

House Bill 123 (AS PASSED HOUSE AND SENATE)

By: Representatives Ramsey of the 72nd, Bearden of the 68th, Williams of the 178th, Levitas of the 82nd, Peake of the 137th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual offenses, so as to change certain provisions relating to child molestation; to provide a definition; to provide for venue; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual offenses, is amended by revising Code Section 16-6-4, relating to child molestation and aggravated child molestation, as follows:

"16-6-4.

(a) A person commits the offense of child molestation when ~~he or she does~~ such person:

(1) Does any immoral or indecent act to or in the presence of or with any child under the age of 16 years with the intent to arouse or satisfy the sexual desires of either the child or the person; or

(2) By means of an electronic device, transmits images of a person engaging in, inducing, or otherwise participating in any immoral or indecent act to a child under the age of 16 years with the intent to arouse or satisfy the sexual desires of either the child or the person.

(b)(1) Except as provided in paragraph (2) of this subsection, a person convicted of a first offense of child molestation shall be punished by imprisonment for not less than five nor more than 20 years and shall be subject to the sentencing and punishment provisions of Code Sections 17-10-6.2 and 17-10-7. Upon a defendant being incarcerated on a conviction for a first offense, the Department of Corrections shall provide counseling to such defendant. Except as provided in paragraph (2) of this subsection, upon a second or subsequent conviction of an offense of child molestation, the defendant shall be punished by imprisonment for not less than ten years nor more than 30 years or by

imprisonment for life and shall be subject to the sentencing and punishment provisions of Code Sections 17-10-6.2 and 17-10-7; provided, however, that prior to trial, a defendant shall be given notice, in writing, that the state intends to seek a punishment of life imprisonment.

(2) If the victim is at least 14 but less than 16 years of age and the person convicted of child molestation is 18 years of age or younger and is no more than four years older than the victim, such person shall be guilty of a misdemeanor and shall not be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

(c) A person commits the offense of aggravated child molestation when such person commits an offense of child molestation which act physically injures the child or involves an act of sodomy.

(d)(1) Except as provided in paragraph (2) of this subsection, a person convicted of the offense of aggravated child molestation shall be punished by imprisonment for life or by a split sentence that is a term of imprisonment for not less than 25 years and not exceeding life imprisonment, followed by probation for life, and shall be subject to the sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7.

(2) A person convicted of the offense of aggravated child molestation when:

(A) The victim is at least 13 but less than 16 years of age;

(B) The person convicted of aggravated child molestation is 18 years of age or younger and is no more than four years older than the victim; and

(C) The basis of the charge of aggravated child molestation involves an act of sodomy shall be guilty of a misdemeanor and shall not be subject to the sentencing and punishment provisions of Code Section 17-10-6.1.

(e) A person shall be subject to prosecution in this state pursuant to Code Section 17-2-1 for any conduct made unlawful by paragraph (2) of subsection (a) of this Code section which the person engages in while:

(1) Either within or outside of this state if, by such conduct, the person commits a violation of paragraph (2) of subsection (a) of this Code section which involves a child who resides in this state; or

(2) Within this state if, by such conduct, the person commits a violation of paragraph (2) of subsection (a) of this Code section which involves a child who resides within or outside this state."

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

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SECTION 3.

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