

House Bill 895 (AS PASSED HOUSE AND SENATE)

By: Representatives Carter of the 175th, Collins of the 27th, Hatchett of the 143rd, Purcell of the 159th, Davis of the 109th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 3 of Title 35 and Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to the Georgia Bureau of Investigation and the Sexual Offender Registration Review Board, respectively, so as to provide for more effective methods of gathering information relating to sexual offenders; to extend the powers and duties of the Georgia Bureau of Investigation; to provide for the transfer of personnel to the Georgia Bureau of Investigation; to provide for procedure; 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 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Bureau of Investigation, is amended in subsection (a) of Code Section 35-3-4, relating to the powers and duties of the Georgia Bureau of Investigation generally, by deleting "or" at the end of paragraph (12), by replacing the period with "; or" at the end of paragraph (13), and by adding a new paragraph (14) to read as follows:

"(14)(A) Acquire, collect, analyze, and provide to the board any information which will assist the board in determining a sexual offender's risk assessment classification in accordance with the board's duties as specified in Code Section 42-1-14, including, but not limited to, obtaining:

(i) Incident, investigative, supplemental, and arrest reports from law enforcement agencies;

(ii) Records from clerks of court;

(iii) Records and information maintained by prosecuting attorneys;

(iv) Records maintained by state agencies; and

(v) Other documents or information as requested by the board.

(B) As used in this paragraph, the term:

(i) 'Board' means the Sexual Offender Registration Review Board.

(ii) 'Risk assessment classification' means the level into which a sexual offender is placed based on the board's assessment.

(iii) 'Sexual offender' has the same meaning as set forth in Code Section 42-1-12."

SECTION 2.

Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to the Sexual Offender Registration Review Board, is amended by revising subsections (b) and (c) of Code Section 42-1-13, relating to powers and duties of the board, as follows:

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

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

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

(3) Hire its own personnel ~~if authorized by the Constitution of this state or by statute or if the General Assembly provides or authorizes the expenditure of funds therefor,~~ including but not limited to administrative personnel and clinical evaluators.

(c) Any investigator who, as of June 30, 2012, was employed by the board shall be transferred to the Georgia Bureau of Investigation on July 1, 2012, and shall no longer be under the administration or supervision of the board, except as required to provide the board with information as set forth in paragraph (14) of subsection (a) of Code Section 35-3-4. The executive director of the board shall arrange administratively for the transfer of any equipment relating to the transfer of such personnel.

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

SECTION 3.

Said article is further amended by revising paragraph (2) of subsection (a) of Code Section 42-1-14, relating to risk assessment classification, as follows:

"(2) A sexual offender shall be placed into Level I risk assessment classification, Level II risk assessment classification, or sexually dangerous predator classification based upon the board's assessment criteria and information obtained and reviewed by the board. The sexual offender may provide the board with information, including, but not limited to, psychological evaluations, sexual history polygraph information, treatment history, and personal, social, educational, and work history and may agree to submit to a psychosexual evaluation or sexual history polygraph conducted by the board. If the sexual offender has

undergone treatment through the Department of Corrections, such treatment records shall also be submitted to the board for evaluation. The prosecuting attorney shall provide the board with any information available to assist the board in rendering an opinion, including, but not limited to, criminal history and records related to previous criminal history. The board shall utilize the Georgia Bureau of Investigation to assist it in obtaining information relative to its evaluation of sexual offenders and the Georgia Bureau of Investigation shall provide the board with information as requested by the board. The clerk of court shall send a copy of the sexual offender's conviction to the board and notify the board that a sexual offender's evaluation will need to be performed. The board shall render its recommendation for risk assessment classification within:

- (A) Sixty days of receipt of a request for an evaluation if the sexual offender is being sentenced pursuant to subsection (c) of Code Section 17-10-6.2;
- (B) Six months prior to the sexual offender's proposed release from confinement if the offender is incarcerated;
- (C) Sixty days of receipt of the required registration information from the sheriff when the sexual offender changes residence from another state or territory of the United States or any other place to this state and is not already classified;
- (D) Sixty days if the sexual offender is sentenced to a probated or suspended sentence; and
- (E) Ninety days if such classification is requested by the court pursuant to a petition filed under Code Section 42-1-19."

SECTION 4.

This Act shall become effective on July 1, 2012.

SECTION 5.

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