences imposed
 242 under this Code section shall require as a special condition of the sentence that the person
 243 sentenced shall not knowingly have contact of any kind or character with any other
 244 member or associate of a criminal street gang, shall not participate in any criminal gang
 245 activity, and, in cases involving a victim, shall not knowingly have contact of any kind or
 246 character with any such victim or any member of any such victim's family or household.
 247 ~~(m)~~(o) Any crime committed in violation of this Code section shall be considered a
 248 separate offense and shall not merge with any other offense."

249 **SECTION 6.**

250 Said chapter is further amended by revising Code Section 16-15-7, relating to real property
 251 used by criminal street gangs declared public nuisance, abatement, and persons injured by
 252 gangs entitled to treble damages, as follows:

253 "16-15-7.

254 (a) Any person who commits criminal gang activity and any real property which is erected,
 255 established, maintained, owned, leased, or used by any criminal street gang for the purpose
 256 of conducting criminal gang activity shall constitute a public nuisance and may be abated
 257 or enjoined as provided by Title 41, relating to nuisances, and subject to any and all actions
 258 and remedies set forth in Title 41.

259 (b) An action to abate or enjoin a nuisance pursuant to this Code section may be brought
 260 by the district attorney, solicitor-general, prosecuting attorney of a municipal court or city,
 261 or county attorney in any superior, state, or municipal court.

262 (c) Any person who is injured by reason of criminal gang activity shall have a cause of
 263 action for three times the actual damages sustained and, where appropriate, punitive
 264 damages; provided, however, that no cause of action shall arise under this subsection as a
 265 result of an otherwise legitimate commercial transaction between parties to a contract or
 266 agreement for the sale of lawful goods or property or the sale of securities regulated by
 267 Chapter 5 of Title 10 or by the federal Securities and Exchange Commission. Such person
 268 shall also recover attorney's fees in the trial and appellate court and costs of investigation
 269 and litigation reasonably incurred. All averments of a cause of action under this subsection
 270 shall be stated with particularity. No judgment shall be awarded unless the finder of fact
 271 determines that the action is consistent with the intent of the General Assembly as set forth
 272 in Code Section 16-15-2.

273 (d) The state, any political subdivision thereof, or any person aggrieved by a criminal
 274 street gang or criminal gang activity may bring an action to enjoin violations of this chapter
 275 in the same manner as provided in Code Section 16-14-6."

276 **SECTION 7.**

277 Said chapter is further amended by adding a new Code section to read as follows:

278 "16-15-12.279 (a) Any superior court may, after making due provisions for the rights of innocent persons,
280 enjoin violations of Code Section 16-15-4 by issuing appropriate orders and judgments,
281 including, but not limited to:282 (1) Ordering any defendant to divest himself or herself of any interest in any criminal
283 street gang, real property, or personal property;284 (2) Imposing reasonable restrictions upon the future activities or investments of any
285 defendant, including, but not limited to, prohibiting any defendant from engaging in the
286 same type of endeavor as the criminal street gang in which he or she was engaged in
287 violation of Code Section 16-15-4;288 (3) Ordering the dissolution or reorganization of any criminal street gang;289 (4) Ordering the suspension or revocation of any license, permit, or prior approval
290 granted to any criminal street gang by any agency of the state; or291 (5) Ordering the forfeiture of the charter of a corporation organized under the laws of this
292 state or the revocation of a certificate authorizing a foreign corporation to conduct
293 business within this state upon a finding that the board of directors or a managerial agent
294 acting on behalf of the corporation, in conducting affairs of the corporation, has
295 authorized or engaged in conduct in violation of Code Section 16-15-4 and that, for the
296 prevention of future criminal activity, the public interest requires that the charter of the
297 corporation be forfeited and that the corporation be dissolved or the certificate be
298 revoked.299 (b) The state may institute a civil action under subsection (a) of this Code section. In such
300 civil action, relief shall be granted in conformity with the principles that govern the
301 granting of injunctive relief from threatened loss or damage in other civil cases, provided
302 that no showing of special or irreparable damage to the person shall have to be made.
303 Upon the execution of proper bond against damages for an injunction improvidently
304 granted and a showing of immediate danger of significant loss or damage, a temporary
305 restraining order and a preliminary injunction may be issued in any such action before a
306 final determination on the merits.307 (c) A conviction in any criminal proceeding shall stop the defendant in any subsequent
308 civil action or civil forfeiture proceeding under this chapter as to all matters proved in the
309 criminal proceeding."

SECTION 8.

310
311 Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to
312 Sexual Offender Registration Review Board, is amended by revising subparagraph
313 (a)(10)(B.3) and adding a new subparagraph to paragraph (10) of subsection (a) of Code
314 Section 42-1-12, relating to State Sexual Offender Registry, as follows:

315 “(B.3) 'Dangerous sexual offense' with respect to convictions occurring ~~after June 30,~~
316 ~~2019~~ between July 1, 2019, and June 30, 2020, means any criminal offense, or the
317 attempt to commit any criminal offense, under Title 16 as specified in this subparagraph
318 or any offense under federal law or the laws of another state or territory of the United
319 States which consists of the same or similar elements of the following offenses:

- 320 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
321 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who
322 is less than 14 years of age, except by a parent;
323 (iii) Trafficking an individual for sexual servitude in violation of Code
324 Section 16-5-46;
325 (iv) Rape in violation of Code Section 16-6-1;
326 (v) Sodomy in violation of Code Section 16-6-2;
327 (vi) Aggravated sodomy in violation of Code Section 16-6-2;
328 (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted
329 of the offense is 21 years of age or older;
330 (viii) Child molestation in violation of Code Section 16-6-4;
331 (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the
332 person was convicted of a misdemeanor offense;
333 (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
334 (xi) Improper sexual contact by employee or agent in the first or second degree in
335 violation of Code Section 16-6-5.1, unless the punishment imposed was not subject
336 to Code Section 17-10-6.2;
337 (xii) Incest in violation of Code Section 16-6-22;
338 (xiii) A second or subsequent conviction for sexual battery in violation of Code
339 Section 16-6-22.1;
340 (xiv) Aggravated sexual battery in violation of Code Section 16-6-22.2;
341 (xv) Sexual exploitation of children in violation of Code Section 16-12-100;
342 (xvi) Electronically furnishing obscene material to minors in violation of Code
343 Section 16-12-100.1;
344 (xvii) Computer pornography and child exploitation in violation of Code
345 Section 16-12-100.2;

- 346 (xviii) A second or subsequent conviction for obscene telephone contact in violation
 347 of Code Section 16-12-100.3; or
- 348 (xix) Any conduct which, by its nature, is a sexual offense against a victim who is a
 349 minor or an attempt to commit a sexual offense against a victim who is a minor.
- 350 (B.4) 'Dangerous sexual offense' with respect to convictions occurring after
 351 June 30, 2020, means any criminal offense, or the attempt to commit any criminal
 352 offense under Title 16 as specified in this subparagraph, or any offense under federal
 353 law or the laws of another state or territory of the United States which consists of the
 354 same or similar elements of the following offenses:
- 355 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
 356 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who
 357 is less than 14 years of age, except by a parent;
 358 (iii) Trafficking an individual for sexual servitude in violation of Code
 359 Section 16-5-46;
 360 (iv) Burglary with the intent to commit a sexual offense in violation of any Code
 361 section under Chapter 6 of Title 16;
 362 (v) Rape in violation of Code Section 16-6-1;
 363 (vi) Sodomy in violation of Code Section 16-6-2;
 364 (vii) Aggravated sodomy in violation of Code Section 16-6-2;
 365 (viii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted
 366 of the offense is 21 years of age or older;
 367 (ix) Child molestation in violation of Code Section 16-6-4;
 368 (x) Aggravated child molestation in violation of Code Section 16-6-4, unless the
 369 person was convicted of a misdemeanor offense;
 370 (xi) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
 371 (xii) Improper sexual contact by employee or agent in the first or second degree in
 372 violation of Code Section 16-6-5.1, unless the punishment imposed was not subject
 373 to Code Section 17-10-6.2;
 374 (xiii) Keeping a place of prostitution in violation of Code Section 16-6-10;
 375 (xiv) Pimping in violation of Code Section 16-6-11;
 376 (xv) Pandering in violation of Code Section 16-6-12;
 377 (xvi) Incest in violation of Code Section 16-6-22;
 378 (xvii) A second or subsequent conviction for sexual battery in violation of Code
 379 Section 16-6-22.1;
 380 (xviii) Aggravated sexual battery in violation of Code Section 16-6-22.2;
 381 (xiv) Sexual exploitation of children in violation of Code Section 16-12-100;

382 (xx) Electronically furnishing obscene material to minors in violation of Code
 383 Section 16-12-100.1;
 384 (xxi) Computer pornography and child exploitation in violation of Code
 385 Section 16-12-100.2;
 386 (xxii) A second or subsequent conviction for obscene telephone contact in violation
 387 of Code Section 16-12-100.3;
 388 (xxiii) Any conduct which, by its nature, is a sexual offense against a victim who is
 389 a minor or an attempt to commit a sexual offense against a victim who is a minor; or
 390 (xxiv) Any conduct which involves a violation under Chapter 15 of Title 16, the
 391 'Georgia Street Gang Terrorism and Prevention Act,' and which involves an
 392 underlying felony sexual offense or the intent to commit a felony sexual offense."

393 **SECTION 9.**

394 Chapter 4A of Title 49 of the Official Code of Georgia Annotated, relating to the Department
 395 of Juvenile Justice, is amended by revising subsection (b) of Code Section 49-4A-7, relating
 396 to powers and duties of department, as follows:

397 "(b) When given legal custody over a child for detention in a juvenile detention facility
 398 under court order under Article 6 of Chapter 11 of Title 15, the department shall have:

- 399 (1) The right of physical possession of such child;
 400 (2) The right and duty to protect, train, and discipline such child;
 401 (3) The responsibility to provide such child with food, clothing, shelter, and education;
 402 (4) The right to determine in which facility such child shall live and to transfer such child
 403 as provided in subsection (b) of Code Section 42-5-52; ~~and~~
 404 (5) The right and duty to provide or obtain for such child medical, hospital, psychiatric,
 405 surgical, or dental care or services as may be considered appropriate and necessary by
 406 competent medical authority without securing prior consent of parents or legal guardians;
 407 and
 408 (6) The responsibility to develop and implement an evidence-based gang intervention
 409 and prevention program to address the major risk factors for gang membership and
 410 reduce gang participation among children committed to the department and under the
 411 supervision of the department."

412 **SECTION 10.**

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