

House Bill 1093 (AS PASSED HOUSE AND SENATE)

By: Representatives Hill of the 81<sup>st</sup>, Chambers of the 53<sup>rd</sup>, Barnes of the 84<sup>th</sup>, Post 2, Dodson of the 84<sup>th</sup>, Post 1, and Walker of the 71<sup>st</sup>, Post 1

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the state sexual offender registry, so as to change the provisions relating to registration requirements applicable to persons sentenced pursuant to Article 3 of Chapter 8 of Title 42, relating to first offenders; to change certain definitions; to provide for the clerk of court to notify certain persons of a defendant's order of discharge and exoneration pursuant to Article 3 of Chapter 8 of Title 42; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the state sexual offender registry, is amended by striking paragraphs (3) and (4) of subsection (a) and inserting in lieu thereof the following:

"(3) 'Conviction' includes a final judgment of conviction entered upon a verdict or finding of guilty of a crime, a plea of guilty, or a plea of nolo contendere. ~~Unless otherwise required by federal law, a~~ A defendant who is discharged without adjudication of guilt and who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall ~~not~~ be subject to the registration requirements of this Code section for the period of time prior to the defendant's discharge after completion of his or her sentence or upon the defendant being adjudicated guilty. Unless otherwise required by federal law, a defendant who is discharged without adjudication of guilt and who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall not be subject to the registration requirements of this Code section upon the defendant's discharge.

(4)(A) 'Criminal offense against a victim who is a minor' with respect to convictions occurring on or before June 30, 2001, means any criminal offense under Title 16 or any offense under federal law or the laws of another state or territory of the United States which consists of:

- (i) Kidnapping of a minor, except by a parent;
- (ii) False imprisonment of a minor, except by a parent;
- (iii) Criminal sexual conduct toward a minor;
- (iv) Solicitation of a minor to engage in sexual conduct;
- (v) Use of a minor in a sexual performance;
- (vi) Solicitation of a minor to practice prostitution; or
- (vii) Any conviction resulting from an underlying sexual offense against a victim who is a minor.

(B) 'Criminal offense against a victim who is a minor' with respect to convictions occurring after June 30, 2001, means any criminal offense under Title 16 or any offense under federal law or the laws of another state or territory of the United States which consists of:

- (i) Kidnapping of a minor, except by a parent;
- (ii) False imprisonment of a minor, except by a parent;
- (iii) Criminal sexual conduct toward a minor;
- (iv) Solicitation of a minor to engage in sexual conduct;
- (v) Use of a minor in a sexual performance;
- (vi) Solicitation of a minor to practice prostitution;
- (vii) Use of a minor to engage in any sexually explicit conduct to produce any visual medium depicting such conduct;
- (viii) Creating, publishing, selling, distributing, or possessing any material depicting a minor or a portion of a minor's body engaged in sexually explicit conduct;
- (ix) Transmitting, making, selling, buying, or disseminating by means of a computer any descriptive or identifying information regarding a child for the purpose of offering or soliciting sexual conduct of or with a child or the visual depicting of such conduct;
- (x) Conspiracy to transport, ship, receive, or distribute visual depictions of minors engaged in sexually explicit conduct; or
- (xi) Any conduct which, by its nature, is a sexual offense against a minor.

(C) For purposes of this paragraph, conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator is 18 years of age or younger.

(D) For purposes of this paragraph, 'criminal offense against a victim who is a minor'

1 shall not include conduct which, by its nature, is a sexual offense against a victim who  
2 is 13 years of age or older when the defendant enters a first offender plea pursuant to  
3 Article 3 of Chapter 8 of this title."

4 **SECTION 2.**

5 Said Code section is further amended by adding a new subsection (n) to the end of the Code  
6 section to read as follows:

7 "(n) Within ten days of the filing of a defendant's discharge and exoneration of guilt  
8 pursuant to Article 3 of Chapter 8 of this title, the clerk of court shall transmit the order of  
9 discharge and exoneration to the Georgia Bureau of Investigation and any sheriff  
10 maintaining records required under this Code section."

11 **SECTION 3.**

12 This Act shall become effective on July 1, 2004, and shall apply to sentences imposed on or  
13 after July 1, 2004.

14 **SECTION 4.**

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