

Senate Bill 243

By: Senators Jordan of the 6th, Jackson of the 41st and Strickland of the 17th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 16-6-5.1 of the Official Code of Georgia Annotated, relating to
2 improper sexual contact by employee, agent, or foster parent, consent not a defense, and
3 penalty, so as to revise the offense of improper sexual contact by employee, agent, or foster
4 parent; to revise and provide for definitions; to prohibit improper sexual contact within
5 programs and facilities used by individuals as a condition of their probation or parole; to
6 provide for a response to *Bully v. State*, 2020 Ga. App. LEXIS 628 (2020); to provide for
7 related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 16-6-5.1 of the Official Code of Georgia Annotated, relating to improper
11 sexual contact by employee, agent, or foster parent, consent not a defense, and penalty, is
12 amended by revising paragraph (4) of, and adding a new paragraph to, subsection (a) as
13 follows:

14 "(4) 'Employee' means an individual who works for salary, wages, or other remuneration
15 for an employer or sole proprietor."

16 "(11) 'Sole proprietor' means an individual who is an owner or operator of a program or
17 facility rendering services or housing to another as a condition of such other person's
18 probation or parole."

19 **SECTION 2.**

20 Said Code section is further amended by revising subsection (b) as follows:

21 "(b) An employee or agent commits the offense of improper sexual contact by employee
22 or agent in the first degree when such employee or agent knowingly engages in sexually
23 explicit conduct with another person whom such employee or agent knows or reasonably
24 should have known is contemporaneously:

25 (1) Enrolled as a student at a school of which he or she is an employee or agent;

26 (2) Under probation, parole, a program or within a facility as a condition of probation or
27 parole, accountability court, or pretrial diversion supervision of the office or court of
28 which he or she is an employee or agent;

29 (3) Being detained by or is in the custody of any law enforcement agency of which he
30 or she is an employee or agent;

31 (4) A patient in or at a hospital of which he or she is an employee or agent;

32 (5) In the custody of a correctional facility, juvenile detention facility, facility providing
33 services to a person with a disability, or a facility providing child welfare and youth
34 services of which he or she is an employee or agent;

35 (6) The subject of such employee or agent's actual or purported psychotherapy treatment
36 or counseling; or

37 (7) Admitted for care at a sensitive care facility of which he or she is an employee or
38 agent."

39 **SECTION 3.**

40 Said Code section is further amended by revising subsection (c) as follows:

41 "(c) A person commits the offense of improper sexual contact by employee or agent in the
42 second degree when such employee or agent knowingly engages in sexual contact,
43 excluding sexually explicit conduct, with another person whom such employee or agent
44 knows or reasonably should have known is contemporaneously:

45 (1) Enrolled as a student at a school of which he or she is an employee or agent;

46 (2) Under probation, parole, a program or within a facility as a condition of probation or
47 parole, accountability court, or pretrial diversion supervision of the office or court of
48 which he or she is an employee or agent;

49 (3) Being detained by or is in the custody of a law enforcement agency of which he or
50 she is an employee or agent;

51 (4) A patient in or at a hospital of which he or she is an employee or agent;

52 (5) In the custody of a correctional facility, juvenile detention facility, facility providing
53 services to a person with a disability, or facility providing child welfare and youth
54 services of which he or she is an employee or agent;

55 (6) The subject of such employee or agent's actual or purported psychotherapy treatment
56 or counseling; or

57 (7) Admitted for care at a sensitive care facility of which he or she is an employee or
58 agent."

59 **SECTION 4.**

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