

The House Committee on Judiciary Non-Civil offers the following substitute to SB 36:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses, so as to increase the penalty provisions relating to pimping and pandering; to
3 provide for a definition; to provide for certain relief for trafficking victims who have been
4 conditionally discharged or sentenced as a first offender for certain crimes; to provide for the
5 unauthorized carrying of weapons or long guns in certain locations; to amend Article 2 of
6 Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to arrest by law
7 enforcement officers generally, so as to revise authority for arrests without warrant; to
8 authorize federal law enforcement officers; to detain persons under certain circumstances;
9 to provide for revocation of such authority; to provide for a definition; to make conforming
10 changes; to provide for related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
14 amended in Code Section 16-6-13, relating to penalties for violating Code Sections 16-6-9
15 through 16-6-12, by revising subsections (a) and (b) as follows:

S. B. 36 (SUB)

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16 "(a) Except as otherwise provided in subsection (b) of this Code section, a person
17 convicted of violating:

18 (1) Code Section 16-6-10 shall be punished as for a misdemeanor of a high and
19 aggravated nature, and at the sole discretion of the judge, all but 24 hours of any term of
20 imprisonment imposed may be suspended, stayed, or probated;

21 (2) Code Section 16-6-9 shall be punished as for a misdemeanor;

22 (3) Code Section 16-6-11 for a:

23 (A) First offense shall be ~~punished as for a misdemeanor of a high and aggravated~~
24 ~~nature, and at the sole discretion of the judge, all but 72 hours of any term of~~
25 ~~imprisonment imposed may be suspended, stayed, or probated~~ guilty of a felony and
26 shall be punished by a term of imprisonment of not less than one nor more than ten
27 years; and

28 (B) Second or subsequent offense shall be guilty of a felony and shall be punished by
29 a term of imprisonment of not less than one year nor more than ten years and shall be
30 sentenced to a mandatory minimum term of imprisonment of one year and no portion
31 of the mandatory minimum sentence imposed shall be suspended, stayed, or probated
32 by the sentencing court; provided, however, that in the court's discretion, the court may
33 depart from such mandatory minimum sentence if the interest of justice will not be
34 served by the imposition of the prescribed mandatory minimum, with such findings
35 stated on the record by the court; or

36 (4) Code Section 16-6-12 for a:

37 (A) First offense shall be ~~punished as for a misdemeanor of a high and aggravated~~
38 ~~nature, and at the sole discretion of the judge, all but 72 hours of any term of~~
39 ~~imprisonment imposed may be suspended, stayed, or probated~~ guilty of a felony and
40 shall be punished by a term of imprisonment of not less than one nor more than ten
41 years; and

(B) Second or subsequent offense shall be guilty of a felony and shall be punished by a term of imprisonment of not less than one year nor more than ten years and shall be sentenced to a mandatory minimum term of imprisonment of one year and no portion of the mandatory minimum sentence imposed shall be suspended, stayed, or probated by the sentencing court; provided, however, that in the court's discretion, the court may depart from such mandatory minimum sentence if the interest of justice will not be served by the imposition of the prescribed mandatory minimum, with such findings stated on the record by the court.

(b)(1) For purposes of this subsection, the term 'victim of sexual exploitation' means a person 18 years of age or younger who performs or offers or consents to perform a sexual act, including, but not limited to, sexual intercourse or sodomy, for money or other items of value. ~~Reserved.~~

(2) A person convicted of any of the offenses enumerated in Code Sections 16-6-10 through 16-6-12 when such offense involves the conduct of a ~~person under the age of 18 years~~ shall victim of sexual exploitation for a:

(A) First offense shall be guilty of a felony and shall be punished by imprisonment for a period of not less than ten nor more than 30 years and a fine of not more than \$100,000.00; and

(B) Second or subsequent offense shall be guilty of a felony and shall be punished by imprisonment for a period of not less than ten nor more than 30 years and a fine of not more than \$100,000.00 and shall be sentenced to a mandatory minimum term of imprisonment of one year and no portion of the mandatory minimum sentence imposed shall be suspended, stayed, or probated by the sentencing court; provided, however, that in the court's discretion, the court may depart from such mandatory minimum sentence if the interest of justice will not be served by the imposition of the prescribed mandatory minimum, with such findings stated on the record by the court; and

provided, further, that the mandatory minimum sentence provided for in this subparagraph shall not apply to the offenses enumerated in Code Section 16-6-10."

SECTION 2.

Said title is further amended in Code Section 16-11-127, relating to carrying weapons or long guns in unauthorized locations, by revising paragraphs (6) and (7) of and adding a new paragraph to subsection (b) to read as follows:

"(6) On the premises of a nuclear power facility, except as provided in Code Section 16-11-127.2, and the punishment provisions of Code Section 16-11-127.2 shall supersede the punishment provisions of this Code section; ~~or~~

(7) Within 150 feet of any polling place when elections are being conducted and such polling place is being used as a polling place as provided for in paragraph (27) of Code Section 21-2-2, except as provided in subsection (i) of Code Section 21-2-413; or

(8) On property described in Code Section 10-9-14.1; or on property described in Code Section 36-64-2 when the property is being used by a private party to host a gated, permitted, and ticketed event or events, where alcohol is permitted to be sold. This paragraph applies only when the private party has either entered into a lease of five or more years allowing for the use of the property or when such private party has:

(A) Contractually agreed to indemnify the government for acts occurring on the property during the event or events;

(B) Provided at least a six-foot fence to mark the borders of the event;

(C) Provided for the presence of peace officers or other individuals licensed to provide security at gated points of entry; and

(D) Limited entry to guests willing to pass through a magnetometer or similar technology, additional security at gated points of entry, and observed by peace officers or other individuals licensed to provide security."

SECTION 3.

Article 2 of Chapter 4 of Title 17 of the Official Code of Georgia Annotated, relating to arrest by law enforcement officers generally, is amended by revising Code Section 17-4-20, relating to authorization of arrests with and without warrants generally, use of deadly force, adoption or promulgation of conflicting regulations, policies, ordinances, and resolutions, and authority of nuclear power facility security officer, as follows:

"17-4-20.

(a)(1) ~~An arrest for a crime may be made by a~~ A law enforcement officer of this state or of any county, municipality, or other political subdivision of this state may arrest a person accused of violating the penal laws of this state:

(A) Under a warrant; ~~or~~

(B) Without a warrant if for an offense alleged to have been committed within the jurisdiction of the law enforcement agency by which he or she is employed when:

(i) The offense is committed in such officer's presence or within such officer's immediate knowledge;

(ii) The offender is endeavoring to escape;

(iii) The officer has probable cause to believe that an act of family violence, as defined in Code Section 19-13-1, has been committed;

(iv) The officer has probable cause to believe that the offender has violated a criminal family violence order, as defined in Code Section 16-5-95; provided, however, that such officer shall not have any prior or current familial relationship with the alleged victim or the offender;

(v) The officer has probable cause to believe that an offense involving physical abuse has been committed against a vulnerable adult, who shall be for the purposes of this subsection a person 18 years old or older who is unable to protect himself or herself from physical or mental abuse because of a physical or mental impairment; or

(vi) For other cause there is likely to be failure of justice for want of a judicial officer to issue a warrant; or

~~(2)(C)~~ Except where otherwise provided by law with respect to a law enforcement officer's jurisdictional duties and limitations, ~~a law enforcement officer may make an arrest without a warrant~~ for an offense alleged to have been committed outside of the jurisdiction of the law enforcement agency by which he or she is employed ~~without a warrant when~~:

~~(A)(i)~~ The If the offense is committed in such officer's presence or within such officer's immediate knowledge;

~~(B)(ii)~~ In ~~When in~~ immediate pursuit of an offender for an offense committed within the jurisdiction of the law enforcement agency that employs such law enforcement officer; or

~~(C)(iii)~~ Aiding ~~While aiding~~ or assisting another law enforcement officer in the jurisdiction of the law enforcement agency employing such other law enforcement officer.

~~(3)(2)~~ Nothing in subparagraph (C) of paragraph (2) (1) of this subsection shall be construed as limiting sheriffs or deputy sheriffs in the performance of the duties and responsibilities imposed on them by the Constitution and laws of this state.

(b)(1) For purposes of this subsection, the term 'federal law enforcement officer' means a person:

(A) Employed by the United States government as a full-time sworn criminal law enforcement officer or agent;

(B) In good standing with his or her employing federal agency;

(C) Authorized to carry a firearm in the performance of his or her official duties; and

(D) Empowered to arrest persons for criminal violations of the United States Code.

(2) A federal law enforcement officer may detain a person upon request of a law enforcement officer of this state or of any county, municipality, or other political

subdivision of this state for purposes of aiding or assisting such law enforcement officer for an offense alleged to have been committed within the jurisdiction of such officer under a warrant or without a warrant. Such request may be retracted by the requesting law enforcement officer at any time and the authority to detain provided by this paragraph shall cease upon such retraction.

~~(b)~~(c) Sheriffs and law enforcement officers employed or appointed as peace officers who ~~are appointed or employed~~ in conformity with Chapter 8 of Title 35 may use deadly force to apprehend a suspected felon only when the officer reasonably believes that the suspect possesses a deadly weapon or any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury; when the officer reasonably believes that the suspect poses an immediate threat of physical violence to the officer or others; or when there is probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm. Nothing in this ~~Code section~~ subsection shall be construed so as to restrict such sheriffs or peace officers from the use of such reasonable nondeadly force as may be necessary to apprehend and arrest a suspected felon or misdemeanor.

~~(c)~~(d) Nothing in this Code section shall be construed so as to restrict the use of deadly force by employees of state and county correctional institutions, jails, and other places of lawful confinement or by ~~peace~~ law enforcement officers of any agency in ~~the State of Georgia~~ this state when reasonably necessary to prevent escapes or apprehend escapees from such institutions.

~~(d)~~(e) No law enforcement agency of this state or of any political subdivision of this state shall adopt or promulgate any rule, regulation, or policy which prohibits a ~~peace~~ law enforcement officer from using that degree of force to apprehend a suspected felon which is allowed by the statutory and case law of this state.

~~(e)~~(f) Each ~~peace~~ law enforcement officer shall be provided with a copy of this Code section. Training regarding elder abuse, abuse of vulnerable adults, and the requirements

of this Code section should be offered as part of at least one in-service training program each year conducted by or on behalf of each law enforcement department and agency in this state.

~~(f)~~(g) A nuclear power facility security officer, including a contract security officer, employed by a federally licensed nuclear power facility or licensee thereof for the purpose of securing that facility shall have the authority to:

(1) Threaten or use force against another in defense of a federally licensed nuclear power facility and the persons therein as provided for under Code Sections 16-3-21 and 16-3-23;

(2) Search any person on the premises of the nuclear power facility or the properties adjacent to the facility if the facility is under imminent threat or danger pursuant to a written agreement entered into with the local enforcement agency having jurisdiction over the facility for the purpose of determining if such person possesses unauthorized weapons, explosives, or other similarly prohibited material; provided, however, that if such person objects to any search, he or she shall be detained as provided in paragraph (3) of this subsection or shall be required to immediately vacate the premises. Any person refusing to submit to a search and refusing to vacate the premises of a facility upon the request of a security officer as provided for in this Code section shall be guilty of a misdemeanor; and

(3) In accordance with a nuclear security plan approved by the United States Nuclear Regulatory Commission or other federal agency authorized to regulate nuclear facility security, detain any person located on the premises of a nuclear power facility or on the properties adjacent thereto if the facility is under imminent threat or danger pursuant to a written agreement entered into with the local law enforcement agency having jurisdiction over the facility, where there is reasonable suspicion to believe that such person poses a threat to the security of the nuclear power facility, regardless of whether such prohibited act occurred in the officer's presence. In the event of such detention, the law enforcement agency having jurisdiction over the facility shall be immediately

202 **SECTION 4.**
203 All laws and parts of laws in conflict with this Act are repealed.

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