

The House Committee on Judiciary offers the following substitute to SB 542:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual
2 offenses, so as to establish certain criminal offenses by clergy members for improper sexual
3 contact with victims who are under their pastoral care or spiritual guidance; to provide for
4 penalties; to provide for a limitations period; to provide for definitions; to provide for related
5 matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 6 of Title 16 of the Official Code of Georgia Annotated, relating to sexual offenses,
9 is amended by adding a new Code section to read as follows:

10 "16-6-5.2.

11 (a) As used in this Code section, the term:

12 (1) 'Clergy member' means ministers, priests, rabbis, imams, or similar functionaries, by
13 whatever name, of a bona fide religious organization or a person who holds himself or
14 herself out as the same.

15 (2) 'Pastoral counseling or spiritual authority relationship' means a relationship in which
16 a clergy member provides spiritual guidance, pastoral care, religious instruction,

17 confession, mentoring, or emotional or spiritual support in circumstances where a
18 reasonable person would view the clergy member as exercising influence, trust, or
19 authority over another person's spiritual, emotional, or personal well-being.

20 (3) 'Sexual contact' means any contact involving the intimate parts of either person for
21 the purpose of sexual gratification of either person.

22 (4) 'Sexually explicit conduct' shall have the same meaning as set forth in Code
23 Section 16-12-100.

24 (b) A person commits the offense of improper sexual contact by a clergy member in the
25 first degree when such person, while in a pastoral counseling or spiritual authority
26 relationship with the victim and by means of undue influence, coercion, harassment,
27 duress, deception, false representation, false pretense, or intimidation, knowingly engages
28 in sexually explicit conduct with the victim.

29 (c) A person commits the offense of improper sexual contact by a clergy member in the
30 second degree when such person, while in a pastoral counseling or spiritual authority
31 relationship with the victim and by means of undue influence, coercion, harassment,
32 duress, deception, false representation, false pretense, or intimidation, knowingly engages
33 in sexual contact, excluding sexually explicit conduct, with the victim.

34 (d) This Code section shall not apply to sexually explicit conduct or sexual contact
35 between individuals lawfully married to each other.

36 (e) A person convicted of improper sexual contact by a clergy member in the first degree
37 shall be punished by imprisonment for not less than one year nor more than 25 years and
38 by a fine not to exceed \$100,000.00.

39 (f) A person convicted of improper sexual contact by a clergy member in the second
40 degree shall be:

41 (1) Upon a first conviction thereof, punished as for a misdemeanor of a high and
42 aggravated nature and shall not be subject to the sentencing and punishment provisions
43 of Code Section 17-10-6.2; and

44 (2) Upon a second or subsequent conviction thereof, guilty of a felony and shall be
45 punished by imprisonment for not less than one year nor more than five years and shall
46 be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

47 (g)(1) As used in this subsection, the term 'sexual felony' shall have the same meaning
48 as set forth in paragraph (2) of subsection (j) of Code Section 16-5-21.

49 (2) Except as provided in paragraph (2) of subsection (f) of this Code section, any person
50 having been previously convicted of a sexual felony who is convicted of the felony
51 offense of improper sexual contact by a clergy member in the first or second degree shall
52 be punished by imprisonment for life or a split sentence that is a term of imprisonment
53 followed by probation for life. As a condition of probation, the court shall impose the
54 requirement of electronic monitoring as set forth in paragraph (14) of subsection (a) of
55 Code Section 42-8-35.

56 (h) Notwithstanding any other provision of law setting forth a limitations period, a
57 criminal proceeding brought pursuant to this Code section shall be commenced within 15
58 years after the commission of the crime."

59 **SECTION 2.**

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