

# Georgia Sexual Assault Statutes 2016

Georgia Network to End Sexual Assault





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# **Title 15. Courts**

## **Chapter 24. Sexual Assault Protocol**

### **§ 15-24-1. Definitions**

As used in this chapter, the term:

- (1) "Protocol committee" or "committee" means a multidisciplinary, multiagency sexual assault committee established for a county pursuant to Code Section 15-24-2. The protocol committee is charged with developing local protocols to investigate and prosecute alleged cases of sexual assault.
- (2) "Sexual assault" means rape, sodomy, aggravated sodomy, incest, sexual battery, and aggravated sexual battery as those terms are defined in Chapter 6 of Title 16.

### **§ 15-24-2. Establishment of sexual assault protocol and committee; representatives to committee; annual meeting and review**

- (a) Each judicial circuit shall be required to establish a sexual assault protocol as provided in this Code section.
- (b) The chief superior court judge of each judicial circuit shall establish a sexual assault protocol committee as provided in subsection (c) of this Code section and shall appoint an interim chairperson who shall preside over the first meeting. The chief superior court judge shall appoint persons to fill any vacancies on the committee. Thus established, the committee shall thereafter elect a chairperson from its membership.
- (c)
  - (1) Each of the following agencies of the judicial circuit shall designate a representative to serve on the committee:
    - (A) The office of the sheriff of each sheriff's office in the judicial circuit;
    - (B) The office of the district attorney;
    - (C) The magistrate court;
    - (D) The office of the chief of police of a county of each county within the judicial circuit in counties which have a county police department;
    - (E) The office of the chief of police of the largest municipality in the county of each county within the judicial circuit; and
    - (F) The county board of health of each county within the judicial circuit.



- (2) In addition to the representatives serving on the committee as provided for in paragraph (1) of this subsection, the chief superior court judge shall designate:
- (A) A local citizen of the judicial circuit;
  - (B) A representative of a sexual assault or rape crisis center serving the judicial circuit or, if no such center exists, then a local citizen; and
  - (C) A health care professional who performs sexual assault examinations within the judicial circuit or, if no such person exists, then a local citizen.
- (3) If any designated agency fails to carry out its duties relating to participation on the committee, the chief superior court judge of the circuit may issue an order requiring the participation of such agency. Failure to comply with such order shall be cause for punishment as for contempt of court.
- (d) The protocol committee shall adopt a written sexual assault protocol, a copy of which shall be furnished to each agency in the judicial circuit that handles cases of sexual assault. The protocol shall be a written document outlining in detail the procedures to be used in investigating, collecting evidence, paying for expenses related to evidence collection, and prosecuting cases arising from alleged sexual assault and shall take into consideration the provisions of Article 4 of Chapter 5 of Title 17. The protocol may provide for different procedures to be used within particular municipalities or counties within the judicial circuit. The protocol committee shall adopt a written sexual assault protocol no later than December 31, 2004. The protocol committee may incorporate sexual assault protocols used in the judicial circuit as they existed on or before July 1, 2004.
- (e) The purpose of the protocol shall be to ensure coordination and cooperation between all agencies involved in sexual assault cases so as to increase the efficiency of all agencies handling such cases and to minimize the stress created for the alleged sexual assault victim by the legal and investigatory process; provided, however, that a failure by an agency to follow the protocol shall not constitute an affirmative or other defense to prosecution of a sexual assault, preclude the admissibility of evidence, nor shall a failure by an agency to follow the protocol give rise to a civil cause of action.
- (f) Upon completion of the writing of the sexual assault protocol, the protocol committee shall continue in existence and shall meet at least annually for the purpose of evaluating the effectiveness of the protocol and appropriately modifying and updating same.

# **Title 16. Crimes and Offenses**

## **Chapter 4. Criminal attempt, conspiracy, and solicitation**

### **§ 16-4-1. Criminal attempt**

A person commits the offense of criminal attempt when, with intent to commit a specific crime, he performs any act which constitutes a substantial step toward the commission of that crime.

### **§ 16-4-6. Penalties for criminal attempt**

- (a) A person convicted of the offense of criminal attempt to commit a crime punishable by death or by life imprisonment shall be punished by imprisonment for not less than one year nor more than 30 years.
- (b) A person convicted of the offense of criminal attempt to commit a felony, other than a felony punishable by death or life imprisonment, shall be punished by imprisonment for not less than one year nor more than one-half the maximum period of time for which he or she could have been sentenced if he or she had been convicted of the crime attempted, by one-half the maximum fine to which he or she could have been subjected if he or she had been convicted of the crime attempted, or both.
- (c) A person convicted of the offense of criminal attempt to commit a misdemeanor shall be punished as for a misdemeanor.

## **Chapter 5. Crimes Against the Person**

### **§ 16-5-21. Aggravated assault**

- (a) As used in this Code section, the term "strangulation" means impeding the normal breathing or circulation of blood of another person by applying pressure to the throat or neck of such person or by obstructing the nose and mouth of such person.
- (b) A person commits the offense of aggravated assault when he or she assaults:
  - (1) With intent to murder, to rape, or to rob;
  - (2) With a deadly weapon or with any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury;
  - (3) With any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in strangulation; or

- (4) A person or persons without legal justification by discharging a firearm from within a motor vehicle toward a person or persons.
- (c) Except as provided in subsections (d) through (m) of this Code section, a person convicted of the offense of aggravated assault shall be punished by imprisonment for not less than one nor more than 20 years.
- (d) A person who knowingly commits the offense of aggravated assault upon a peace officer while the peace officer is engaged in, or on account of the performance of, his or her official duties shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years.
- (e) Any person who commits the offense of aggravated assault against a person who is 65 years of age or older shall, upon conviction thereof, be punished by imprisonment for not less than three nor more than 20 years.
- (f)
- (1) As used in this subsection, the term "correctional officer" shall include superintendents, wardens, deputy wardens, guards, and correctional officers of state, county, and municipal penal institutions who are certified by the Georgia Peace Officer Standards and Training Council pursuant to Chapter 8 of Title 35 and employees of the Department of Juvenile Justice who are known to be employees of the department or who have given reasonable identification of their employment. The term "correctional officer" shall also include county jail officers who are certified or registered by the Georgia Peace Officer Standards and Training Council pursuant to Chapter 8 of Title 35.
- (2) A person who knowingly commits the offense of aggravated assault upon a correctional officer while the correctional officer is engaged in, or on account of the performance of, his or her official duties shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years.
- (g) Any person who commits the offense of aggravated assault in a public transit vehicle or station shall, upon conviction thereof, be punished by imprisonment for not less than three nor more than 20 years. For purposes of this Code section, "public transit vehicle" has the same meaning as in subsection (c) of Code Section 16-5-20.
- (h) Any person who commits the offense of aggravated assault upon a person in the course of violating Code Section 16-8-2 where the property that was the subject of the theft was a vehicle engaged in commercial transportation of cargo or any appurtenance thereto, including without limitation any such trailer, semitrailer, container, or other associated equipment, or the cargo being transported therein or thereon, shall upon conviction be punished by imprisonment for not less than five nor more than 20 years, a fine not less than \$50,000.00

nor more than \$200,000.00, or both such fine and imprisonment. For purposes of this subsection, the term "vehicle" includes without limitation any railcar.

- (i) A person convicted of an offense described in paragraph (4) of subsection (b) of this Code section shall be punished by imprisonment for not less than five nor more than 20 years.
- (j) Any person who commits the offense of aggravated assault involving the use of a firearm upon a student or teacher or other school personnel within a school safety zone as defined in Code Section 16-11-127.1 shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years.
- (k) If the offense of aggravated assault is committed between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons excluding siblings living or formerly living in the same household, the defendant shall be punished by imprisonment for not less than three nor more than 20 years.
- (l) Any person who commits the offense of aggravated assault with intent to rape against a child under the age of 14 years shall be punished by imprisonment for not less than 25 nor more than 50 years. Any person convicted under this subsection shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.
- (m) A person who knowingly commits the offense of aggravated assault upon an officer of the court while such officer is engaged in, or on account of the performance of, his or her official duties shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years. As used in this subsection, the term "officer of the court" means a judge, attorney, clerk of court, deputy clerk of court, court reporter, court interpreter, community supervision officer, county or Department of Juvenile Justice juvenile probation officer, or probation officer serving pursuant to Article 6 of Chapter 8 of Title 42.

### **§ 16-5-22. Conviction of assault with intent to commit a crime if intended crime actually committed**

A person may be convicted of the offense of assault with intent to commit a crime if the crime intended was actually committed as a result of the assault but may not be convicted of both the assault and completed crime.

### **§ 16-5-27. Female genital mutilation**

- (a) Any person:

- (1) Who knowingly circumcises, excises, or infibulates, in whole or in part, the labia majora, labia minora, or clitoris of a female under 18 years of age;
  - (2) Who is a parent, guardian, or has immediate custody or control of a female under 18 years of age and knowingly consents to or permits the circumcision, excision, or infibulation, in whole or in part, of the labia majora, labia minora, or clitoris of such female; or
  - (3) Who knowingly removes or causes or permits the removal of a female under 18 years of age from this state for the purpose of circumcising, excising, or infibulating, in whole or in part, the labia majora, labia minora, or clitoris of such female shall be guilty of female genital mutilation.
- (b) A person convicted of female genital mutilation shall be punished by imprisonment for not less than five nor more than 20 years.
  - (c) This Code section shall not apply to procedures performed by or under the direction of a physician, a registered professional nurse, a certified nurse midwife, or a licensed practical nurse licensed pursuant to Chapter 34 or 26, respectively, of Title 43 when necessary to preserve the physical health of the female. This Code section shall also not apply to any autopsy or limited dissection as defined by Code Section 45-16-21 which is conducted in accordance with Article 2 of Chapter 16 of Title 45.
  - (d) Consent of the female under 18 years of age or the parent, guardian, or custodian of the female under 18 years of age shall not be a defense to the offense of female genital mutilation. Religion, ritual, custom or standard practice shall not be a defense to the offense of female genital mutilation.
  - (e) The statutory privileges provided by Chapter 5 of Title 24 shall not apply to proceedings in which one of the parties to the privilege is charged with a crime against a female under 18 years of age, but such person shall be compellable to give evidence only on the specific act for which the accused is charged.

### **§ 16-5-46. Trafficking of persons for labor or sexual servitude**

- (a) As used in this Code section, the term:
  - (1) "Coercion" means:
    - (A) Causing or threatening to cause bodily harm to any person, physically restraining or confining any person, or threatening to physically restrain or confine any person;
    - (B) Exposing or threatening to expose any fact or information or disseminating or threatening to disseminate any fact or information that would tend to subject a person to criminal or immigration proceedings, hatred, contempt, or ridicule;

- (C) Destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of any person;
  - (D) Providing a controlled substance, as such term is defined by Code Section 16-13-21, to such person for the purpose of compelling such person to engage in labor or sexual servitude against his or her will; or
  - (E) Causing or threatening to cause financial harm to any person or using financial control over any person.
- (2) "Deception" means:
- (A) Creating or confirming another's impression of an existing fact or past event which is false and which the accused knows or believes to be false;
  - (B) Maintaining the status or condition of a person arising from a pledge by that person of his or her personal services as security for a debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined, or preventing a person from acquiring information pertinent to the disposition of such debt; or
  - (C) Promising benefits or the performance of services which the accused does not intend to deliver or perform or knows will not be delivered or performed. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this Code section.
- (3) "Labor servitude" means work or service of economic or financial value which is performed or provided by another person and is induced or obtained by coercion or deception.
- (4) "Performance" shall have the same meaning as set forth in Code Section 16-12-100.
- (5) "Sexually explicit conduct" shall have the same meaning as set forth in Code Section 16-12-100.
- (6) "Sexual servitude" means:
- (A) Any sexually explicit conduct or performance involving sexually explicit conduct for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under the age of 18 years; or
  - (B) Any sexually explicit conduct or performance involving sexually explicit conduct which is performed or provided by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under the age of 18 years.

- (b) A person commits the offense of trafficking a person for labor servitude when that person knowingly subjects another person to or maintains another person in labor servitude or knowingly recruits, entices, harbors, transports, provides, or obtains by any means another person for the purpose of labor servitude.
- (c) A person commits the offense of trafficking a person for sexual servitude when that person knowingly subjects another person to or maintains another person in sexual servitude or knowingly recruits, entices, harbors, transports, provides, or obtains by any means another person for the purpose of sexual servitude.
- (d) The age of consent for sexual activity or the accused's lack of knowledge of the age of the person being trafficked shall not constitute a defense in a prosecution for a violation of this Code section.
- (e) The sexual history or history of commercial sexual activity of a person alleged to have been trafficked or such person's connection by blood or marriage to an accused in the case or to anyone involved in such person's trafficking shall be excluded from evidence if the court finds at a hearing outside the presence of the jury that the probative value of the evidence is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury.
- (f)
  - (1) Except as provided in paragraph (2) of this subsection, any accused who commits the offense of trafficking a person for labor or sexual servitude shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than ten nor more than 20 years, a fine not to exceed \$100,000.00, or both.
  - (2) Any accused who commits the offense of trafficking a person for labor or sexual servitude against a person who is under the age of 18 years shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than ten nor more than 20 years, a fine not to exceed \$100,000.00, or both; provided, however, that if the offense is committed against a person under 18 years of age and such person under the age of 18 years was coerced or deceived into being trafficked for labor or sexual servitude, the accused shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than 25 nor more than 50 years or life imprisonment, a fine not to exceed \$100,000.00, or both.
- (g)
  - (1) As used in this subsection, the terms "civil forfeiture proceedings," "proceeds," and "property" shall have the same meanings as set forth in Code Section 9-16-2.

- (2) Any property which is, directly or indirectly, used or intended for use in any manner to facilitate a violation of this Code section and any proceeds are declared to be contraband and no person shall have a property right in them.
- (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.
- (4) The Attorney General shall be specifically authorized to commence civil forfeiture proceedings under this Code section.
- (h) Prosecuting attorneys and the Attorney General shall have concurrent authority to prosecute any criminal cases arising under the provisions of this Code section and to perform any duty that necessarily appertains thereto.
- (i) Each violation of this Code section shall constitute a separate offense and shall not merge with any other offense.
- (j) A corporation may be prosecuted under this Code section for an act or omission constituting a crime under this Code section only if an agent of the corporation performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation and the commission of the crime was either authorized, requested, commanded, performed, or within the scope of his or her employment on behalf of the corporation or constituted a pattern of illegal activity that an agent of the company knew or should have known was occurring.

**§ 16-5-60. Reckless conduct causing harm to or endangering the bodily safety of another; conduct by HIV infected persons; assault by HIV infected persons or hepatitis infected persons**

- (a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have the meaning provided for such term in Code Section 31-22-9.1.
- (b) A person who causes bodily harm to or endangers the bodily safety of another person by consciously disregarding a substantial and unjustifiable risk that his act or omission will cause harm or endanger the safety of the other person and the disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation is guilty of a misdemeanor.
- (c) A person who is an HIV infected person who, after obtaining knowledge of being infected with HIV:
  - (1) Knowingly engages in sexual intercourse or performs or submits to any sexual act involving the sex organs of one person and the mouth or anus of another person and the



HIV infected person does not disclose to the other person the fact of that infected person's being an HIV infected person prior to that intercourse or sexual act;

- (2) Knowingly allows another person to use a hypodermic needle, syringe, or both for the introduction of drugs or any other substance into or for the withdrawal of body fluids from the other person's body and the needle or syringe so used had been previously used by the HIV infected person for the introduction of drugs or any other substance into or for the withdrawal of body fluids from the HIV infected person's body and where that infected person does not disclose to the other person the fact of that infected person's being an HIV infected person prior to such use;
  - (3) Offers or consents to perform with another person an act of sexual intercourse for money without disclosing to that other person the fact of that infected person's being an HIV infected person prior to offering or consenting to perform that act of sexual intercourse;
  - (4) Solicits another person to perform or submit to an act of sodomy for money without disclosing to that other person the fact of that infected person's being an HIV infected person prior to soliciting that act of sodomy; or
  - (5) Donates blood, blood products, other body fluids, or any body organ or body part without previously disclosing the fact of that infected person's being an HIV infected person to the person drawing the blood or blood products or the person or entity collecting or storing the other body fluids, body organ, or body part, is guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than ten years.
- (d) A person who is an HIV infected person or hepatitis infected person and who, after obtaining knowledge of being infected with HIV or hepatitis, commits an assault with the intent to transmit HIV or hepatitis, using his or her body fluids (blood, semen, or vaginal secretions), saliva, urine, or feces upon:
- (1) A peace officer while the peace officer is engaged in the performance of his or her official duties or on account of the peace officer's performance of his or her official duties; or
  - (2) A correctional officer while the correctional officer is engaged in the performance of his or her official duties or on account of the correctional officer's performance of his or her official duties is guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five nor more than 20 years.

## **§ 16-5-61. Hazing**

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

- (1) "Haze" means to subject a student to an activity which endangers or is likely to endanger the physical health of a student, regardless of a student's willingness to participate in such activity.
  - (2) "School" means any school, college, or university in this state.
  - (3) "School organization" means any club, society, fraternity, sorority, or a group living together which has students as its principal members.
  - (4) "Student" means any person enrolled in a school in this state.
- (b) It shall be unlawful for any person to haze any student in connection with or as a condition or precondition of gaining acceptance, membership, office, or other status in a school organization.
- (c) Any person who violates this Code section shall be guilty of a misdemeanor of a high and aggravated nature.

### **§ 16-5-70. Cruelty to children**

- (a) A parent, guardian, or other person supervising the welfare of or having immediate charge or custody of a child under the age of 18 commits the offense of cruelty to children in the first degree when such person willfully deprives the child of necessary sustenance to the extent that the child's health or well-being is jeopardized.
- (b) Any person commits the offense of cruelty to children in the first degree when such person maliciously causes a child under the age of 18 cruel or excessive physical or mental pain.
- (c) Any person commits the offense of cruelty to children in the second degree when such person with criminal negligence causes a child under the age of 18 cruel or excessive physical or mental pain.
- (d) Any person commits the offense of cruelty to children in the third degree when:
  - (1) Such person, who is the primary aggressor, intentionally allows a child under the age of 18 to witness the commission of a forcible felony, battery, or family violence battery; or
  - (2) Such person, who is the primary aggressor, having knowledge that a child under the age of 18 is present and sees or hears the act, commits a forcible felony, battery, or family violence battery.
- (e) (1) A person convicted of the offense of cruelty to children in the first degree as provided in this Code section shall be punished by imprisonment for not less than five nor more than 20 years.

- (2) A person convicted of the offense of cruelty to children in the second degree shall be punished by imprisonment for not less than one nor more than ten years.
- (3) A person convicted of the offense of cruelty to children in the third degree shall be punished as for a misdemeanor upon the first or second conviction. Upon conviction of a third or subsequent offense of cruelty to children in the third degree, the defendant shall be guilty of a felony and shall be sentenced to a fine not less than \$1,000.00 nor more than \$5,000.00 or imprisonment for not less than one year nor more than three years or shall be sentenced to both fine and imprisonment.

### **§ 16-5-90. Stalking; psychological evaluation**

(a)

- (1) A person commits the offense of stalking when he or she follows, places under surveillance, or contacts another person at or about a place or places without the consent of the other person for the purpose of harassing and intimidating the other person. For the purpose of this article, the terms "computer" and "computer network" shall have the same meanings as set out in Code Section 16-9-92; the term "contact" shall mean any communication including without being limited to communication in person, by telephone, by mail, by broadcast, by computer, by computer network, or by any other electronic device; and the place or places that contact by telephone, mail, broadcast, computer, computer network, or any other electronic device is deemed to occur shall be the place or places where such communication is received. For the purpose of this article, the term "place or places" shall include any public or private property occupied by the victim other than the residence of the defendant. For the purposes of this article, the term "harassing and intimidating" means a knowing and willful course of conduct directed at a specific person which causes emotional distress by placing such person in reasonable fear for such person's safety or the safety of a member of his or her immediate family, by establishing a pattern of harassing and intimidating behavior, and which serves no legitimate purpose. This Code section shall not be construed to require that an overt threat of death or bodily injury has been made.
- (2) A person commits the offense of stalking when such person, in violation of a bond to keep the peace posted pursuant to Code Section 17-6-110, standing order issued under Code Section 19-1-1, temporary restraining order, temporary protective order, permanent restraining order, permanent protective order, preliminary injunction, or permanent injunction or condition of pretrial release, condition of probation, or condition of parole in effect prohibiting the harassment or intimidation of another person, broadcasts or publishes, including electronic publication, the picture, name, address, or phone number of a person for whose benefit the bond, order, or condition was made and without such

person's consent in such a manner that causes other persons to harass or intimidate such person and the person making the broadcast or publication knew or had reason to believe that such broadcast or publication would cause such person to be harassed or intimidated by others.

- (b) Except as provided in subsection (c) of this Code section, a person who commits the offense of stalking is guilty of a misdemeanor.
- (c) Upon the second conviction, and all subsequent convictions, for stalking, the defendant shall be guilty of a felony and shall be punished by imprisonment for not less than one year nor more than ten years.
- (d) Before sentencing a defendant for any conviction of stalking under this Code section or aggravated stalking under Code Section 16-5-91, the sentencing judge may require psychological evaluation of the offender and shall consider the entire criminal record of the offender. At the time of sentencing, the judge is authorized to issue a permanent restraining order against the offender to protect the person stalked and the members of such person's immediate family, and the judge is authorized to require psychological treatment of the offender as a part of the sentence, or as a condition for suspension or stay of sentence, or for probation.

### **§ 16-5-91. Aggravated stalking**

- (a) A person commits the offense of aggravated stalking when such person, in violation of a bond to keep the peace posted pursuant to Code Section 17-6-110, temporary restraining order, temporary protective order, permanent restraining order, permanent protective order, preliminary injunction, good behavior bond, or permanent injunction or condition of pretrial release, condition of probation, or condition of parole in effect prohibiting the behavior described in this subsection, follows, places under surveillance, or contacts another person at or about a place or places without the consent of the other person for the purpose of harassing and intimidating the other person.
- (b) Any person convicted of a violation of subsection (a) of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years and by a fine of not more than \$10,000.00. The provisions of subsection (d) of Code Section 16-5-90 apply to sentencing for conviction of aggravated stalking.

## **§ 16-5-92. Applicability**

The provisions of Code Sections 16-5-90 and 16-5-91 shall not apply to persons engaged in activities protected by the Constitution of the United States or of this state or to persons or employees of such persons lawfully engaged in bona fide business activity or lawfully engaged in the practice of a profession.

## **§ 16-5-93. Right of victim to notification of release or escape of stalker.**

- (a) The victim of stalking or aggravated stalking shall be entitled to notice of the release from custody of the person arrested for and charged with the offense of stalking or aggravated stalking and to notice of any hearing on the issue of bail for such person. No such notice shall be required unless the victim provides a landline telephone number other than a pocket pager or electronic communication device number to which such notice can be directed.
- (b) The law enforcement agency, prosecutor, or court directly involved with the victim at the outset of a criminal prosecution for the offense of stalking or aggravated stalking shall advise the victim of his or her right to notice and of the requirement of the victim's providing a landline telephone number other than a pocket pager or electronic communication device number to which the notice of custodial release or bail hearing can be directed. Such victim shall transmit the telephone number described in this subsection to the court and custodian of the person charged with stalking or aggravated stalking.
- (c) Upon receipt of the telephone number, the custodian of the person charged with stalking or aggravated stalking shall take reasonable and necessary steps under the circumstances to notify the victim of the person's release from custody. Such notice shall, at a minimum, include:
  - (1) Prior to the person's release, placing a telephone call to the number provided by the victim and giving notice to the victim or any person answering the telephone who appears to be sui juris or by leaving an appropriate message on a telephone answering machine; and
  - (2) Following the person's release, if the custodian is unable to notify the victim by the method provided in paragraph (1) of this subsection, telephoning the number provided by the victim no less than two times in no less than 15 minute intervals within one hour of custodial release and giving notice to the victim or to any person answering the telephone who appears to be sui juris or by leaving an appropriate message on a telephone answering machine.
- (d) Upon receipt of the telephone number, the court conducting a hearing on the issue of bail shall take reasonable and necessary steps under the circumstances to notify the victim of any scheduled hearing on the issue of bail. Such notice shall, at a minimum, include placing a

telephone call to the number provided by the victim prior to any scheduled hearing on the issue of bail.

- (e) Notwithstanding any other provision of this Code section, a scheduled bail hearing or the release of the person charged with stalking or aggravated stalking shall not be delayed solely for the purpose of effectuating notice pursuant to this Code section for a period of more than 30 minutes.
- (f) Upon the person's release or escape from custody after conviction and service of all or a portion of a sentence, notification to the victim shall be provided by the State Board of Pardons and Paroles as set forth in Code Sections 42-9-46 and 42-9-47.
- (g) This Code section shall not apply to a custodian who is transferring a person charged with stalking or aggravated stalking to another custodian in this state.
- (h) As used in this Code section, the term "custodian" means a warden, sheriff, jailer, deputy sheriff, police officer, officer or employee of the Department of Juvenile Justice, or any other law enforcement officer having actual custody of an inmate.
- (i) A custodian or his or her employing agency shall not be liable in damages for a failure to provide the notice required by this Code section, but the custodian shall be subject to appropriate disciplinary action including termination for such failure.

#### **§ 16-5-94. Restraining orders; protective orders**

- (a) A person who is not a minor who alleges stalking by another person may seek a restraining order by filing a petition alleging conduct constituting stalking as defined in Code Section 16-5-90. A person who is not a minor may also seek relief on behalf of a minor by filing such a petition.
- (b) Jurisdiction for such a petition shall be the same as for family violence petitions as set out in Code Section 19-13-2.
- (c) Upon the filing of a verified petition in which the petitioner alleges with specific facts that probable cause exists to establish that stalking by the respondent has occurred in the past and may occur in the future, the court may order such temporary relief ex parte as it deems necessary to protect the petitioner or a minor of the household from stalking. If the court issues an ex parte order, a copy of the order shall be immediately furnished to the petitioner.
- (d) The court may grant a protective order or approve a consent agreement to bring about a cessation of conduct constituting stalking. Orders or agreements may:
  - (1) Direct a party to refrain from such conduct;
  - (2) Order a party to refrain from harassing or interfering with the other;

- (3) Award costs and attorney's fees to either party; and
- (4) Order either or all parties to receive appropriate psychiatric or psychological services as a further measure to prevent the recurrence of stalking.
- (e) The provisions of subsections (c) and (d) of Code Section 19-13-3, subsections (b), (c), and (d) of Code Section 19-13-4, and Code Section 19-13-5, relating to family violence petitions, shall apply to petitions filed pursuant to this Code section, except that the clerk of court may provide forms for petitions and pleadings to persons alleging conduct constituting stalking and to any other person designated by the superior court pursuant to this Code section as authorized to advise persons alleging conduct constituting stalking on filling out and filing such petitions and pleadings.

### **§ 16-5-95. Offense of violating family violence order; penalty**

- (a) As used in this Code section, the term:
  - (1) "Civil family violence order" means any temporary protective order or permanent protective order issued pursuant to Article 1 of Chapter 13 of Title 19.
  - (2) "Criminal family violence order" means:
    - (A) Any order of pretrial release issued as a result of an arrest for an act of family violence; or
    - (B) Any order for probation issued as a result of a conviction or plea of guilty, nolo contendere, or first offender to an act of family violence.
  - (3) "Family violence" shall have the same meaning as set forth in Code Section 19-13-1.
- (b) A person commits the offense of violating a civil family violence order or criminal family violence order when such person knowingly and in a nonviolent manner violates the terms of such order issued against that person, which:
  - (1) Excludes, evicts, or excludes and evicts the person from a residence or household;
  - (2) Directs the person to stay away from a residence, workplace, or school;
  - (3) Restrains the person from approaching within a specified distance of another person; or
  - (4) Restricts the person from having any contact, direct or indirect, by telephone, pager, facsimile, e-mail, or any other means of communication with another person, except as specified in such order.
- (c) Any person convicted of a violation of subsection (b) of this Code section shall be guilty of a misdemeanor.

- (d) Nothing contained in this Code section shall prohibit a prosecution for the offense of stalking or aggravated stalking that arose out of the same course of conduct; provided, however, that, for purposes of sentencing, a violation of this Code section shall be merged with a violation of any provision of Code Section 16-5-90 or 16-5-91 that arose out of the same course of conduct.

**§ 16-5-96. Publication of second or subsequent conviction of stalking or aggravated stalking; cost of publication; good faith publications immune from liability**

- (a) The clerk of the court in which a person is convicted of a second or subsequent violation of Code Section 16-5-90 or 16-5-91 shall cause to be published a notice of conviction for such person. Such notice of conviction shall be published in the manner of legal notices in the legal organ of the county in which such person resides or, in the case of nonresidents, in the legal organ of the county in which the person was convicted. Such notice of conviction shall be one column wide by two inches long and shall contain the photograph taken by the arresting law enforcement agency at the time of arrest; the name and address of the convicted person; the date, time, and place of arrest; and the disposition of the case and shall be published once in the legal organ of the appropriate county in the second week following such conviction or as soon thereafter as publication may be made.
- (b) The convicted person for which a notice of conviction is published pursuant to this Code section shall be assessed \$25.00 for the cost of publication of such notice and such assessment shall be imposed at the time of conviction in addition to any other fine imposed.
- (c) The clerk of the court, the publisher of any legal organ which publishes a notice of conviction, and any other person involved in the publication of an erroneous notice of conviction shall be immune from civil or criminal liability for such erroneous publication, provided that such publication was made in good faith.

**§ 16-5-100. Definitions**

As used in this article, the term:

- (1) "Alzheimer's disease" means a progressive, degenerative disease or condition that attacks the brain and results in impaired memory, thinking, and behavior.
- (2) "Dementia" means:



- (A) An irreversible global loss of cognitive function causing evident intellectual impairment which always includes memory loss, without alteration of state of consciousness, as diagnosed by a physician, and is severe enough to interfere with work or social activities, or both, and to require at least intermittent care or supervision; or
  - (B) The comatose state of an adult resulting from any head injury.
- (3) "Disabled adult" means a person 18 years of age or older who is mentally or physically incapacitated or has Alzheimer's disease or dementia.
  - (4) "Elder person" means a person 65 years of age or older.
  - (5) "Essential services" means social, medical, psychiatric, or legal services necessary to safeguard a disabled adult's, elder person's, or resident's rights and resources and to maintain the physical and mental well-being of such person. Such services may include, but not be limited to, the provision of medical care for physical and mental health needs, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, and protection from health and safety hazards.
  - (6) "Exploit" means illegally or improperly using a disabled adult or elder person or that person's resources through undue influence, coercion, harassment, duress, deception, false representation, false pretense, or other similar means for one's own or another person's profit or advantage.
  - (7) "Long-term care facility" means any skilled nursing facility, intermediate care home, assisted living community, community living arrangement, or personal care home subject to regulation and licensure by the Department of Community Health.
  - (7.1) "Mentally or physically incapacitated" means an impairment which substantially affects an individual's ability to:
    - (A) Provide personal protection;
    - (B) Provide necessities, including but not limited to food, shelter, clothing, medical, or other health care;
    - (C) Carry out the activities of daily living; or
    - (D) Manage his or her resources.
  - (8) "Resident" means any person who is receiving treatment or care in any long-term care facility.
  - (9) "Sexual abuse" means the coercion for the purpose of self-gratification by a guardian or other person supervising the welfare or having immediate charge, control, or custody of a disabled adult, elder person, or resident to engage in any of the following conduct:
    - (A) Lewd exhibition of the genitals or pubic area of any person;

- (B) Flagellation or torture by or upon a person who is unclothed or partially unclothed;
- (C) Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is unclothed or partially clothed unless physical restraint is medically indicated;
- (D) Physical contact in an act of sexual stimulation or gratification with any person's unclothed genitals, pubic area, or buttocks or with a female's nude breasts;
- (E) Defecation or urination for the purpose of sexual stimulation of the viewer; or
- (F) Penetration of the vagina or rectum by any object except when done as part of a recognized medical or nursing procedure.

**§ 16-5-102. Exploitation and intimidation of disabled adults, elder persons, and residents; obstruction of investigation.**

- (a) Any person who knowingly and willfully exploits a disabled adult, elder person, or resident, willfully inflicts physical pain, physical injury, sexual abuse, mental anguish, or unreasonable confinement upon a disabled adult, elder person, or resident, or willfully deprives of essential services a disabled adult, elder person, or resident shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one nor more than 20 years, a fine of not more than \$50,000.00, or both.
- (b) Any person who threatens, intimidates, or attempts to intimidate a disabled adult, elder person, or resident who is the subject of a report made pursuant to Chapter 5 of Title 30 or Article 4 of Chapter 8 of Title 31, or any other person cooperating with an investigation conducted pursuant to this Code section, shall be guilty of a misdemeanor of a high and aggravated nature.
- (c) Any person who willfully and knowingly obstructs or in any way impedes an investigation conducted pursuant to Chapter 5 of Title 30 or Article 4 of Chapter 8 of Title 31, upon conviction, shall be guilty of a misdemeanor of a high and aggravated nature.

**§ 16-5-104. Venue**

For the purpose of venue under this article, any violation of this article shall be considered to have been committed:

- (1) In any county in which any act was performed in furtherance of the violation; or
- (2) In any county in which any alleged victim resides.

### **§ 16-5-105. Applicability**

This article shall be cumulative and supplemental to any other law of this state.

### **§ 16-5-110. Publication of notice; information required; assessment for cost; immunity**

- (a) When a person who has been convicted of a crime for which that person is required to register under Code Section 42-1-12 makes his or her first report to a sheriff after such person's release from confinement, placement on probation, or upon establishing residency in the county, the sheriff shall cause to be published a notice of conviction and release from confinement of such person. Such notice shall be one column wide by two inches long and shall contain the photograph taken by the arresting law enforcement agency at the time of arrest; the name and address of the convicted person; if available, the date, time, and place of arrest; and the disposition of the case. The notice shall be published at or near the time the person registers with the sheriff at least once, and, at the sheriff's option, may be published more than once, in the legal organ of the appropriate county. The notice shall include the address of the Georgia Bureau of Investigation website for additional information regarding the sexual offender registry.
- (b) The convicted person for which a notice of conviction and release from confinement is published pursuant to subsection (a) of this Code section shall be assessed \$25.00 for the cost of publication of such notice, and such assessment shall be imposed at the time of reporting to the sheriff's office.
- (c) The sheriff, the publisher of any legal organ which publishes a notice of conviction and release from confinement, and any other person involved in the publication of an erroneous notice of conviction and release from confinement shall be immune from civil or criminal liability for such erroneous publication, provided that such publication was made in good faith.

## **Chapter 6. Sexual Offenses**

### **§ 16-6-1. Rape**

- (a) A person commits the offense of rape when he has carnal knowledge of:
  - (1) A female forcibly and against her will; or
  - (2) A female who is less than ten years of age.

Carnal knowledge in rape occurs when there is any penetration of the female sex organ by the male sex organ. The fact that the person allegedly raped is the wife of the defendant shall not be a defense to a charge of rape.

- (b) A person convicted of the offense of rape shall be punished by death, by imprisonment for life without parole, 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. Any person convicted under this Code section shall, in addition, be subject to the sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7.
- (c) When evidence relating to an allegation of rape is collected in the course of a medical examination of the person who is the victim of the alleged crime, the Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of Title 17, shall be responsible for the cost of the medical examination to the extent that expense is incurred for the limited purpose of collecting evidence.

### **§ 16-6-2. Sodomy; aggravated sodomy; medical expenses**

- (a)
  - (1) A person commits the offense of sodomy when he or she performs or submits to any sexual act involving the sex organs of one person and the mouth or anus of another.
  - (2) A person commits the offense of aggravated sodomy when he or she commits sodomy with force and against the will of the other person or when he or she commits sodomy with a person who is less than ten years of age. The fact that the person allegedly sodomized is the spouse of a defendant shall not be a defense to a charge of aggravated sodomy.
- (b)
  - (1) Except as provided in subsection (d) of this Code section, a person convicted of the offense of sodomy shall be punished by imprisonment for not less than one nor more than 20 years and shall be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.
  - (2) A person convicted of the offense of aggravated sodomy 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. Any person convicted under this Code section of the offense of aggravated sodomy shall, in addition, be subject to the sentencing and punishment provisions of Code Sections 17-10-6.1 and 17-10-7.

- (c) When evidence relating to an allegation of aggravated sodomy is collected in the course of a medical examination of the person who is the victim of the alleged crime, the Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of Title 17, shall be financially responsible for the cost of the medical examination to the extent that expense is incurred for the limited purpose of collecting evidence.
- (d) If the victim is at least 13 but less than 16 years of age and the person convicted of sodomy 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.

### **§ 16-6-3. Statutory rape**

- (a) A person commits the offense of statutory rape when he or she engages in sexual intercourse with any person under the age of 16 years and not his or her spouse, provided that no conviction shall be had for this offense on the unsupported testimony of the victim.
- (b) Except as provided in subsection (c) of this Code section, a person convicted of the offense of statutory rape shall be punished by imprisonment for not less than one nor more than 20 years; provided, however, that if the person so convicted is 21 years of age or older, such person shall be punished by imprisonment for not less than ten nor more than 20 years. Any person convicted under this subsection of the offense of statutory rape shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.
- (c) If the victim is at least 14 but less than 16 years of age and the person convicted of statutory rape 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.

### **§ 16-6-4. Child molestation; aggravated child molestation**

- (a) A person commits the offense of child molestation when 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.

### **§ 16-6-5. Enticing a child for indecent purposes**

- (a) A person commits the offense of enticing a child for indecent purposes when he or she solicits, entices, or takes any child under the age of 16 years to any place whatsoever for the purpose of child molestation or indecent acts.
- (b) Except as provided in subsection (c) of this Code section, a person convicted of the offense of enticing a child for indecent purposes shall be punished by imprisonment for not less than ten nor more than 30 years. Any person convicted under this Code section of the offense of enticing a child for indecent purposes shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.
- (c) If the victim is at least 14 but less than 16 years of age and the person convicted of enticing a child for indecent purposes 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.

#### **§ 16-6-5.1. Sexual assault by persons with supervisory or disciplinary authority; sexual assault by practitioner of psychotherapy against patient; consent not a defense; penalty upon conviction for sexual assault**

- (a) As used in this Code section, the term:
  - (1) "Actor" means a person accused of sexual assault.
  - (2) "Intimate parts" means the genital area, groin, inner thighs, buttocks, or breasts of a person.
  - (3) "Psychotherapy" means the professional treatment or counseling of a mental or emotional illness, symptom, or condition.
  - (4) "Sexual contact" means any contact between the actor and a person not married to the actor involving the intimate parts of either person for the purpose of sexual gratification of the actor.

- (5) "School" means any educational program or institution instructing children at any level, pre-kindergarten through twelfth grade, or the equivalent thereof if grade divisions are not used.
- (b) A person who has supervisory or disciplinary authority over another individual commits sexual assault when that person:
- (1) Is a teacher, principal, assistant principal, or other administrator of any school and engages in sexual contact with such other individual who the actor knew or should have known is enrolled at the same school; provided, however, that such contact shall not be prohibited when the actor is married to such other individual;
  - (2) Is an employee or agent of any community supervision office, county juvenile probation office, Department of Juvenile Justice juvenile probation office, or probation office under Article 6 of Chapter 8 of Title 42 and engages in sexual contact with such other individual who the actor knew or should have known is a probationer or parolee under the supervision of the such office;
  - (3) Is an employee or agent of a law enforcement agency and engages in sexual contact with such other individual who the actor knew or should have known is being detained by or is in the custody of any law enforcement agency;
  - (4) Is an employee or agent of a hospital and engages in sexual contact with such other individual who the actor knew or should have known is a patient or is being detained in the same hospital; or
  - (5) Is an employee or agent of a correctional facility, juvenile detention facility, facility providing services to a person with a disability, as such term is defined in Code Section 37-1-1, or a facility providing child welfare and youth services, as such term is defined in Code Section 49-5-3, who engages in sexual contact with such other individual who the actor knew or should have known is in the custody of such facility.
- (c) A person who is an actual or purported practitioner of psychotherapy commits sexual assault when he or she engages in sexual contact with another individual who the actor knew or should have known is the subject of the actor's actual or purported treatment or counseling or the actor uses the treatment or counseling relationship to facilitate sexual contact between the actor and such individual.
- (d) A person who is an employee, agent, or volunteer at any facility licensed or required to be licensed under Code Section 31-7-3, 31-7-12, or 31-7-12.2 or who is required to be licensed pursuant to Code Section 31-7-151 or 31-7-173 commits sexual assault when he or she engages in sexual contact with another individual who the actor knew or should have known had been admitted to or is receiving services from such facility or the actor.
- (e) Consent of the victim shall not be a defense to a prosecution under this Code section.



- (f) A person convicted of sexual assault shall be punished by imprisonment for not less than one nor more than 25 years or by a fine not to exceed \$100,000.00, or both; provided, however, that:
- (1) Except as provided in paragraph (2) of this subsection, any person convicted of the offense of sexual assault of a child under the age of 16 years shall be punished by imprisonment for not less than 25 nor more than 50 years and shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2; and
  - (2) If at the time of the offense the victim of the offense is at least 14 years of age but less than 16 years of age and the actor 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.

### **§ 16-6-6. Bestiality**

- (a) A person commits the offense of bestiality when he performs or submits to any sexual act with an animal involving the sex organs of the one and the mouth, anus, penis, or vagina of the other.
- (b) A person convicted of the offense of bestiality shall be punished by imprisonment for not less than one nor more than five years.

### **§ 16-6-7. Necrophilia**

- (a) A person commits the offense of necrophilia when he performs any sexual act with a dead human body involving the sex organs of the one and the mouth, anus, penis, or vagina of the other.
- (b) A person convicted of the offense of necrophilia shall be punished by imprisonment for not less than one nor more than ten years.

### **§ 16-6-8. Public indecency**

- (a) A person commits the offense of public indecency when he or she performs any of the following acts in a public place:
  - (1) An act of sexual intercourse;
  - (2) A lewd exposure of the sexual organs;
  - (3) A lewd appearance in a state of partial or complete nudity; or

- (4) A lewd caress or indecent fondling of the body of another person.
- (b) A person convicted of the offense of public indecency as provided in subsection (a) of this Code section shall be punished as for a misdemeanor except as provided in subsection (c) of this Code section.
- (c) Upon a third or subsequent conviction for public indecency for the violation of paragraph (2), (3), or (4) of subsection (a) of this Code section, a person shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than five years.
- (d) For the purposes of this Code section only, "public place" shall include jails and penal and correctional institutions of the state and its political subdivisions.
- (e) This Code section shall be cumulative to and shall not prohibit the enactment of any other general and local laws, rules, and regulations of state and local authorities or agencies and local ordinances prohibiting such activities which are more restrictive than this Code section.

### **§ 16-6-22. Incest**

- (a) A person commits the offense of incest when such person engages in sexual intercourse or sodomy, as such term is defined in Code Section 16-6-2, with a person whom he or she knows he or she is related to either by blood or by marriage as follows:
  - (1) Father and child or stepchild;
  - (2) Mother and child or stepchild;
  - (3) Siblings of the whole blood or of the half-blood;
  - (4) Grandparent and grandchild of the whole blood or of the half-blood;
  - (5) Aunt and niece or nephew of the whole blood or of the half-blood; or
  - (6) Uncle and niece or nephew of the whole blood or of the half-blood.
- (b) A person convicted of the offense of incest shall be punished by imprisonment for not less than ten nor more than 30 years; provided, however, that any person convicted of the offense of incest under this subsection with a child under the age of 14 years shall be punished by imprisonment for not less than 25 nor more than 50 years. Any person convicted under this Code section of the offense of incest shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

### **§ 16-6-22.1. Sexual battery**

- (a) For the purposes of this Code section, the term "intimate parts" means the primary genital area, anus, groin, inner thighs, or buttocks of a male or female and the breasts of a female.
- (b) A person commits the offense of sexual battery when he or she intentionally makes physical contact with the intimate parts of the body of another person without the consent of that person.
- (c) Except as otherwise provided in this Code section, a person convicted of the offense of sexual battery shall be punished as for a misdemeanor of a high and aggravated nature.
- (d) A person convicted of the offense of sexual battery against any child under the age of 16 years shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than five years.
- (e) Upon a second or subsequent conviction under subsection (b) of this Code section, a person shall be guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one nor more than five years and, in addition, shall be subject to the sentencing and punishment provisions of Code Section 17-10-6.2.

### **§ 16-6-22.2. Aggravated sexual battery**

- (a) For the purposes of this Code section, the term "foreign object" means any article or instrument other than the sexual organ of a person.
- (b) A person commits the offense of aggravated sexual battery when he or she intentionally penetrates with a foreign object the sexual organ or anus of another person without the consent of that person.
- (c) A person convicted of the offense of aggravated sexual battery 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.

### **§ 16-6-23. Publication of name or identity of female raped or assaulted with intent to commit rape**

- (a) It shall be unlawful for any news media or any other person to print and publish, broadcast, televise, or disseminate through any other medium of public dissemination or cause to be printed and published, broadcast, televised, or disseminated in any newspaper, magazine, periodical, or other publication published in this state or through any radio or television broadcast originating in the state the name or identity of any female who may have been

raped or upon whom an assault with intent to commit the offense of rape may have been made.

- (b) This Code section does not apply to truthful information disclosed in public court documents open to public inspection.
- (c) Any person or corporation violating this Code section shall be guilty of a misdemeanor.

**§ 16-6-25. Harboring, concealing, or withholding information concerning a sexual offender; penalties**

- (a) As used in this Code section, the term "law enforcement unit" means any agency, organ, or department of this state, or a subdivision or municipality thereof, whose primary functions include the enforcement of criminal or traffic laws; the preservation of public order; the protection of life and property; or the prevention, detection, or investigation of crime. Such term shall also include the Department of Corrections, the Department of Community Supervision, and the State Board of Pardons and Paroles.
- (b) Any person who knows or reasonably believes that a sexual offender, as defined in Code Section 42-1-12, is not complying, or has not complied, with the requirements of Code Section 42-1-12 and who, with the intent to assist such sexual offender in eluding a law enforcement unit that is seeking such sexual offender to question him or her about, or to arrest him or her for, his or her noncompliance with the requirements of Code Section 42-1-12:
  - (1) Harbors, attempts to harbor, or assists another person in harboring or attempting to harbor such sexual offender;
  - (2) Conceals, attempts to conceal, or assists another person in concealing or attempting to conceal such sexual offender; or
  - (3) Provides information to the law enforcement unit regarding such sexual offender which the person knows to be false information

commits a felony and shall be punished by imprisonment for not less than five nor more than 20 years.

**Chapter 12. Offenses Against Public Health And Morals**

**§ 16-12-100. Sexual exploitation of children; reporting violation; civil forfeiture; penalties**

- (a) As used in this Code section, the term:
- (1) "Minor" means any person under the age of 18 years.
  - (2) "Performance" means any play, dance, or exhibit to be shown to or viewed by an audience.
  - (3) "Producing" means producing, directing, manufacturing, issuing, or publishing.
  - (4) "Sexually explicit conduct" means actual or simulated:
    - (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
    - (B) Bestiality;
    - (C) Masturbation;
    - (D) Lewd exhibition of the genitals or pubic area of any person;
    - (E) Flagellation or torture by or upon a person who is nude;
    - (F) Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude;
    - (G) Physical contact in an act of apparent sexual stimulation or gratification with any person's unclothed genitals, pubic area, or buttocks or with a female's nude breasts;
    - (H) Defecation or urination for the purpose of sexual stimulation of the viewer; or
    - (I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.
  - (5) "Visual medium" means any film, photograph, negative, slide, magazine, or other visual medium.
- (b)
- (1) It is unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in or assist any other person to engage in any sexually explicit conduct for the purpose of producing any visual medium depicting such conduct.
  - (2) It is unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit the minor to engage in or to assist any other person to engage in sexually explicit conduct for the purpose of producing any visual medium depicting such conduct.
  - (3) It is unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in or assist any other person to engage in any sexually explicit conduct for the purpose of any performance.

- (4) It is unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit the minor to engage in or to assist any other person to engage in sexually explicit conduct for the purpose of any performance.
  - (5) It is unlawful for any person knowingly to create, reproduce, publish, promote, sell, distribute, give, exhibit, or possess with intent to sell or distribute any visual medium which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct.
  - (6) It is unlawful for any person knowingly to advertise, sell, purchase, barter, or exchange any medium which provides information as to where any visual medium which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct can be found or purchased.
  - (7) It is unlawful for any person knowingly to bring or cause to be brought into this state any material which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct.
  - (8) It is unlawful for any person knowingly to possess or control any material which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct.
- (c) A person who, in the course of processing or producing visual or printed matter either privately or commercially, has reasonable cause to believe that the visual or printed matter submitted for processing or producing depicts a minor engaged in sexually explicit conduct shall immediately report such incident, or cause a report to be made, to the Georgia Bureau of Investigation or the law enforcement agency for the county in which such matter is submitted. Any person participating in the making of a report or causing a report to be made pursuant to this subsection or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, providing such participation pursuant to this subsection is made in good faith.
- (d) The provisions of subsection (b) of this Code section shall not apply to:
- (1) The activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses;
  - (2) Legitimate medical, scientific, or educational activities; or
  - (3) Any person who creates or possesses a visual medium depicting only himself or herself engaged in sexually explicit conduct.
- (e)
- (1) As used in this subsection, the terms "proceeds" and "property" shall have the same meaning as set forth in Code Section 9-16-2

- (2) Any property which is, directly or indirectly, used or intended to be used in any manner to facilitate a violation of this Code section and any proceeds are declared to be contraband and no person shall have a property right in them.
- (3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

(f)

- (1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, any person who violates a provision of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five nor more than 20 years and by a fine of not more than \$100,000.00; provided, however, that if the person so convicted is a member of the immediate family of the victim, no fine shall be imposed.
- (2) Any person who violates subsection (c) of this Code section shall be guilty of a misdemeanor.
- (3) Any person who violates paragraph (1), (5), (7), or (8) of subsection (b) of this Code section shall be guilty of a misdemeanor if:
  - (A) The minor depicted was at least 14 years of age at the time the visual medium was created;
  - (B) The visual medium was created with the permission of the minor depicted; and
  - (C) The defendant was 18 years of age or younger at the time of the offense and:
    - i. The defendant's violation of such paragraphs did not involve the distribution of such visual medium to another person; or
    - ii. In the court's discretion, and when the prosecuting attorney and the defendant have agreed, if the defendant's violation of such paragraphs involved the distribution of such visual medium to another person but such distribution was not for the purpose of:
      - I. Harassing, intimidating, or embarrassing the minor depicted; or
      - II. For any commercial purpose.

### **§ 16-12-100.1. Electronically furnishing obscene material to minors**

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

- (1) "Bulletin board system" means a computer data and file service that is accessed wirelessly or by physical connection to store and transmit information.

- (2) "CD-ROM" means a compact disc with read only memory which has the capacity to store audio, video, and written materials and is used by computers to reveal the above-said material.
  - (3) "Electronically furnishes" means:
    - (A) To make available by electronic storage device, including floppy disks and other magnetic storage devices, or by CD-ROM; or
    - (B) To make available by allowing access to information stored in a computer, including making material available by operating a computer bulletin board system.
  - (4) "Harmful to minors" means that quality of description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it:
    - (A) Taken as a whole, predominantly appeals to the prurient, shameful, or morbid interest of minors;
    - (B) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and
    - (C) Is, when taken as a whole, lacking in serious literary, artistic, political, or scientific value for minors.
  - (5) "Minor" means an unmarried person younger than 18 years of age.
  - (6) "Sadomasochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.
  - (7) "Sexual conduct" means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas, or buttocks of the human male or female or the breasts of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.
  - (8) "Sexual excitement" means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation.
- (b) A person commits the crime of electronically furnishing obscene materials to minors if:
- (1) Knowing or having good reason to know the character of the material furnished, the person electronically furnishes to an individual whom the person knows or should have known is a minor:



- (A) Any picture, photograph, drawing, or similar visual representation or image of a person or portion of a human body which depicts sexually explicit nudity, sexual conduct, or sadomasochistic abuse and which is harmful to minors; or
- (B) Any written or aural matter that contains material of the nature described in subparagraph (A) of this paragraph or contains explicit verbal descriptions or narrative accounts of sexual conduct, sexual excitement, or sadomasochistic abuse;
- (2) The offensive portions of the material electronically furnished to the minor are not merely an incidental part of an otherwise nonoffending whole;
- (3) The material furnished to the minor, taken as a whole, lacks serious literary, artistic, political, or scientific value; and
- (4) The material furnished to the minor, taken as a whole, is harmful to minors in that it appeals to and incites prurient interest.
- (c) Except as provided in subsection (d) of this Code section, any person who violates this Code section shall be guilty of a misdemeanor of a high and aggravated nature.
- (d) Any person who violates this Code section shall be guilty of a misdemeanor if:
  - (1) At the time of the offense, the minor receiving the obscene materials was at least 14 years of age;
  - (2) The receipt of the materials was with the permission of the minor; and
  - (3) The defendant was 18 years of age or younger.

### **§ 16-12-100.2. Computer or electronic pornography and child exploitation prevention**

- (a) This Code section shall be known and may be cited as the "Computer or Electronic Pornography and Child Exploitation Prevention Act of 2007."
- (b) As used in this Code section, the term:
  - (1) "Child" means any person under the age of 16 years.
  - (2) "Electronic device" means any device used for the purpose of communicating with a child for sexual purposes or any device used to visually depict a child engaged in sexually explicit conduct, store any image or audio of a child engaged in sexually explicit conduct, or transmit any audio or visual image of a child for sexual purposes. Such term may include, but shall not be limited to, a computer, cellular phone, thumb drive, video

game system, or any other electronic device that can be used in furtherance of exploiting a child for sexual purposes;

(3) "Identifiable child" means a person:

(A) Who was a child at the time the visual depiction was created, adapted, or modified or whose image as a child was used in creating, adapting, or modifying the visual depiction; and

(B) Who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature or by electronic or scientific means as may be available.

The term shall not be construed to require proof of the actual identity of the child.

(4) "Sadomasochistic abuse" has the same meaning as provided in Code Section 16-12-100.1.

(5) "Sexual conduct" has the same meaning as provided in Code Section 16-12-100.1.

(6) "Sexual excitement" has the same meaning as provided in Code Section 16-12-100.1.

(7) "Sexually explicit nudity" has the same meaning as provided in Code Section 16-12-102.

(8) "Visual depiction" means any image and includes undeveloped film and video tape and data stored on computer disk or by electronic means which is capable of conversion into a visual image or which has been created, adapted, or modified to show an identifiable child engaged in sexually explicit conduct.

(c)

(1) A person commits the offense of computer or electronic pornography if such person intentionally or willfully:

(A) Compiles, enters into, or transmits by computer or other electronic device;

(B) Makes, prints, publishes, or reproduces by other computer or other electronic device;

(C) Causes or allows to be entered into or transmitted by computer or other electronic device; or

(D) Buys, sells, receives, exchanges, or disseminates

any notice, statement, or advertisement, or any child's name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for the purpose of offering or soliciting sexual conduct of or with an identifiable child or the visual depiction of such conduct.

(2) Except as provided in paragraphs (3) and (4) of this subsection, any person convicted of violating paragraph (1) of this subsection shall be punished by a fine of not more than \$10,000.00 and by imprisonment for not less than one nor more than 20 years.

(3) Any person who violates paragraph (1) of this subsection shall be guilty of a misdemeanor if:

(A) At the time of the offense, any identifiable child visually depicted was at least 14 years of age when the visual depiction was created;

(B) The visual depiction was created with the permission of such child;

(C) The defendant possessed the visual depiction with the permission of such child; and

(D) The defendant was 18 years of age or younger at the time of the offense and:

(i) The defendant did not distribute the visual depiction to another person; or

(ii) In the court's discretion, and when the prosecuting attorney and the defendant have agreed, if the defendant's violation involved the distribution of such visual depiction to another person but such distribution was not for the purpose of:

(I) Harassing, intimidating, or embarrassing the minor depicted; or

(II) For any commercial purpose.

(4) The prohibition contained in paragraph (1) of this subsection shall not apply to any person who creates or possesses a visual depiction of only himself or herself.

(d)

(1) It shall be unlawful for any person intentionally or willfully to utilize a computer wireless service or Internet service, including, but not limited to, a local bulletin board service, Internet chat room, e-mail, instant messaging service, or other electronic device, to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice a child, another person believed by such person to be a child, any person having custody or control of a child, or another person believed by such person to have custody or control of a child to commit any illegal act by, with, or against a child as described in Code Section 16-6-2, relating to the offense of sodomy or aggravated sodomy; Code Section 16-6-4, relating to the offense of child molestation or aggravated child molestation; Code Section 16-6-5, relating to the offense of enticing a child for indecent purposes; or Code Section 16-6-8, relating to the offense of public indecency, or to engage in any conduct that by its nature is an unlawful sexual offense against a child.

(2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than 20 years and by a fine of not more than \$25,000.00; provided, however, that if at the time of the offense the victim was at least 14 years of age and the defendant was 18 years of age or younger, then the defendant shall be guilty of a misdemeanor.

(e)

- (1) A person commits the offense of obscene Internet contact with a child if he or she has contact with someone he or she knows to be a child or with someone he or she believes to be a child via a computer wireless service or Internet service, including, but not limited to, a local bulletin board service, Internet chat room, e-mail, or instant messaging service, and the contact involves any matter containing explicit verbal descriptions or narrative accounts of sexually explicit nudity, sexual conduct, sexual excitement, or sadomasochistic abuse that is intended to arouse or satisfy the sexual desire of either the child or the person, provided that no conviction shall be had for a violation of this subsection on the unsupported testimony of a child.
- (2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years or by a fine of not more than \$10,000.00; provided, however, that if at the time of the offense the victim was at least 14 years of age and the defendant was 18 years of age or younger, then the defendant shall be guilty of a misdemeanor.

(f)

- (1) It shall be unlawful for any owner or operator of a computer on-line service, Internet service, local bulletin board service, or other electronic device that is in the business of providing a service that may be used to sexually exploit a child to intentionally or willfully to permit a subscriber to utilize the service to commit a violation of this Code section, knowing that such person intended to utilize such service to violate this Code section. No owner or operator of a public computer on-line service, Internet service, local bulletin board service, or other electronic device that is in the business of providing a service that may be used to sexually exploit a child shall be held liable on account of any action taken in good faith in providing the aforementioned services.
  - (2) Any person who violates paragraph (1) of this subsection shall be guilty of a misdemeanor of a high and aggravated nature.
- (g) The sole fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this Code section shall not constitute a defense to prosecution under this Code section.
- (h) A person is subject to prosecution in this state pursuant to Code Section 17-2-1, relating to jurisdiction over crimes and persons charged with commission of crimes generally, for any conduct made unlawful by 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 this Code section which involves a child who resides in this state or another person believed by such person to be a child residing in this state; or

(2) Within this state if, by such conduct, the person commits a violation of this Code section which involves a child who resides within or outside this state or another person believed by such person to be a child residing within or outside this state.

(i) Any violation of this Code section shall constitute a separate offense.

### **§ 16-12-100.3. Obscene telephone contact; conviction; penalties**

(a) As used in this Code section, the terms "sexual conduct," "sexual excitement," and "sadoomasochistic abuse" have the same meanings as provided for those terms in Code Section 16-12-100.1, relating to electronically furnishing obscene materials to minors; the term "sexually explicit nudity" has the same meaning as provided for that term in Code Section 16-12-102, relating to distributing harmful materials to minors; and the term "child" means a person under 14 years of age.

(b) A person 17 years of age or over commits the offense of obscene telephone contact with a child if that person has telephone contact with an individual whom that person knows or should have known is a child, and that contact involves any aural matter containing explicit verbal descriptions or narrative accounts of sexually explicit nudity, sexual conduct, sexual excitement, or sadoomasochistic abuse which is intended to arouse or satisfy the sexual desire of either the child or the person, provided that no conviction shall be had for this offense on the unsupported testimony of the victim.

(c)

(1) Except as otherwise provided in other paragraphs of this subsection, a person convicted of the offense of obscene telephone contact with a child shall be guilty of a misdemeanor of a high and aggravated nature.

(2) Upon the first conviction of the offense of obscene telephone contact with a child:

(A) If the person convicted is less than 21 years of age, such person shall be guilty of a misdemeanor; or

(B) The judge may probate the sentence without regard to the age of the convicted person, and such probation may be upon the special condition that the defendant undergo a mandatory period of counseling administered by a licensed psychiatrist or a licensed psychologist. However, if the judge finds that such probation should not be imposed, the judge shall sentence the defendant to imprisonment; provided, further, that upon a defendant's being incarcerated on a conviction for such first offense, the place of incarceration shall provide counseling to such defendant.

(3) Upon a second or subsequent conviction of such offense, the defendant shall be guilty of a felony and punished by imprisonment for not less than one nor more than five years.

**§ 16-12-103. Selling, loaning, distributing, or exhibiting; duties of video game retailers**

- (a) It shall be unlawful for any person knowingly to sell or loan for monetary consideration or otherwise furnish or disseminate to a minor:
- (1) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct, or sadomasochistic abuse and which is harmful to minors; or
  - (2) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (1) of this subsection, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse and which, taken as a whole, is harmful to minors.
- (b)
- (1) It shall be unlawful for any person knowingly to sell or furnish to a minor an admission ticket or pass or knowingly to admit a minor to premises whereon there is exhibited a motion picture, show, or other presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct, or sadomasochistic abuse and which is harmful to minors or exhibit any such motion picture at any such premises which are not designed to prevent viewing from any public way of such motion picture by minors not admitted to any such premises.
  - (2) It shall be unlawful for any person knowingly to sell or to furnish to a person under the age of 21 an admission ticket or pass or knowingly to admit a person under the age of 21 to premises whereon there is exhibited a show or performance which is harmful to minors and which, in whole or in part, consists of sexually explicit nudity on the part of one or more live performers; sexual conduct on the part of one or more live performers; or sadomasochistic abuse on the part of one or more live performers.
- (c) It shall be unlawful for any person to falsely represent his or her age to any person mentioned in subsection (a) or subsection (b) of this Code section or to his or her agent with the intent to unlawfully procure any material set forth in subsection (a) of this Code section or with the intent to unlawfully procure such person's admission to any motion picture, show, or other presentation, as set forth in subsection (b) of this Code section.
- (d) It shall be unlawful for any person knowingly to make a false representation to any person mentioned in subsection (a) or subsection (b) of this Code section or to his or her agent that he or she is the parent or guardian of any minor or knowingly to make a false representation with respect to the age of another person with the intent to unlawfully

procure for such other person any material set forth in subsection (a) of this Code section or with the intent to unlawfully procure such other person's admission to any motion picture, show, or other presentation, as set forth in subsection (b) of this Code section.

- (e) It shall be unlawful for any person knowingly to exhibit, expose, or display in public at newsstands or any other business or commercial establishment or at any other public place frequented by minors or where minors are or may be invited as part of the general public:
- (1) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct, or sadomasochistic abuse and which is harmful to minors; or
  - (2) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (1) of this subsection, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sadomasochistic abuse and which, taken as a whole, is harmful to minors.
- (f)
- (1) As used in this subsection, the term:
    - (A) "Video game" means an object or device that stores recorded data or instructions, receives data or instructions generated by a person who uses it, and, by processing the data or instructions, creates an interactive game capable of being played, viewed, or experienced on or through a computer, gaming system, console, or other technology.
    - (B) "Video game retailer" means a person who sells or rents video games to the public.
  - (2) Every video game retailer shall post a sign providing information to consumers about any video game rating system which appears on a video game offered by such retailer. The sign shall be posted in a conspicuous place within the portion of the establishment dedicated to the display or advertisement of video games. Each video game retailer shall make available to consumers, upon request, written information explaining each such rating system.
  - (3) A person violating the provisions of this subsection shall be punished with a civil fine in an amount not less than \$250.00 and not more than \$500.00 for each violation. Each day in violation of this subsection shall constitute a separate offense.

# **Title 17. Criminal Procedure**

## **Chapter 3. Limitations on Prosecution**

### **§ 17-3-1. Generally**

- (a) A prosecution for murder may be commenced at any time.
- (b) Except as otherwise provided in Code Section 17-3-2.1, prosecution for other crimes punishable by death or life imprisonment shall be commenced within seven years after the commission of the crime except as provided by subsection (d) of this Code section; provided, however, that prosecution for the crime of forcible rape shall be commenced within 15 years after the commission of the crime.
- (c) Except as otherwise provided in Code Section 17-3-2.1, prosecution for felonies other than those specified in subsections (a), (b), and (d) of this Code section shall be commenced within four years after the commission of the crime, provided that prosecution for felonies committed against victims who are at the time of the commission of the offense under the age of 18 years shall be commenced within seven years after the commission of the crime.
- (d) A prosecution for the following offenses may be commenced at any time when deoxyribonucleic acid (DNA) evidence is used to establish the identity of the accused:
  - (1) Armed robbery, as defined in Code Section 16-8-41;
  - (2) Kidnapping, as defined in Code Section 16-5-40;
  - (3) Rape, as defined in Code Section 16-6-1;
  - (4) Aggravated child molestation, as defined in Code Section 16-6-4;
  - (5) Aggravated sodomy, as defined in Code Section 16-6-2; or
  - (6) Aggravated sexual battery, as defined in Code Section 16-6-22.2;provided, however, that a sufficient portion of the physical evidence tested for DNA is preserved and available for testing by the accused and provided, further, that if the DNA evidence does not establish the identity of the accused, the limitation on prosecution shall be as provided in subsections (b) and (c) of this Code section.
- (e) Prosecution for misdemeanors shall be commenced within two years after the commission of the crime.



## **§ 17-3-2. Periods excluded**

The period within which a prosecution must be commenced under Code Section 17-3-1 or other applicable statute does not include any period in which:

- (1) The accused is not usually and publicly a resident within this state;
- (2) The person committing the crime is unknown or the crime is unknown;
- (3) The accused is a government officer or employee and the crime charged is theft by conversion of public property while such an officer or employee; or
- (4) The accused is a guardian or trustee and the crime charged is theft by conversion of property of the ward or beneficiary.

### **§ 17-3-2.1. Exclusions for certain offenses involving a victim under 16 years of age**

(a) For crimes committed during the period beginning on July 1, 1992, and ending on June 30, 2012, if the victim of a violation of:

- (1) Cruelty to children, as defined in Code Section 16-5-70;
- (2) Rape, as defined in Code Section 16-6-1;
- (3) Sodomy or aggravated sodomy, as defined in Code Section 16-6-2;
- (4) Statutory rape, as defined in Code Section 16-6-3;
- (5) Child molestation or aggravated child molestation, as defined in Code Section 16-6-4;
- (6) Enticing a child for indecent purposes, as defined in Code Section 16-6-5; or
- (7) Incest, as defined in Code Section 16-6-22,

is under 16 years of age on the date of the violation, the applicable period within which a prosecution shall be commenced under Code Section 17-3-1 or other applicable statute shall not begin to run until the victim has reached the age of 16 or the violation is reported to a law enforcement agency, prosecuting attorney, or other governmental agency, whichever occurs earlier. Such law enforcement agency or other governmental agency shall promptly report such allegation to the appropriate prosecuting attorney.

(b) For crimes committed on and after July 1, 2012, if the victim of a violation of:

- (1) Trafficking a person for sexual servitude, as defined in Code Section 16-5-46;
- (2) Cruelty to children in the first degree, as defined in Code Section 16-5-70;
- (3) Rape, as defined in Code Section 16-6-1;

- (4) Aggravated sodomy, as defined in Code Section 16-6-2;
- (5) Child molestation or aggravated child molestation, as defined in Code Section 16-6-4;
- (6) Enticing a child for indecent purposes, as defined in Code Section 16-6-5; or
- (7) Incest, as defined in Code Section 16-6-22,  
is under 16 years of age on the date of the violation and the violation is not subject to punishment as provided in paragraph (2) of subsection (b) of Code Section 16-6-4, paragraph (2) of subsection (d) of Code Section 16-6-4, or subsection (c) of Code Section 16-6-5, a prosecution may be commenced at any time.

### **§ 17-3-2.2. Statute of limitations**

In addition to any periods excluded pursuant to Code Section 17-3-2, if the victim is a person who is 65 years of age or older, the applicable period within which a prosecution must be commenced under Code Section 17-3-1 or other applicable statute shall not begin to run until the violation is reported to or discovered by a law enforcement agency, prosecuting attorney, or other governmental agency, whichever occurs earlier. Such law enforcement agency or other governmental agency shall promptly report such allegation to the appropriate prosecuting attorney. Except for prosecutions for crimes for which the law provides a statute of limitations longer than 15 years, prosecution shall not commence more than 15 years after the commission of the crime.

### **§ 17-3-3. Other exclusions**

If an indictment is found within the time provided for in Code Section 17-3-1 or 17-3-2, or other applicable statute, and is quashed or a nolle prosequi entered, the limitation shall be extended six months from the time the first indictment is quashed or the nolle prosequi entered.

## **Chapter 5. Searches and Seizures**

### **Article 4: Investigating Sexual Assault**

#### **§ 17-5-70. Definitions**

As used in this article, the term:

- (1) "Forensic medical examination" means an examination by a health care provider of a person who is a victim of a sexual assault. Such examination shall include a physical

examination, documentation of biological and physical findings, and collection of physical evidence from the victim.

- (2) "Investigating law enforcement agency" means the law enforcement agency responsible for the investigation of the alleged sexual assault.
- (3) "Sexual assault" means rape, sodomy, aggravated sodomy, statutory rape, child molestation, aggravated child molestation, sexual assault against a person in custody, sexual assault against a person detained in a hospital or other institution, sexual assault by a practitioner of psychotherapy against a patient, incest, bestiality, sexual battery, and aggravated sexual battery as those terms and offenses are set forth and defined in Chapter 6 of Title 16.

### **§ 17-5-71. Preservation of evidence**

- (a) Except as otherwise provided in subsection (b) of this Code section or Code Section 17-5-55 or 17-5-56, on or after May 12, 2008, the investigating law enforcement agency shall maintain any physical evidence collected as a result of an alleged sexual assault that contains biological material, including, but not limited to, stains, fluids, or hair samples that relate to the identity of the perpetrator of an alleged sexual assault, for ten years after the report of the alleged sexual assault.
- (b) If the victim does not cooperate with law enforcement in the investigation or prosecution of an alleged sexual assault, the investigating law enforcement agency shall maintain any physical evidence collected as a result of such alleged sexual assault that contains biological material, including, but not limited to, stains, fluids, or hair samples that relate to the identity of the perpetrator of the alleged sexual assault, for not less than 12 months from the date any such physical evidence is collected.

### **§ 17-5-72. Right to free forensic medical examination**

A victim shall have the right to have a forensic medical examination regardless of whether the victim participates in the criminal justice system or cooperates with law enforcement in pursuing prosecution of the underlying crime. A victim shall not be required to pay, directly or indirectly, for the cost of a forensic medical examination. The cost of a forensic medical examination shall be paid for by the Georgia Crime Victims Emergency Fund, as provided for in Chapter 15 of this title.

### **§ 17-5-73. Victim's right to refuse request for polygraph examinations or other truth-telling devices**

No prosecuting attorney, investigating law enforcement agency, or government official shall ask or require any victim of a sexual assault to submit to a polygraph examination or any other truth-telling device as a condition precedent to investigating such alleged crime. The refusal of a victim to submit to a polygraph examination or any other truth-telling device shall not prevent an investigation or prosecution of any sexual assault.

## **Chapter 17. Crime Victims' Bill of Rights**

### **§ 17-17-1. Declaration of Policy**

The General Assembly hereby finds and declares it to be the policy of this state that victims of crimes should be accorded certain basic rights just as the accused are accorded certain basic rights. These rights include:

- (1) The right to reasonable, accurate, and timely notice of any scheduled court proceedings or any changes to such proceedings;
- (2) The right to reasonable, accurate, and timely notice of the arrest, release, or escape of the accused;
- (3) The right not to be excluded from any scheduled court proceedings, except as provided in this chapter or as otherwise required by law;
- (4) The right to be heard at any scheduled court proceedings involving the release, plea, or sentencing of the accused;
- (5) The right to file a written objection in any parole proceedings involving the accused;
- (6) The right to confer with the prosecuting attorney in any criminal prosecution related to the victim;
- (7) The right to restitution as provided by law;
- (8) The right to proceedings free from unreasonable delay; and
- (9) The right to be treated fairly and with dignity by all criminal justice agencies involved in the case.

### **§ 17-17-3. Definitions**

As used in this chapter, the term:

- (1) "Accused" means a person suspected of and subject to arrest for, arrested for, or convicted of a crime against a victim.
- (1.1) "Arrest" means an actual custodial restraint of a person or the person's submission to custody and includes the taking of a child into custody.
- (2) "Arresting law enforcement agency" means any law enforcement agency, other than the investigating law enforcement agency, which arrests the accused.
- (3) "Compensation" means awards granted by the Georgia Crime Victims Compensation Board pursuant to Chapter 15 of this title.
- (4) "Crime" means an act committed in this state which constitutes any violation of Chapter 5 of Title 16; Chapter 6 of Title 16; Article 1, 3, or 4 of Chapter 7 of Title 16; Article 1 or 2 of Chapter 8 of Title 16; Chapter 9 of Title 16; Part 3 of Article 3 of Chapter 12 of Title 16; Code Section 40-6-393; Code Section 40-6-393.1; or Code Section 40-6-394.
  - (4.1) "Criminal justice agency" means an arresting law enforcement agency, custodial authority, investigating law enforcement agency, prosecuting attorney, or the State Board of Pardons and Paroles.
- (5) "Custodial authority" means a warden, sheriff, jailer, deputy sheriff, police officer, correctional officer, officer or employee of the Department of Corrections or the Department of Juvenile Justice, community supervision officer or employee of the Department of Community Supervision, or any other law enforcement officer having actual custody of the accused.
- (6) "Investigating law enforcement agency" means the law enforcement agency responsible for the investigation of the crime.
- (7) "Notice," "notification," or "notify" means a written notice when time permits or, failing such, a documented effort to reach the victim by telephonic or other means.
- (8) "Person" means an individual.
- (9) "Prompt notice," "prompt notification," or "promptly notify" means notification given to the victim as soon as practically possible so as to provide the victim with a meaningful opportunity to exercise his or her rights pursuant to this chapter.
- (10) "Prosecuting attorney" means the district attorney, the solicitor-general of a state court or the solicitor of any other court, the Attorney General, a county attorney opposing an accused in a habeas corpus proceeding, or the designee of any of these.
- (11) "Victim" means:
  - (A) A person against whom a crime has been perpetrated or has allegedly been perpetrated; or

(B) In the event of the death of the crime victim, the following relations if the relation is not either in custody for an offense or the defendant:

- (i.) The spouse;
- (ii.) An adult child if division (i) does not apply;
- (iii.) A parent if divisions (i) and (ii) do not apply;
- (iv.) A sibling if divisions (i) through (iii) do not apply; or
- (v.) A grandparent if divisions (i) through (iv) do not apply; or

(C) A parent, guardian, or custodian of a crime victim who is a minor or a legally incapacitated person except if such parent, guardian, or custodian is in custody for an offense or is the defendant.

#### **§ 17-17-4. Designation of family member to act in place of physically disabled victim**

If a victim is physically unable to exercise privileges and rights under this chapter, the victim may designate by written instrument his or her spouse, adult child, parent, sibling, or grandparent to act in place of the victim during the duration of the physical disability. During the physical disability, notices to be provided under this chapter to the victim shall continue to be afforded only to the victim.

#### **§ 17-17-5. Notification to victim of accused's arrest, release, judicial proceedings, escape, and violations of electronic release and monitoring program**

(a) All victims, wherever practicable, shall be entitled to notification of:

- (1) The accused's arrest;
- (2) The accused's release from custody;
- (3) Any judicial proceeding at which the release of the accused will be considered;
- (4) An escape by the accused and his or her subsequent rearrest; and
- (5) If the accused is released from custody and the terms or conditions of such release require that the accused participate in an electronic release and monitoring program, the accused's violation of the terms or conditions of the electronic release and monitoring program, provided that an arrest warrant has been issued for the accused and the accused is prohibited from contacting the victim.

- (b) No such notification shall be required unless the victim provides a current address and telephone number to which such notice can be directed.
- (c) The criminal justice agency having knowledge of an event described in subsection (a) of this Code section shall provide notice to the victim of such event. Such agency shall advise the victim of his or her right to notification pursuant to this chapter and of the requirement of the victim's providing a current address and telephone number to which the notification shall be directed. Such victim shall transmit the telephone number described in this subsection to the appropriate criminal justice agency or custodial authority as provided for in this chapter.

**§ 17-17-6. Notification to victim of accused's pretrial release and of victims' rights and the availability of victims' compensation and services**

- (a) Upon initial contact with a victim, all law enforcement and court personnel shall make available to the victim the following information written in plain language:
  - (1) The possibility of pretrial release of the accused, the victim's rights and role in the stages of the criminal justice process, and the means by which additional information about these stages can be obtained;
  - (2) The availability of victim compensation and, if the victim has been trafficked for labor or sexual servitude as defined in Code Section 16-5-46, compensation available through the federal government pursuant to 22 U.S.C. Section 7105; and
  - (3) The availability of community based victim service programs.
- (b) The Criminal Justice Coordinating Council is designated as the coordinating entity between various law enforcement agencies, the courts, and social service delivery agencies. The Criminal Justice Coordinating Council shall develop and disseminate written information upon which law enforcement personnel may rely in disseminating the information required by this chapter.

**§ 17-17-7. Notification to victim of accused's arrest and proceedings where accused's release is considered; victim's right to express opinion in pending proceedings and to file written complaint in event of release**

- (a) Whenever possible, the investigating law enforcement agency shall give to a victim prompt notification as defined in paragraph (9) of Code Section 17-17-3 of the arrest of an accused.
- (b) The arresting law enforcement agency shall promptly notify the investigating law enforcement agency of the accused's arrest.

- (c) Whenever possible, the prosecuting attorney shall notify the victim prior to any proceeding in which the release of the accused will be considered.
- (d) Whenever possible, the prosecuting attorney shall offer the victim the opportunity to express the victim's opinion on the release of the accused pending judicial proceedings.
- (e)
  - (1) Whenever possible, the custodial authority shall give prompt notification to a victim of the release of the accused.
  - (2) Prompt notification of release from a county or municipal jail is effected by placing a telephone call to the telephone number provided by the victim and giving notice to the victim or any person answering the telephone who appears to be sui juris or by leaving an appropriate message on a telephone answering machine.
  - (3) Notification of release from the custody of the state or any county correctional facility shall be in the manner provided by law.
- (f) If the court has granted a pretrial release or supersedeas bond, the victim shall have the right to file a written complaint with the prosecuting attorney asserting acts or threats of physical violence or intimidation by the accused or at the accused's direction against the victim or the victim's immediate family. Based on the victim's written complaint or other evidence, the prosecuting attorney may move the court that the bond or personal recognizance of an accused be revoked.

**§ 17-17-8. Notification by prosecuting attorney of legal procedures and of victim's rights in relation thereto; victims seeking restitution**

- (a) Upon initial contact with a victim, a prosecuting attorney shall give prompt notification to the victim of the following:
  - (1) The procedural steps in processing a criminal case including the right to restitution;
  - (2) The rights and procedures of victims under this chapter;
  - (3) Suggested procedures if the victim is subjected to threats or intimidation;
  - (4) The names and telephone numbers of contact persons at both the office of the custodial authority and in the prosecuting attorney's office; and
  - (5) The names and telephone numbers of contact persons at the office of the investigating agency where the victim may make application for the return of any of the victim's property that was taken during the course of the investigation, as provided by Code Section 17-5-50.



(b) If requested in writing by the victim and to the extent possible, the prosecuting attorney shall give prompt advance notification of any scheduled court proceedings and notice of any changes to that schedule. Court proceedings shall include, but not be limited to, pretrial commitment hearings, arraignment, motion hearings, trial, sentencing, restitution hearings, appellate review, and post-conviction relief. The prosecuting attorney shall notify all victims of the requirement to make such request in writing.

(c)

(1) In the event the victim seeks restitution, the victim shall provide the prosecuting attorney with his or her legal name, address, phone number, social security number, date of birth, and, if the victim has an e-mail address, his or her e-mail address. The victim shall also provide such information, other than a social security number, to the prosecuting attorney for a secondary contact person in the event the victim cannot be reached after reasonable efforts are made to contact such victim. The prosecuting attorney shall advise the victim of any agency that will receive such information and advise the victim that he or she is responsible for updating such information with the prosecuting attorney while the case involving the victim is pending and that he or she should update the agency with such information after a restitution order has been entered.

(2) The prosecuting attorney shall transmit the information collected in paragraph (1) of this subsection to the Department of Corrections, Department of Community Supervision, Department of Juvenile Justice, or the State Board of Pardons and Paroles, as applicable, if an order of restitution is entered.

(3) The information collected pursuant to paragraph (1) of this subsection shall be treated as confidential and shall not be disclosed to any person outside of the disclosure provided by this subsection; such information shall not be subject to Article 4 of Chapter 18 of Title 50, relating to open records, or subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding.

### **§ 17-17-8.1. Procedures for a victim to be interviewed by an accused or accused's attorney or agent; duties and conditions**

(a) A victim shall have the right to refuse to submit to an interview by the accused, the accused's attorney, or an agent of the accused. It shall be the duty of the prosecuting attorney to advise a victim that he or she has the right to agree to such an interview or to refuse such an interview.

(b) If a victim agrees to be interviewed, such victim may set conditions for such interview as he or she desires. Conditions may include, but shall not be limited to, the time, date, and

location of the interview, what other persons may be present during the interview, any security arrangements for the interview, and whether or not the interview may be recorded. If requested by a victim, the prosecuting attorney or his or her agent may attend the interview. A victim has the right to terminate the interview at any time or to refuse to answer any question during the interview.

- (c) The accused, the accused's attorney, and any agent of the accused shall not contact a victim in an unreasonable manner; and if a victim has clearly expressed to any such party a desire not to be contacted, no contact shall be made. When making any permissible contact with the victim, the accused's attorney or an agent of the accused shall make a clear statement that he or she is contacting the victim on behalf of the accused.
- (d) For the purposes of this Code section, a peace officer shall not be considered a victim if the act that would have made the officer a victim occurs while the peace officer is acting within the scope of the officer's official duties.
- (e) Except as provided in this Code section, the prosecuting attorney shall not take any action to deny an accused's attorney access to a victim for the purpose of interviewing such victim.

### **§ 17-17-9. Exclusion of testifying victim from criminal proceedings; separate victims' waiting areas**

- (a) A victim has the right to be present at all criminal proceedings in which the accused has the right to be present. A victim or member of the immediate family of a victim shall not be excluded from any portion of any hearing, trial, or proceeding pertaining to the offense based solely on the fact that such person is subpoenaed to testify unless it is established that such victim or family member is a material and necessary witness to such hearing, trial, or proceeding and the court finds that there is a substantial probability that such person's presence would impair the conduct of a fair trial. The provisions of this Code section shall not be construed as impairing the authority of a judge to remove a person from a trial or hearing or any portion thereof for the same causes and in the same manner as the rules of court or law provides for the exclusion or removal of the accused. A motion to exclude a victim or family members from the courtroom for any reason other than misconduct shall be made and determined prior to jeopardy attaching.
- (b) A victim of a criminal offense who has been or may be subpoenaed to testify at such hearing or trial shall be exempt from the provisions of Code Section 24-6-615 requiring sequestration; provided, however, that the court shall require that the victim be scheduled to testify as early as practical in the proceedings.
- (c) If the victim is excluded from the courtroom, the victim shall have the right to wait in an area separate from the accused, from the family and friends of the accused, and from witnesses for

the accused during any judicial proceeding involving the accused, provided that such separate area is available and its use in such a manner practical. If such a separate area is not available or practical, the court, upon request of the victim made through the prosecuting attorney, shall attempt to minimize the victim's contact with the accused, the accused's relatives and friends, and witnesses for the accused during any such judicial proceeding.

### **§ 17-17-9.1. Protection of communications between victim assistance personnel and victims -- Privilege**

Communications between a victim, other than a peace officer, and victim assistance personnel appointed by a prosecuting attorney and any notes, memoranda, or other records made by such victim assistance personnel of such communication shall be considered attorney work product of the prosecuting attorney and not subject to disclosure except where such disclosure is required by law. Such work product shall be subject to other exceptions that apply to attorney work product generally.

### **§ 17-17-10. Requirement by court that defense counsel not disclose victim information to accused**

As a condition of permitting a response to an inquiry as to the victim's current address, telephone number, or place of employment, the court may require counsel or any other officer of the court, including but not limited to counsel for the defendant, not to transmit or permit transmission to the defendant of the victim's current address, telephone number, or place of employment by the counsel or officer of the court or any employee, agent, or other representative of the counsel or officer of the court.

### **§ 17-17-11. Right of victim to express opinion on disposition of accused's case**

The prosecuting attorney shall offer the victim the opportunity to express the victim's opinion on the disposition of an accused's case, including the views of the victim regarding:

- (1) Plea or sentence negotiations; and
- (2) Participation in pretrial or post-conviction diversion programs.

This provision shall not limit any other right created pursuant to state law.

**§ 17-17-12. Notification to victim of accused's motion for new trial or appeal, release on bail or recognizance, appellate proceedings, and outcome of appeal; notifications regarding death penalty cases; victim's rights retained at new trial or on appeal**

- (a) Upon the written request of the victim, the prosecuting attorney shall notify the victim of the following:
  - (1) That the accused has filed a motion for new trial, an appeal of his or her conviction, or an extraordinary motion for new trial;
  - (2) Whether the accused has been released on bail or other recognizance pending the disposition of the motion or appeal;
  - (3) The time and place of any appellate court proceedings relating to the motion or appeal and any changes in the time or place of those proceedings; and
  - (4) The result of the motion or appeal.
- (b) The Attorney General shall notify the prosecuting attorney of the filing of collateral attacks on convictions of this state which are being defended by the Attorney General.
- (b.1) In cases in which the accused is convicted of a capital offense and receives the death penalty, the Attorney General shall:
  - (1) Notify the prosecuting attorney and upon the written request of the victim notify the victim of the filing and disposition of all collateral attacks on such conviction which are being defended by the Attorney General, including, but not limited to, petitions for a writ of habeas corpus, and the time and place of any such proceedings and any changes in the time or place of those proceedings; and
  - (2) Provide the prosecuting attorney and upon the written request of the victim provide the victim with a report on the status of all pending appeals, collateral attacks, and other litigation concerning such conviction which is being defended by the Attorney General at least every six months until the accused dies or the sentence or conviction is overturned or commuted or otherwise reduced to a sentence other than the death penalty.
- (c) In the event the accused is granted a new trial or the conviction is reversed or remanded and the case is returned to the trial court for further proceedings, the victim shall be entitled to request the rights and privileges provided by this chapter.

**§ 17-17-12.1. Requests to prevent an accused from sending any form of written, text, or electronic communication to the victim's family, or the victim**

- (a) As used in this Code section, the term "mail" means any form of written communication, including, but not limited to, letters, cards, postcards, packages, parcels, and e-mail as defined by Code Section 16-9-100, text messaging, and any other form of electronic communication which is knowingly intended to be delivered to or received by a victim, any member of the victim's family, or any member of the victim's household.
- (b)
- (1) A victim shall have the right to request not to receive mail from an inmate who was convicted of committing a criminal offense against such victim or was adjudicated by the juvenile court of having committed a delinquent act or designed felony against such victim.
- (2) A victim's right to request not to receive mail from such inmate shall extend to any member of such victim's family or any member of such victim's household during the term of the sentence imposed or dispositional order for such offense.
- (3) As soon as practical following a conviction or adjudication, a victim shall be provided with the instructions for requesting that inmate mail be blocked as provided in subsection (c) of this Code section. If the conviction is from a state or superior court, it shall be the duty of the prosecuting attorney to provide a victim with such instructions. If the adjudication is from the juvenile court, such instructions shall be provided by the juvenile court.
- (c) The Department of Corrections and the Department of Juvenile Justice shall develop and provide to the prosecuting attorneys and juvenile courts, respectively, the procedures a victim shall follow in order to block inmate mail. Such procedures may include secure electronic means provided that an alternate, nonelectronic procedure is available for victims without access to a computer. Such departments shall also develop and implement appropriate administrative sanctions which shall be imposed against an inmate violating the provisions of this Code section.
- (d) If a victim submits a request to block inmate mail, the Department of Corrections, in the case of an adult, or the Department of Juvenile Justice, in the case of a juvenile, shall:
- (1) Notify any other custodial authority having actual custody of the inmate of the names and addresses of such victim and the family or household members denoted by such victim;
- (2) Notify the inmate of the request to have mail blocked and advise the inmate that sending mail directly or through any third party to such victim or the family or household members denoted by such victim is prohibited and will result in appropriate sanctions and review of all outgoing mail; and

- (3) Institute such procedures to ensure that the inmate cannot send mail directly or through any third party to such victim or the family or household members denoted by such victim.
- (e) Any custodial authority having actual custody of an inmate with mail restrictions shall not knowingly forward mail addressed to any person who requests not to receive mail pursuant to this Code section.
- (f) The imposition of sanctions by a custodial authority pursuant to this Code section shall not preclude the imposition of any other remedies provided by law, nor shall such sanctions bar prosecution of the inmate for any criminal offense which may have been committed in sending such mail.
- (g) Notwithstanding the provisions of Article 4 of Chapter 18 of Title 50, information concerning the names and addresses of a victim, and the family or household members denoted by such victim, who requests that inmate mail be blocked shall not be open to inspection by or made available to the public and shall not be subject to discovery in any civil or criminal case or administrative proceeding unless the court, after notice and a hearing, makes a finding of fact that such information is material and relevant to the case and that such information is not available from any other source.

**§ 17-17-13. Notification to victim of impending parole, release for period exceeding 60 days, or pardon; notice of hearing on request to commute death sentence**

The State Board of Pardons and Paroles shall give 20 days' advance notification to a victim whenever it considers making a final decision to grant parole, release a defendant for a period exceeding 60 days, or grant a pardon; and the board shall provide the victim with an opportunity to file a written objection to such action. Within 72 hours of receiving a request to commute a death sentence, the State Board of Pardons and Paroles shall provide notification to a victim of the date set for hearing such request and provide such victim an opportunity to file a written response to such request. No notification to the victim need be given unless the victim has expressed a desire for such notification and has provided the State Board of Pardons and Paroles with a current mailing or e-mail address and telephone number. Failure of the victim to inform the board of a change of address or telephone number shall not void a decision of the board.

**§ 17-17-14. Victim required to provide current address and phone number to notifying parties**

- (a) It is the right and responsibility of the victim who desires notification under this chapter or under any other notification statute to keep the following informed of the victim's current address and phone number:
- (1) The investigating law enforcement agency;
  - (2) The prosecuting attorney, until final disposition or completion of the appellate and post-conviction process, whichever occurs later;
  - (3) As directed by the prosecuting attorney, the sheriff if the accused is in the sheriff's custody for pretrial, trial, or post-conviction proceedings; the Department of Corrections if the accused is in the custody of the state; or any county correctional facility if the defendant is sentenced to serve time in a facility which is not a state facility;
  - (4) The Department of Community Supervision; and
  - (5) The State Board of Pardons and Paroles.
- (b) Current addresses and telephone numbers of victims and their names provided for the purposes of notification pursuant to this chapter or any other notification statute shall be confidential and used solely for the purposes of this chapter and shall not be subject to disclosure under Article 4 of Chapter 18 of Title 50, relating to inspection of public records.

**§ 17-17-15. Failure to provide notice not rendering responsible person liable or comprising basis for error; chapter not conferring standing; existing rights not affected; waiver of rights by victim**

- (a) Failure to provide or to timely provide any of the information or notifications required by this chapter shall not subject the person responsible for such notification or that person's employer to any liability for damages.
- (b) Failure to provide a victim with any of the rights required by law shall not give an accused a basis for error in either an appellate action or a post-conviction writ of habeas corpus.
- (c) This chapter does not confer upon a victim any standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.
- (d) The enumeration of these rights shall not be construed to deny or diminish other notification rights granted by state law.
- (e) The victim may waive any of the information or notification or other rights provided for by this chapter.

## § 17-17-16. Temporary restraining and protective orders

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

- (1) "Course of conduct" spans a series of acts over a period of time, however short, indicating a continuity of purpose.
- (2) "Harassment" means a course of conduct directed at a specific person that causes substantial emotional distress in such person.

(b)

- (1) A superior court, upon application of a prosecuting attorney, shall issue a temporary restraining order prohibiting harassment of a victim or witness in a criminal case if the court finds from specific facts shown by affidavit or by verified complaint that there are reasonable grounds to believe that harassment of an identified victim or witness in a criminal case exists or that such order is necessary to prevent and restrain an offense under Code Section 16-10-32 or 16-10-93.

(2)

- (A) A temporary restraining order may be issued under this Code section without written or oral notice to the adverse party or such party's attorney in a civil action under this Code section if the court finds, upon written certification of facts by the prosecuting attorney, that such notice should not be required and that there is a reasonable probability that the state will prevail on the merits.
- (B) A temporary restraining order issued without notice under this Code section shall be endorsed with the date and hour of issuance and be filed forthwith in the office of the clerk of the court issuing the order.
- (C) A temporary restraining order issued under this Code section shall expire at such time, not to exceed ten days from issuance, as the court directs. The court, for good cause shown before expiration of such order, may extend the expiration date of the order for up to ten days or for such longer period agreed to by the adverse party.
- (D) When a temporary restraining order is issued without notice, the motion for a protective order shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character; and at the hearing, if the prosecuting attorney does not proceed with the application for a protective order, the court shall dissolve the temporary restraining order.
- (E) If on two days' notice to the prosecuting attorney or on such shorter notice as the court may prescribe, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.



(F) A temporary restraining order shall set forth the reasons for the issuance of such order, be specific in terms, and describe in reasonable detail and not by reference to the complaint or other document the act or acts being restrained.

(c)

(1) A superior court, upon motion of the prosecuting attorney, shall issue a protective order prohibiting harassment of a victim or witness in a criminal case if the court, after a hearing, finds by a preponderance of the evidence that harassment of an identified victim or witness in a criminal case exists or that such order is necessary to prevent and restrain an offense under Code Section 16-10-32 or 16-10-93.

(2) At the hearing referred to in paragraph (1) of this subsection, any adverse party named in the complaint shall have the right to present evidence and cross-examine witnesses.

(3) A protective order shall set forth the reasons for the issuance of such order, be specific in terms, and describe in reasonable detail and not by reference to the complaint or other document the act or acts being restrained.

(4) The court shall set the duration of effect of the protective order for such period as the court determines necessary to prevent harassment of the victim or witness but in no case for a period in excess of three years from the date of such order's issuance. The prosecuting attorney may, at any time within 90 days before the expiration of such order, apply for a new protective order under this Code section.

(d) Article 5 of Chapter 11 of Title 9, relating to depositions and discovery, shall not apply to actions brought pursuant to this Code section.

## **Chapter 18. Written Statements Of Information To Victims Of Rape Or Forcible Sodomy**

### **§ 17-18-1. Duty of certain officials to offer written statement of information to victims of rape or forcible sodomy**

When any employee of the Department of Human Services, Department of Community Health, Department of Public Health, Department of Behavioral Health and Developmental Disabilities, a law enforcement agency, or a court has reason to believe that he or she in the course of official duties is speaking to an adult who is or has been a victim of a violation of Code Section 16-6-1, relating to rape, or Code Section 16-6-2, relating to aggravated sodomy, such employee shall offer or provide such adult a written statement of information for victims of rape or aggravated sodomy. Such written statement shall, at a minimum, include the information set out in Code Section 17-18-2 and may include additional

information regarding resources available to victims of sexual assault. Information for victims of rape or aggravated sodomy may be provided in any language.

## **§ 17-18-2. Information for victims of rape or forcible sodomy**

The following information in substantially the form set out in this Code section shall be provided to adult victims of rape or aggravated sodomy in accordance with Code Section 17-18-1:

### **"INFORMATION FOR VICTIMS OF RAPE OR FORCIBLE SODOMY**

If you are the victim of rape or forcible sodomy, you have certain rights under the law.

Rape or forcible sodomy by a stranger or a person known to you, including rape or forcible sodomy by a person married to you, is a crime. You can ask the government's lawyer to prosecute a person who has committed a crime. The government pays the cost of prosecuting for crimes.

If you are the victim of rape or forcible sodomy, you should contact a local police department or other law enforcement agency immediately. A police officer will come to take a report and collect evidence. You should keep any clothing you were wearing at the time of the crime as well as any other evidence such as bed sheets. Officers will take you to the hospital for a medical examination. You should not shower or douche before the examination. The law requires that the Georgia Crime Victims Emergency Fund pay for the medical examination to the extent of the cost for the collection of evidence of the crime."

## **Title 20. Education**

### **Chapter 2. Elementary and Secondary Education**

#### **Article 6. Quality Basic Education**

##### **Part 14. Other Educational Programs**

## **§ 20-2-314. Development of rape prevention, personal safety education, and teen dating violence prevention programs**

The State Board of Education shall develop, with input from appropriate experts, such as rape crisis centers and family violence shelters, a rape prevention and personal safety education program and a program for preventing teen dating violence for grade eight through grade 12 which are consistent with the content standards provided for in Code Section 20-2-140. Local boards may implement such programs at any time and for any grade level local boards find appropriate, and the state board shall encourage the implementation of such programs. In addition, the state board shall make information regarding such programs available to the Board of Regents of the University System of Georgia.

## **Title 24. Evidence**

### **Chapter 4. Relevant Evidence and Its Limits**

#### **§ 24-4-412. Complainant's past sexual behavior not admissible in prosecutions for certain sexual offenses; exceptions**

- (a) In any prosecution for rape in violation of Code Section 16-6-1; aggravated assault with the intent to rape in violation of Code Section 16-5-21; aggravated sodomy or sodomy in violation of Code Section 16-6-2; statutory rape in violation of Code Section 16-6-3; aggravated child molestation or child molestation in violation of Code Section 16-6-4; incest in violation of Code Section 16-6-22; sexual battery in violation of Code Section 16-6-22.1; or aggravated sexual battery in violation of Code Section 16-6-22.2, evidence relating to the past sexual behavior of the complaining witness shall not be admissible, either as direct evidence or on cross-examination of the complaining witness or other witnesses, except as provided in this Code section. For the purposes of this Code section, evidence of past sexual behavior includes, but is not limited to, evidence of the complaining witness's marital history, mode of dress, general reputation for promiscuity, nonchastity, or sexual mores contrary to the community standards.
- (b) In any prosecution for rape in violation of Code Section 16-6-1; aggravated assault with the intent to rape in violation of Code Section 16-5-21; aggravated sodomy or sodomy in violation of Code Section 16-6-2; statutory rape in violation of Code Section 16-6-3; aggravated child molestation or child molestation in violation of Code Section 16-6-4; incest in violation of Code Section 16-6-22; sexual battery in violation of Code Section 16-6-22.1; or aggravated sexual battery in violation of Code Section 16-6-22.2, evidence relating to the

past sexual behavior of the complaining witness may be introduced if the court, following the procedure described in subsection (c) of this Code section, finds that the past sexual behavior directly involved the participation of the accused and finds that the evidence expected to be introduced supports an inference that the accused could have reasonably believed that the complaining witness consented to the conduct complained of in the prosecution.

- (c) The procedure for introducing evidence as described in subsection (b) of this Code section shall be as follows:
  - (1) At the time the defense seeks to introduce evidence which would be covered by subsection (b) of this Code section, the defense shall notify the court of such intent, whereupon the court shall conduct an in camera hearing to examine the accused's offer of proof;
  - (2) At the conclusion of the hearing, if the court finds that any of the evidence introduced at the hearing is admissible under subsection (b) of this Code section or is so highly material that it will substantially support a conclusion that the accused reasonably believed that the complaining witness consented to the conduct complained of and that justice mandates the admission of such evidence, the court shall by order state what evidence may be introduced by the defense at the trial of the case and in what manner the evidence may be introduced; and
  - (3) The defense may then introduce evidence pursuant to the order of the court.

### **§ 24-4-413. Evidence of similar transaction crimes in sexual assault cases**

- (a) In a criminal proceeding in which the accused is accused of an offense of sexual assault, evidence of the accused's commission of another offense of sexual assault shall be admissible and may be considered for its bearing on any matter to which it is relevant.
- (b) In a proceeding in which the prosecution intends to offer evidence under this Code section, the prosecutor shall disclose such evidence to the accused, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least ten days in advance of trial, unless the time is shortened or lengthened or pretrial notice is excused by the judge upon good cause shown.
- (c) This Code section shall not be the exclusive means to admit or consider evidence described in this Code section.
- (d) As used in this Code section, the term "offense of sexual assault" means any conduct or attempt or conspiracy to engage in:
  - (1) Conduct that would be a violation of Code Section 16-6-1, 16-6-2, 16-6-3, 16-6-5.1, 16-6-22, 16-6-22.1, or 16-6-22.2;

- (2) Any crime that involves contact, without consent, between any part of the accused's body or an object and the genitals or anus of another person;
- (3) Any crime that involves contact, without consent, between the genitals or anus of the accused and any part of another person's body; or
- (4) Any crime that involves deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person.

**§ 24-4-414. Evidence of similar transaction crimes in child molestation cases**

- (a) In a criminal proceeding in which the accused is accused of an offense of child molestation, evidence of the accused's commission of another offense of child molestation shall be admissible and may be considered for its bearing on any matter to which it is relevant.
- (b) In a proceeding in which the state intends to offer evidence under this Code section, the prosecuting attorney shall disclose the evidence to the accused, including statements of witnesses or a summary of the substance of any testimony that the prosecuting attorney expects to offer, at least ten days in advance of trial, unless the time is shortened or lengthened or pretrial notice is excused by the judge upon good cause shown.
- (c) This Code section shall not be the exclusive means to admit or consider evidence described under this Code section.
- (d) As used in this Code section, the term "offense of child molestation" means any conduct or attempt or conspiracy to engage in:
  - (1) Conduct that would be a violation of Code Section 16-6-4, 16-6-5, 16-12-100, 16-12-100.2, or 16-12-100.3;
  - (2) Any crime that involves contact between any part of the accused's body or an object and the genitals or anus of a child;
  - (3) Any crime that involves contact between the genitals or anus of the accused and any part of the body of a child; or
  - (4) Any crime that involves deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child.

**§ 24-4-415. Evidence of similar acts in civil or administrative proceedings concerning sexual assault or child molestation**

- (a) In a civil or administrative proceeding in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual

assault or an offense of child molestation, evidence of that party's commission of another offense of sexual assault or another offense of child molestation shall be admissible and may be considered as provided in Code Sections 24-4-413 and 24-4-414.

- (b) A party who intends to offer evidence under this Code section shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least ten days in advance of trial, unless the time is shortened or lengthened or pretrial notice is excused by the judge upon good cause shown.
- (c) This Code section shall not be the exclusive means to admit or consider evidence described in this Code section.
- (d) As used in this Code section, the term:
  - (1) "Offense of child molestation" means any conduct or attempt or conspiracy to engage in:
    - (A) Conduct that would be a violation of Code Section 16-6-4, 16-6-5, 16-12-100, 16-12-100.2, or 16-12-100.3;
    - (B) Any crime that involves contact between any part of the accused's body or an object and the genitals or anus of a child;
    - (C) Any crime that involves contact between the genitals or anus of the accused and any part of the body of a child; or
    - (D) Any crime that involves deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child.
  - (2) "Offense of sexual assault" means any conduct or attempt or conspiracy to engage in:
    - (A) Conduct that would be a violation of Code Section 16-6-1, 16-6-2, 16-6-3, 16-6-5.1, 16-6-22, 16-6-22.1, or 16-6-22.2;
    - (B) Any crime that involves contact, without consent, between any part of the accused's body or an object and the genitals or anus of another person;
    - (C) Any crime that involves contact, without consent, between the genitals or anus of the accused and any part of another person's body; or
    - (D) Any crime that involves deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person.

## **Chapter 5. Privileges**

**§ 24-5-509. Communications between victim of family violence or sexual assault and agents providing services to such victim; termination of privilege**

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

- (1) "Agent" means a current or former employee or volunteer of a program who has successfully completed a minimum of 20 hours of training in family violence and sexual assault intervention and prevention at a Criminal Justice Coordinating Council certified victim assistance program.
- (2) "Family violence" shall have the same meaning as provided in Code Section 19-13-1.
- (3) "Family violence shelter" means a program whose primary purpose is to provide services to family violence victims and their families that is not under the direct supervision of a law enforcement agency, prosecuting attorney's office, or a government agency.
- (4) "Family violence victim" means a person who consults a family violence shelter for the purpose of securing advice or other services concerning an act of family violence, an alleged act of family violence, or an attempted act of family violence.
- (5) "Government agency" means any agency of the executive, legislative, or judicial branch of government or political subdivision or authority thereof of this state, any other state, the District of Columbia, the United States and its territories and possessions, or any foreign government or international governmental or quasi-governmental agency recognized by the United States or by any of the several states.
- (6) "Negative effect of the disclosure of the evidence on the victim" shall include the impact of the disclosure on the relationship between the victim and the agent and the delivery and accessibility of services.
- (7) "Program" means a family violence shelter or rape crisis center.
- (8) "Rape crisis center" means a program whose primary purpose is to provide services to sexual assault victims and their families that is not under the direct supervision of a law enforcement agency, prosecuting attorney's office, or a government agency.
- (9) "Services" means any services provided to a victim by a program including but not limited to crisis hot lines, safe homes and shelters, assessment and intake, counseling, services for children who are victims of family violence or sexual assault, support in medical, administrative, and judicial systems, transportation, relocation, and crisis intervention. Such term shall not include mandatory reporting as required by Code Section 19-7-5 or 30-5-4.
- (10) "Sexual assault" shall have the same meaning as provided in Code Section 17-5-70.

(11) "Sexual assault victim" means a person who consults a rape crisis center for the purpose of securing advice or other services concerning a sexual assault, an alleged sexual assault, or an attempted sexual assault.

(12) "Victim" means a family violence victim or sexual assault victim.

(b) No agent of a program shall be compelled to disclose any evidence in a judicial proceeding that the agent acquired while providing services to a victim, provided that such evidence was necessary to enable the agent to render services, unless the privilege has been waived by the victim or, upon motion by a party, the court finds by a preponderance of the evidence at a pretrial hearing or hearing outside the presence of the jury that:

(1) In a civil proceeding:

(A) The evidence sought is material and relevant to factual issues to be determined;

(B) The evidence is not sought solely for the purpose of referring to the victim's character for truthfulness or untruthfulness; provided, however, that this subparagraph shall not apply to evidence of the victim's prior inconsistent statements;

(C) The evidence sought is not available or already obtained by the party seeking disclosure; and

(D) The probative value of the evidence sought substantially outweighs the negative effect of the disclosure of the evidence on the victim; or

(2) In a criminal proceeding:

(A) The evidence sought is material and relevant to the issue of guilt, degree of guilt, or sentencing for the offense charged or a lesser included offense;

(B) The evidence is not sought solely for the purpose of referring to the victim's character for truthfulness or untruthfulness; provided, however, that this subparagraph shall not apply to evidence of the victim's prior inconsistent statements;

(C) The evidence sought is not available or already obtained by the party seeking disclosure; and

(D) The probative value of the evidence sought substantially outweighs the negative effect of the disclosure of the evidence on the victim.

(c) If the court finds that the evidence sought may be subject to disclosure pursuant to subsection (b) of this Code section, the court shall order that such evidence be produced for the court under seal, shall examine the evidence in camera, and may allow disclosure of those portions of the evidence that the court finds are subject to disclosure under this Code section.

(d) The privilege afforded under this Code section shall terminate upon the death of the victim.



- (e) The privilege granted by this Code section shall not apply if the agent was a witness or party to the family violence or sexual assault or other crime that occurred in the agent's presence.
- (f) The mere presence of a third person during communications between an agent and a victim shall not void the privilege granted by this Code section, provided that the communication occurred in a setting when or where the victim had a reasonable expectation of privacy.
- (g) If the victim is or has been judicially determined to be incompetent, the victim's guardian may waive the victim's privilege.
- (h) In criminal proceedings, if either party intends to compel evidence based on this Code section, the party shall file and serve notice of his or her intention on the opposing party at least ten days prior to trial, or as otherwise directed by the court. The court shall hold a pretrial hearing in accordance with subsection (b) of this Code section and determine the issue prior to trial.

## **Title 31. Health**

### **Chapter 7. Regulation and Construction of Hospitals and Other Health Care Facilities**

#### **Article 1. Regulation of Hospitals and Related Institutions**

##### **§ 31-7-9. Reports by physicians and other personnel of nonaccidental injuries to patients; immunity from liability**

- (a) As used in this Code section, the term "medical facility" includes, without being limited to, an ambulatory surgical treatment center defined in subparagraph (C) of paragraph (4) of Code Section 31-7-1 and a freestanding imaging center defined in subparagraph (G) of paragraph (4) of Code Section 31-7-1.
- (b) Any:
  - (1) Physician, including any doctor of medicine licensed to practice under the laws of this state;
  - (2) Licensed registered nurse employed by a medical facility;
  - (3) Security personnel employed by a medical facility; or

- (4) Other personnel employed by a medical facility whose employment duties involve the care and treatment of patients therein

having cause to believe that a patient has had physical injury or injuries inflicted upon him other than by accidental means shall report or cause reports to be made in accordance with this Code section.

- (c) An oral report shall be made immediately by telephone or otherwise and shall be followed by a report in writing, if requested, to the person in charge of the medical facility or his designated delegate. The person in charge of the medical facility or his designated delegate shall then notify the local law enforcement agency having primary jurisdiction in the area in which the medical facility is located of the contents of the report. The report shall contain the name and address of the patient, the nature and extent of the patient's injuries, and any other information that the reporting person believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator.
- (d) Any person or persons participating in the making of a report or causing a report to be made to the appropriate police authority pursuant to this Code section or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil liability that might otherwise be incurred or imposed, providing such participation pursuant to this Code section shall be in good faith.

## **Title 35. Law Enforcement Officers and Agencies**

### **Chapter 1. General Provisions**

#### **§ 35-1-2. Examination of sexual assault victims; reports**

- (a) As used in this Code section, the term:
  - (1) “Division” means the Division of Forensic Sciences of the Georgia Bureau of Investigation.
  - (2) “Medical examination” means an examination pursuant to subsection (c) of Code Section 16-6-1 or subsection (c) of Code Section 16-6-2.
- (b) When a forensic medical examination is performed, evidence is collected, and the alleged victim has requested that law enforcement officials be notified, the individual performing such exam, or his or her designee, shall notify the appropriate law enforcement agency of the collection of such evidence and provide a summary of all rights guaranteed to the alleged victim pursuant to the Crime Victim’s Bill of Rights established pursuant to Code Section 17-17-1, et. Seq., as provided by the Criminal Justice Coordinating Council. At the time of the examination, no alleged victim shall be required to assign or waive any rights afforded to

them in the Crime Victims' Bill of Rights or that might prevent the alleged victim from seeking relief from the Crime Victims Compensation Board. Law enforcement officials shall take possession of such evidence no later than 96 hours of being notified.

- (c) It shall be the duty of every law enforcement officer who takes possession of the evidence as provided in subsection (b) of this Code section to ensure that such evidence is submitted to the division within 30 days of it being collected, in accordance with the procedures established by the division.
- (d) When a forensic medical examination was performed before July 1, 2016, evidence was collected, and the alleged victim requested that law enforcement officials be notified, the individual who performed such exam, or his or her designee, shall notify the appropriate law enforcement agency of the collection of such evidence on or before July 15, 2016, and law enforcement officials shall take possession of such evidence on or before July 31, 2016. It shall be the duty of every law enforcement officer who takes possession of the evidence as provided in this Code Section to ensure that such evidence is submitted to the division by August 31, 2016, in accordance with the procedures established by the division.
- (e) It shall be the duty of every law enforcement agency to create a list of evidence resulting from a forensic medical examination that is in such agency's possession on August 1, 2016, identifying such evidence as needing to be tested and submitting such listing of information to the division by August 15, 2016.
- (f) A failure to comply with the provisions of this Code section shall not affect the admissibility of evidence collected from a forensic medical examination.
- (g) Beginning December 1, 2016, the division shall issue an annual report detailing the number of cases for which it has tested evidence pursuant to this Code section and the number of cases that are awaiting testing. Such report shall be provided to the executive counsel of the Governor, the Speaker of the House of Representatives, the Lieutenant Governor, the members of the House Committee on Judiciary, Non-civil, the members of the Senate Judiciary, Non-civil Committee, the House Committee on Health and Human Services, and the Senate Health and Human Services Committee and posted online at the Georgia Bureau of Investigation's website.

## **TITLE 42. PENAL INSTITUTIONS**

### **CHAPTER 1. GENERAL PROVISIONS**

#### **ARTICLE 2. SEXUAL OFFENDER REGISTRATION REVIEW BOARD**

## § 42-1-12. State Sexual Offender Registry

(a) As used in this article, the term:

- (1) "Address" means the street or route address of the sexual offender's residence. For purposes of this Code section, the term shall not mean a post office box.
- (2) "Appropriate official" means:
  - (A) With respect to a sexual offender who is sentenced to probation without any sentence of incarceration in the state prison system or who is sentenced pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, the Department of Community Supervision;
  - (B) With respect to a sexual offender who is sentenced to a period of incarceration in a prison under the jurisdiction of the Department of Corrections and who is subsequently released from prison or placed on probation, the commissioner of corrections or his or her designee;
  - (C) With respect to a sexual offender who is placed on parole, the chairperson of the State Board of Pardons and Paroles or his or her designee; and
  - (D) With respect to a sexual offender who is placed on probation through a private probation agency, the director of the private probation agency or his or her designee.
- (3) "Area where minors congregate" shall include all public and private parks and recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums, school bus stops, public libraries, and public and community swimming pools.
- (4) "Assessment criteria" means the tests that the board members use to determine the likelihood that a sexual offender will commit another criminal offense against a victim who is a minor or commit a dangerous sexual offense.
- (5) "Board" means the Sexual Offender Registration Review Board.
- (6) "Child care facility" means all public and private pre-kindergarten facilities, child care learning centers, preschool facilities, and long-term care facilities for children.
- (6.1) "Child care learning center" shall have the same meaning as set forth in paragraph (2) of Code Section 20-1A-2.
- (7) "Church" means a place of public religious worship.
- (8) "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. 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 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.

(9)

(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 victim who is a minor.

(C) For purposes of this paragraph, a conviction for a misdemeanor shall not be considered a criminal offense against a victim who is a minor, and conduct which is adjudicated in juvenile court shall not be considered a criminal offense against a victim who is a minor.

(10)

(A) "Dangerous sexual offense" with respect to convictions occurring on or before June 30, 2006, means any criminal offense, or the attempt to commit any criminal offense, under Title 16 as specified in this paragraph or any offense under federal law or the laws of another state or territory of the United States which consists of the same or similar elements of the following offenses:

- (i.) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
- (ii.) Rape in violation of Code Section 16-6-1;
- (iii.) Aggravated sodomy in violation of Code Section 16-6-2;
- (iv.) Aggravated child molestation in violation of Code Section 16-6-4; or
- (v.) Aggravated sexual battery in violation of Code Section 16-6-22.2.

(B) "Dangerous sexual offense" with respect to convictions occurring between July 1, 2006, and June 30, 2015, means any criminal offense, or the attempt to commit any criminal offense, under Title 16 as specified in this paragraph or any offense under federal law or the laws of another state or territory of the United States which consists of the same or similar elements of the following offenses:

- (i.) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
- (ii.) Kidnapping in violation of Code Section 16-5-40 which involves a victim who is less than 14 years of age, except by a parent;
- (iii.) False imprisonment in violation of Code Section 16-5-41 which involves a victim who is less than 14 years of age, except by a parent;
- (iv.) Rape in violation of Code Section 16-6-1;

- (v.) Sodomy in violation of Code Section 16-6-2;
  - (vi.) Aggravated sodomy in violation of Code Section 16-6-2;
  - (vii.) Statutory rape in violation of Code Section 16-6-3, if the individual convicted of the offense is 21 years of age or older;
  - (viii.) Child molestation in violation of Code Section 16-6-4;
  - (ix.) Aggravated child molestation in violation of Code Section 16-6-4, unless the person was convicted of a misdemeanor offense;
  - (x.) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
  - (xi.) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;
  - (xii.) Incest in violation of Code Section 16-6-22;
  - (xiii.) A second conviction for sexual battery in violation of Code Section 16-6-22.1;
  - (xiv.) Aggravated sexual battery in violation of Code Section 16-6-22.2;
  - (xv.) Sexual exploitation of children in violation of Code Section 16-12-100;
  - (xvi.) Electronically furnishing obscene material to minors in violation of Code Section 16-12-100.1;
  - (xvii.) Computer pornography and child exploitation in violation of Code Section 16-12-100.2;
  - (xviii.) Obscene telephone contact in violation of Code Section 16-12-100.3; or
  - (xix.) Any conduct which, by its nature, is a sexual offense against a victim who is a minor or an attempt to commit a sexual offense against a victim who is a minor.
- (B.1) "Dangerous sexual offense" with respect to convictions occurring after June 30, 2015, means any criminal offense, or the attempt to commit any criminal offense, under Title 16 as specified in this paragraph or any offense under federal law or the laws of another state or territory of the United States which consists of the same or similar elements of the following offenses:
- (i.) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
  - (ii.) Kidnapping in violation of Code Section 16-5-40 which involves a victim who is less than 14 years of age, except by a parent;
  - (iii.) Trafficking a person for sexual servitude in violation of Code Section 16-5-46;
  - (iv.) Rape in violation of Code Section 16-6-1;
  - (v.) Sodomy in violation of Code Section 16-6-2;

- (vi.) Aggravated sodomy in violation of Code Section 16-6-2;
- (vii.) Statutory rape in violation of Code Section 16-6-3, if the individual convicted of the offense is 21 years of age or older;
- (viii.) Child molestation in violation of Code Section 16-6-4;
- (ix.) Aggravated child molestation in violation of Code Section 16-6-4, unless the person was convicted of a misdemeanor offense;
- (x.) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
- (xi.) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;
- (xii.) Incest in violation of Code Section 16-6-22;
- (xiii.) A second conviction for sexual battery in violation of Code Section 16-6-22.1;
- (xiv.) Aggravated sexual battery in violation of Code Section 16-6-22.2;
- (xv.) Sexual exploitation of children in violation of Code Section 16-12-100;
- (xvi.) Electronically furnishing obscene material to minors in violation of Code Section 16-12-100.1;
- (xvii.) Computer pornography and child exploitation in violation of Code Section 16-12-100.2;
- (xviii.) Obscene telephone contact in violation of Code Section 16-12-100.3; or
- (xix.) Any conduct which, by its nature, is a sexual offense against a victim who is a minor or an attempt to commit a sexual offense against a victim who is a minor.

(C) For purposes of this paragraph, a conviction for a misdemeanor shall not be considered a dangerous sexual offense, and conduct which is adjudicated in juvenile court shall not be considered a dangerous sexual offense.

- (11) "Institution of higher education" means a private or public community college, state university, state college, or independent postsecondary institution.
- (12) "Level I risk assessment classification" means the sexual offender is a low sex offense risk and low recidivism risk for future sexual offenses.
- (13) "Level II risk assessment classification" means the sexual offender is an intermediate sex offense risk and intermediate recidivism risk for future sexual offenses and includes all sexual offenders who do not meet the criteria for classification either as a sexually dangerous predator or for Level I risk assessment.
- (14) "Minor" means any individual under the age of 18 years and any individual that the sexual offender believed at the time of the offense was under the age of 18 years if such individual was the victim of an offense.



- (15) "Public and community swimming pools" includes municipal, school, hotel, motel, or any pool to which access is granted in exchange for payment of a daily fee. The term includes apartment complex pools, country club pools, or subdivision pools which are open only to residents of the subdivision and their guests. This term does not include a private pool or hot tub serving a single-family dwelling and used only by the residents of the dwelling and their guests.
- (16) "Required registration information" means:
- (A) Name; social security number; age; race; sex; date of birth; height; weight; hair color; eye color; fingerprints; and photograph;
  - (B) Address, within this state or out of state, and, if applicable in addition to the address, a rural route address and a post office box;
  - (C) If the place of residence is a motor vehicle or trailer, the vehicle identification number, the license tag number, and a description, including color scheme, of the motor vehicle or trailer;
  - (D) If the place of residence is a mobile home, the mobile home location permit number; the name and address of the owner of the home; a description, including the color scheme of the mobile home; and, if applicable, a description of where the mobile home is located on the property;
  - (E) If the place of residence is a manufactured home, the name and address of the owner of the home; a description, including the color scheme of the manufactured home; and, if applicable, a description of where the manufactured home is located on the property;
  - (F) If the place of residence is a vessel, live-aboard vessel, or houseboat, the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat;
  - (F.1) If the place of residence is the status of homelessness, information as provided under paragraph (2.1) of subsection (f) of this Code section;
  - (G) Date of employment, place of any employment, and address of employer;
  - (H) Place of vocation and address of the place of vocation;
  - (I) Vehicle make, model, color, and license tag number;
  - (J) If enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the name, address, and county of each institution, including each campus attended, and enrollment or employment status; and

- (K) The name of the crime or crimes for which the sexual offender is registering and the date released from prison or placed on probation, parole, or supervised release.
- (17) "Risk assessment classification" means the notification level into which a sexual offender is placed based on the board's assessment.
- (18) "School" means all public and private kindergarten, elementary, and secondary schools.
- (19) "School bus stop" means a school bus stop as designated by local school boards of education or by a private school.
- (20) "Sexual offender" means any individual:
- (A) Who has been convicted of a criminal offense against a victim who is a minor or any dangerous sexual offense;
  - (B) Who has been convicted under the laws of another state or territory, under the laws of the United States, under the Uniform Code of Military Justice, or in a tribal court of a criminal offense against a victim who is a minor or a dangerous sexual offense; or
  - (C) Who is required to register pursuant to subsection (e) of this Code section.
- (21) "Sexually dangerous predator" means a sexual offender:
- (A) Who was designated as a sexually violent predator between July 1, 1996, and June 30, 2006; or
  - (B) Who is determined by the Sexual Offender Registration Review Board to be at risk of perpetrating any future dangerous sexual offense.
- (22) "Vocation" means any full-time, part-time, or volunteer employment with or without compensation exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year.
- (b) Before a sexual offender who is required to register under this Code section is released from prison or placed on parole, supervised release, or probation, the appropriate official shall:
- (1) Inform the sexual offender of the obligation to register, the amount of the registration fee, and how to maintain registration;
  - (2) Obtain the information necessary for the required registration information;
  - (3) Inform the sexual offender that, if the sexual offender changes any of the required registration information, other than residence address, the sexual offender shall give the new information to the sheriff of the county with whom the sexual offender is registered within 72 hours of the change of information; if the information is the sexual offender's new residence address, the sexual offender shall give the information to the sheriff of the county with whom the sexual offender last registered within 72 hours prior to moving and

to the sheriff of the county to which the sexual offender is moving within 72 hours prior to moving;

- (4) Inform the sexual offender that he or she shall also register in any state where he or she is employed, carries on a vocation, or is a student;
- (5) Inform the sexual offender that, if he or she changes residence to another state, the sexual offender shall register the new address with the sheriff of the county with whom the sexual offender last registered and that the sexual offender shall also register with a designated law enforcement agency in the new state within 72 hours after establishing residence in the new state;
- (6) Obtain fingerprints and a current photograph of the sexual offender;
- (7) Require the sexual offender to read and sign a form stating that the obligations of the sexual offender have been explained;
- (8) Obtain and forward any information obtained from the clerk of court pursuant to Code Section 42-5-50 to the sheriff's office of the county in which the sexual offender will reside; and
- (9) If required by Code Section 42-1-14, place any required electronic monitoring system on the sexually dangerous predator and explain its operation and cost.

(c) The Department of Corrections shall:

- (1) Forward to the Georgia Bureau of Investigation a copy of the form stating that the obligations of the sexual offender have been explained;
- (2) Forward any required registration information to the Georgia Bureau of Investigation;
- (3) Forward the sexual offender's fingerprints and photograph to the sheriff's office of the county where the sexual offender is going to reside;
- (4) Inform the board and the prosecuting attorney for the jurisdiction in which a sexual offender was convicted of the impending release of a sexual offender at least eight months prior to such release so as to facilitate compliance with Code Section 42-1-14; and
- (5) Keep all records of sexual offenders in a secure facility in accordance with Code Sections 15-1-10, 15-6-62, and 15-6-62.1 until official proof of death of a registered sexual offender; thereafter, the records shall be destroyed.

(c.1) The Department of Community Supervision shall keep all records of sexual offenders in a secure facility in accordance with Code Sections 15-1-10, 15-6-62, and 15-6-62.1 until official proof of death of a registered sexual offender; thereafter, the records shall be destroyed.

- (d) No sexual offender shall be released from prison or placed on parole, supervised release, or probation until:
- (1) The appropriate official has provided the Georgia Bureau of Investigation and the sheriff's office in the county where the sexual offender will be residing with the sexual offender's required registration information and risk assessment classification level; and
  - (2) The sexual offender's name has been added to the list of sexual offenders maintained by the Georgia Bureau of Investigation and the sheriff's office as required by this Code section.
- (e) Registration pursuant to this Code section shall be required by any individual who:
- (1) Is convicted on or after July 1, 1996, of a criminal offense against a victim who is a minor;
  - (2) Is convicted on or after July 1, 1996, of a dangerous sexual offense;
  - (3) Has previously been convicted of a criminal offense against a victim who is a minor and may be released from prison or placed on parole, supervised release, or probation on or after July 1, 1996;
  - (4) Has previously been convicted of a sexually violent offense or dangerous sexual offense and may be released from prison or placed on parole, supervised release, or probation on or after July 1, 1996;
  - (5) Is a resident of Georgia who intends to reside in this state and who is convicted under the laws of another state or the United States, under the Uniform Code of Military Justice, or in a tribal court of a sexually violent offense, a criminal offense against a victim who is a minor on or after July 1, 1999, or a dangerous sexual offense on or after July 1, 1996;
  - (6) Is a nonresident who changes residence from another state or territory of the United States or any other place to Georgia who is required to register as a sexual offender under federal law, military law, tribal law, or the laws of another state or territory or who has been convicted in this state of a criminal offense against a victim who is a minor or any dangerous sexual offense;
  - (7) Is a nonresident sexual offender who enters this state for the purpose of employment or any other reason for a period exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year regardless of whether such sexual offender is required to register under federal law, military law, tribal law, or the laws of another state or territory; or
  - (8) Is a nonresident sexual offender who enters this state for the purpose of attending school as a full-time or part-time student regardless of whether such sexual offender is required

to register under federal law, military law, tribal law, or the laws of another state or territory.

- (f) Any sexual offender required to register under this Code section shall:
- (1) Provide the required registration information to the appropriate official before being released from prison or placed on parole, supervised release, or probation;
  - (2) Register in person with the sheriff of the county in which the sexual offender resides within 72 hours after the sexual offender's release from prison or placement on parole, supervised release, probation, or entry into this state;
  - (2.1) In the case of a sexual offender whose place of residence is the status of homelessness, in lieu of the requirements of paragraph (2) of this subsection, register in person with the sheriff of the county in which the sexual offender sleeps within 72 hours after the sexual offender's release from prison or placement on parole, supervised release, probation, or entry into this state and provide the location where he or she sleeps;
  - (3) Maintain the required registration information with the sheriff of each county in which the sexual offender resides or sleeps;
  - (4) Renew the required registration information with the sheriff of the county in which the sexual offender resides or sleeps by reporting in person to the sheriff within 72 hours prior to such offender's birthday each year to be photographed and fingerprinted;
  - (5) Update the required registration information with the sheriff of the county in which the sexual offender resides within 72 hours of any change to the required registration information, other than where he or she resides or sleeps if such person is homeless. If the information is the sexual offender's new address, the sexual offender shall give the information regarding the sexual offender's new address to the sheriff of the county in which the sexual offender last registered within 72 hours prior to any change of address and to the sheriff of the county to which the sexual offender is moving within 72 hours prior to establishing such new address. If the sexual offender is homeless and the information is the sexual offender's new sleeping location, within 72 hours of changing sleeping locations, the sexual offender shall give the information regarding the sexual offender's new sleeping location to the sheriff of the county in which the sexual offender last registered, and if the county has changed, to the sheriff of the county to which the sexual offender has moved; and
  - (6) Continue to comply with the registration requirements of this Code section for the entire life of the sexual offender, excluding ensuing periods of incarceration.
- (g) A sexual offender required to register under this Code section may petition to be released from the registration requirements and from the residency or employment restrictions of this Code section in accordance with the provisions of Code Section 42-1-19.

(h)

(1) The appropriate official or sheriff shall, within 72 hours after receipt of the required registration information, forward such information to the Georgia Bureau of Investigation. Once the data is entered into the Criminal Justice Information System by the appropriate official or sheriff, the Georgia Crime Information Center shall notify the sheriff of the sexual offender's county of residence, either permanent or temporary, the sheriff of the county of employment, and the sheriff of the county where the sexual offender attends an institution of higher education within 24 hours of entering the data or any change to the data.

(2) The Georgia Bureau of Investigation shall:

(A) Transmit all information, including the conviction data and fingerprints, to the Federal Bureau of Investigation within 24 hours of entering the data;

(B) Establish operating policies and procedures concerning record ownership, quality, verification, modification, and cancellation; and

(C) Perform mail out and verification duties as follows:

(i.) Send each month Criminal Justice Information System network messages to sheriffs listing sexual offenders due for verification;

(ii.) Create a photo image file from original entries and provide such entries to sheriffs to assist in sexual offender identification and verification;

(iii.) Mail a nonforwardable verification form to the last reported address of the sexual offender within ten days prior to the sexual offender's birthday;

(iv.) If the sexual offender changes residence to another state, notify the law enforcement agency with which the sexual offender shall register in the new state; and

(v.) Maintain records required under this Code section.

(i) The sheriff's office in each county shall:

(1) Prepare and maintain a list of all sexual offenders and sexually dangerous predators residing in each county. Such list shall include the sexual offender's name; age; physical description; address; crime of conviction, including conviction date and the jurisdiction of the conviction; photograph; and the risk assessment classification level provided by the board, and an explanation of how the board classifies sexual offenders and sexually dangerous predators;

- (2) Electronically submit and update all information provided by the sexual offender within two business days to the Georgia Bureau of Investigation in a manner prescribed by the Georgia Bureau of Investigation;
- (3) Maintain and provide a list, manually or electronically, of every sexual offender residing in each county so that it may be available for inspection:
  - (A) In the sheriff's office;
  - (B) In any county administrative building;
  - (C) In the main administrative building for any municipal corporation;
  - (D) In the office of the clerk of the superior court so that such list is available to the public; and
  - (E) On a website maintained by the sheriff of the county for the posting of general information;
- (4) Update the public notices required by paragraph (3) of this subsection within two business days of the receipt of such information;
- (5) Inform the public of the presence of sexual offenders in each community;
- (6) Update the list of sexual offenders residing in the county upon receipt of new information affecting the residence address of a sexual offender or upon the registration of a sexual offender moving into the county by virtue of release from prison, relocation from another county, conviction in another state, federal court, military tribunal, or tribal court. Such list, and any additions to such list, shall be delivered, within 72 hours of updating the list of sexual offenders residing in the county, to all schools or institutions of higher education located in the county;
- (7) Within 72 hours of the receipt of changed required registration information, notify the Georgia Bureau of Investigation through the Criminal Justice Information System of each change of information;
- (8) Retain the verification form stating that the sexual offender still resides at the address last reported;
- (9) Enforce the criminal provisions of this Code section. The sheriff may request the assistance of the Georgia Bureau of Investigation to enforce the provisions of this Code section;
- (10) Cooperate and communicate with other sheriffs' offices in this state and in the United States to maintain current data on the location of sexual offenders;
- (11) Determine the appropriate time of day for reporting by sexual offenders, which shall be consistent with the reporting requirements of this Code section;

- (12) If required by Code Section 42-1-14, place any electronic monitoring system on the sexually dangerous predator and explain its operation and cost;
- (13) Provide current information on names and addresses of all registered sexual offenders to campus police with jurisdiction for the campus of an institution of higher education if the campus is within the sheriff's jurisdiction; and
- (14) Collect the annual \$250.00 registration fee from the sexual offender and transmit such fees to the state for deposit into the general fund.

(j)

- (1) The sheriff of the county where the sexual offender resides or last registered shall be the primary law enforcement official charged with communicating the whereabouts of the sexual offender and any changes in required registration information to the sheriff's office of the county or counties where the sexual offender is employed, volunteers, attends an institution of higher education, or moves.
- (2) The sheriff's office may post the list of sexual offenders in any public building in addition to those locations enumerated in subsection (h) of this Code section.

(k) The Georgia Crime Information Center shall create the Criminal Justice Information System network transaction screens by which appropriate officials shall enter original data required by this Code section. Screens shall also be created for sheriffs' offices for the entry of record confirmation data; employment; changes of residence, institutions of higher education, or employment; or other pertinent data to assist in sexual offender identification.

(l)

- (1) On at least an annual basis, the Department of Education shall obtain from the Georgia Bureau of Investigation a complete list of the names and addresses of all registered sexual offenders and shall provide access to such information, accompanied by a hold harmless provision, to each school in this state. In addition, the Department of Education shall provide information to each school in this state on accessing and retrieving from the Georgia Bureau of Investigation's website a list of the names and addresses of all registered sexual offenders.
- (2) On at least an annual basis, the Department of Early Care and Learning shall provide current information to all child care programs regulated pursuant to Code Section 20-1A-10 and to all child care learning centers, day-care, group day-care, and family day-care programs regulated pursuant to Code Section 49-5-12 on accessing and retrieving from the Georgia Bureau of Investigation's website a list of the names and addresses of all registered sexual offenders and shall include, on a continuing basis, such information with each application for licensure, commissioning, or registration for early care and education programs.



(3) On at least an annual basis, the Department of Human Services shall provide current information to all long-term care facilities for children on accessing and retrieving from the Georgia Bureau of Investigation's website a list of the names and addresses of all registered sexual offenders.

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

(n) Any individual who:

(1) Is required to register under this Code section and who fails to comply with the requirements of this Code section;

(2) Provides false information; or

(3) Fails to respond directly to the sheriff of the county where he or she resides or sleeps within 72 hours prior to such individual's birthday

shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than 30 years; provided, however, that upon the conviction of the second offense under this subsection, the defendant shall be punished by imprisonment for not less than five nor more than 30 years.

(o) The information collected pursuant to this Code section shall be treated as private data except that:

(1) Such information may be disclosed to law enforcement agencies for law enforcement purposes;

(2) Such information may be disclosed to government agencies conducting confidential background checks; and

(3) The Georgia Bureau of Investigation or any sheriff maintaining records required under this Code section shall, in addition to the requirements of this Code section to inform the public of the presence of sexual offenders in each community, release such other relevant information collected under this Code section that is necessary to protect the public concerning sexual offenders required to register under this Code section, except that the identity of a victim of an offense that requires registration under this Code section shall not be released.

(p) The Board of Public Safety is authorized to promulgate rules and regulations necessary for the Georgia Bureau of Investigation and the Georgia Crime Information Center to implement and carry out the provisions of this Code section.

- (q) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this article.
- (r) Any violation of this Code section is declared to be a continuous offense, and venue for such offense shall be considered to have been committed in any county where:
  - (1) A sexual offender is required to register;
  - (2) An accused fails to comply with the requirements of this Code section; or
  - (3) An accused provides false information.

**§ 42-1-13. Sexual Offender Registration Review Board; composition; appointment; administration and duties; immunity from liability**

- (a) The Sexual Offender Registration Review Board shall be composed of three professionals licensed under Title 43 and knowledgeable in the field of the behavior and treatment of sexual offenders; at least one representative from a victims' rights advocacy group or agency; and at least two representatives from law enforcement, each of whom is either employed by a law enforcement agency as a certified peace officer under Title 35 or retired from such employment. The members of the board shall be appointed by the commissioner of behavioral health and developmental disabilities for terms of four years. On and after July 1, 2006, successors to the members of the board shall be appointed by the Governor. Members of the board shall take office on the first day of September immediately following the expired term of that office and shall serve for a term of four years and until the appointment of their respective successors. No member shall serve on the board more than two consecutive terms. Vacancies occurring on the board, other than those caused by expiration of a term of office, shall be filled in the same manner as the original appointment to the position vacated for the remainder of the unexpired term and until a successor is appointed. Members shall be entitled to an expense allowance and travel cost reimbursement the same as members of certain other boards and commissions as provided in Code Section 45-7-21.
- (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, 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 (15) 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.
- (d) Members of the board shall be immune from liability for good faith conduct under this article.

**§ 42-1-14. Risk assessment classification; classification as "sexually dangerous predator"; electronic monitoring**

- (a)
  - (1) The board shall determine the likelihood that a sexual offender will engage in another crime against a victim who is a minor or a dangerous sexual offense. The board shall make such determination for any sexual offender convicted on or after July 1, 2006, of a criminal offense against a victim who is a minor or a dangerous sexual offense and for any sexual offender incarcerated on July 1, 2006, but convicted prior to July 1, 2006, of a criminal offense against a victim who is a minor. Any sexual offender who changes residence from another state or territory of the United States or any other place to this state and who is not already designated under Georgia law as a sexually dangerous predator, sexual predator, or sexually violent predator shall have his or her required registration information forwarded by the sheriff of his or her county of registration to the board for the purpose of risk assessment classification. The board shall also make such determination upon the request of a superior court judge for purposes of considering a petition to be released from registration restrictions or residency or employment restrictions as provided for in Code Section 42-1-19.
  - (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 or supervision through the Department of Corrections or the Department of Community Supervision, 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 board shall be authorized to obtain information from supervision records of the State Board of Pardons and Paroles regarding such sexual offender, but such records shall remain confidential state secrets in accordance with Code Section 42-9-53 and shall not be made available to any other person or entity or be subject to subpoena unless declassified by the State Board of Pardons and Paroles. 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.
- (3) The board shall notify the sexual offender by first-class mail of its determination of risk assessment classification and shall send a copy of such classification to the Georgia Bureau of Investigation, the Department of Corrections, the Department of Community Supervision, the sheriff of the county where the sexual offender is registered, and the sentencing court, if applicable.
- (b) If the board determines that a sexual offender should be classified as a Level II risk assessment classification or as a sexually dangerous predator, the sexual offender may petition the board to reevaluate his or her classification. To file a petition for reevaluation, the sexual offender shall be required to submit his or her written petition for reevaluation to the board within 30 days from the date of the letter notifying the sexual offender of his or her classification. The sexual offender shall have 60 days from the date of the notification letter to submit information as provided in subsection (a) of this Code section in support of the sexual offender's petition for reevaluation. If the sexual offender fails to submit the petition or supporting documents within the time limits provided, the classification shall be final. The board shall notify the sexual offender by first-class mail of its decision on the petition for

reevaluation of risk assessment classification and shall send a copy of such notification to the Georgia Bureau of Investigation, the Department of Corrections, the Department of Community Supervision, the sheriff of the county where the sexual offender is registered, and the sentencing court, if applicable.

- (c) A sexual offender who is classified by the board as a Level II risk assessment classification or as a sexually dangerous predator may file a petition for judicial review of his or her classification within 30 days of the date of the notification letter or, if the sexual offender has requested reevaluation pursuant to subsection (b) of this Code section, within 30 days of the date of the letter denying the petition for reevaluation. The petition for judicial review shall name the board as defendant, and the petition shall be filed in the superior court of the county where the offices of the board are located. Within 30 days after service of the appeal on the board, the board shall submit a summary of its findings to the court and mail a copy, by first-class mail, to the sexual offender. The findings of the board shall be considered prima-facie evidence of the classification. The court shall also consider any relevant evidence submitted, and such evidence and documentation shall be mailed to the parties as well as submitted to the court. The court may hold a hearing to determine the issue of classification. The court may uphold the classification of the board, or, if the court finds by a preponderance of the evidence that the sexual offender is not placed in the appropriate classification level, the court shall place the sexual offender in the appropriate risk assessment classification. The court's determination shall be forwarded by the clerk of the court to the board, the sexual offender, the Georgia Bureau of Investigation, and the sheriff of the county where the sexual offender is registered.
- (d) Any individual who was classified as a sexually violent predator prior to July 1, 2006, shall be classified as a sexually dangerous predator on and after July 1, 2006.
- (e) Any sexually dangerous predator shall be required to wear an electronic monitoring system that shall have, at a minimum:
- (1) The capacity to locate and record the location of a sexually dangerous predator by a link to a global positioning satellite system;
  - (2) The capacity to timely report or record a sexually dangerous predator's presence near or within a crime scene or in a prohibited area or the sexually dangerous predator's departure from specific geographic locations; and
  - (3) An alarm that is automatically activated and broadcasts the sexually dangerous predator's location if the global positioning satellite monitor is removed or tampered with by anyone other than a law enforcement official designated to maintain and remove or replace the equipment.

Such electronic monitoring system shall be worn by a sexually dangerous predator for the remainder of his or her natural life. The sexually dangerous predator shall pay the cost of

such system to the Department of Community Service if the sexually dangerous predator is under probation or parole supervision and to the sheriff after the sexually dangerous predator completes his or her term of probation and parole or if the sexually dangerous predator has moved to this state from another state, territory, or country. The electronic monitoring system shall be placed upon the sexually dangerous predator prior to his or her release from confinement. If the sexual offender is not in custody, within 72 hours of the decision classifying the sexual offender as a sexually dangerous predator in accordance with subsection (b) of this Code section, the sexually dangerous predator shall report to the sheriff of the county of his or her residence for purposes of having the electronic monitoring system placed on the sexually dangerous predator.

- (f) In addition to the requirements of registration for all sexual offenders, a sexually dangerous predator shall report to the sheriff of the county where such predator resides six months following his or her birth month and update or verify his or her required registration information.

**§ 42-1-15. Restriction on registered offenders residing, working, or loitering within certain distance of child care facilities, churches, schools, or areas where minors congregate; penalty for violations; civil causes of action**

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

- (1) "Individual" means a person who is required to register pursuant to Code Section 42-1-12.
- (2) "Lease" means a right of occupancy pursuant to a written and valid lease or rental agreement.
- (3) "Minor" means any person who is under 18 years of age.
- (4) "Volunteer" means to engage in an activity in which one could be, and ordinarily would be, employed for compensation, and which activity involves working with, assisting, or being engaged in activities with minors; provided, however, that such term shall not include participating in activities limited to persons who are 18 years of age or older or participating in worship services or engaging in religious activities or activities at a place of worship that do not include supervising, teaching, directing, or otherwise participating with minors who are not supervised by an adult who is not an individual required to register pursuant to Code Section 42-1-12.

- (b) On and after July 1, 2008, no individual shall reside within 1,000 feet of any child care facility, church, school, or area where minors congregate if the commission of the act for which such individual is required to register occurred on or after July 1, 2008. Such distance

shall be determined by measuring from the outer boundary of the property on which the individual resides to the outer boundary of the property of the child care facility, church, school, or area where minors congregate at their closest points.

(c)

(1) On and after July 1, 2008, no individual shall be employed by or volunteer at any child care facility, school, or church or by or at any business or entity that is located within 1,000 feet of a child care facility, a school, or a church if the commission of the act for which such individual is required to register occurred on or after July 1, 2008. Such distance shall be determined by measuring from the outer boundary of the property of the location at which such individual is employed or volunteers to the outer boundary of the child care facility, school, or church at their closest points.

(2) On or after July 1, 2008, no individual who is a sexually dangerous predator shall be employed by or volunteer at any business or entity that is located within 1,000 feet of an area where minors congregate if the commission of the act for which such individual is required to register occurred on or after July 1, 2008. Such distance shall be determined by measuring from the outer boundary of the property of the location at which the sexually dangerous predator is employed or volunteers to the outer boundary of the area where minors congregate at their closest points.

(d) Notwithstanding any ordinance or resolution adopted pursuant to Code Section 16-6-24 or subsection (d) of Code Section 16-11-36, it shall be unlawful for any individual to loiter, as prohibited by Code Section 16-11-36, at any child care facility, school, or area where minors congregate.

(e)

(1) If an individual owns or leases real property and resides on such property and a child care facility, church, school, or area where minors congregate thereafter locates itself within 1,000 feet of such property, or if an individual has established employment at a location and a child care facility, church, or school thereafter locates itself within 1,000 feet of such employment, or if a sexual predator has established employment and an area where minors congregate thereafter locates itself within 1,000 feet of such employment, such individual shall not be guilty of a violation of subsection (b) or (c) of this Code section, as applicable, if such individual successfully complies with subsection (f) of this Code section.

(2) An individual owning or leasing real property and residing on such property or being employed within 1,000 feet of a prohibited location, as specified in subsection (b) or (c) of this Code section, shall not be guilty of a violation of this Code section if such individual had established such property ownership, leasehold, or employment prior to

July 1, 2008, and such individual successfully complies with subsection (f) of this Code section.

(f)

- (1) If an individual is notified that he or she is in violation of subsection (b) or (c) of this Code section, and if such individual claims that he or she is exempt from such prohibition pursuant to subsection (e) of this Code section, such individual shall provide sufficient proof demonstrating his or her exemption to the sheriff of the county where the individual is registered within ten days of being notified of any such violation.
- (2) For purposes of providing proof of residence, the individual may provide a driver's license, government issued identification, or any other documentation evidencing where the individual's habitation is fixed. For purposes of providing proof of property ownership, the individual shall provide a copy of his or her warranty deed, quitclaim deed, or voluntary deed, or other documentation evidencing property ownership.
- (3) For purposes of providing proof of a leasehold, the individual shall provide a copy of the applicable lease agreement. Leasehold exemptions shall only be for the duration of the executed lease.
- (4) For purposes of providing proof of employment, the individual may provide an Internal Revenue Service Form W-2, a pay check, or a notarized verification of employment from the individual's employer, or other documentation evidencing employment. Such employment documentation shall evidence the location in which such individual actually carries out or performs the functions of his or her job.
- (5) Documentation provided pursuant to this subsection may be required to be date specific, depending upon the individual's exemption claim.

(g) Any individual who knowingly violates this Code section shall be guilty of a felony and shall be punished by imprisonment for not less than ten nor more than 30 years.

(h) Nothing in this Code section shall create, either directly or indirectly, any civil cause of action against or result in criminal prosecution of any person, firm, corporation, partnership, trust, or association other than an individual required to be registered under Code Section 42-1-12.

### **§ 42-1-16. Definitions; employment restrictions for sexual offenders; penalties**

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

- (1) "Area where minors congregate" shall include all public and private parks and recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums, school bus stops, and public and community swimming pools.



- (2) "Individual" means a person who is required to register pursuant to Code Section 42-1-12.
- (3) "Lease" means a right of occupancy pursuant to a written and valid lease or rental agreement.
- (4) "Minor" means any person who is under 18 years of age.
- (b) Any individual who committed an act between July 1, 2006, and June 30, 2008, for which such individual is required to register shall not reside within 1,000 feet of any child care facility, church, school, or area where minors congregate. Such distance shall be determined by measuring from the outer boundary of the property on which the individual resides to the outer boundary of the property of the child care facility, church, school, or area where minors congregate at their closest points.
- (c)
- (1) Any individual who committed an act between July 1, 2006, and June 30, 2008, for which such individual is required to register shall not be employed by any child care facility, school, or church or by or at any business or entity that is located within 1,000 feet of a child care facility, a school, or a church. Such distance shall be determined by measuring from the outer boundary of the property of the location at which such individual is employed to the outer boundary of the child care facility, school, or church at their closest points.
- (2) Any individual who committed an act between July 1, 2006, and June 30, 2008, for which such individual is required to register who is a sexually dangerous predator shall not be employed by any business or entity that is located within 1,000 feet of an area where minors congregate. Such distance shall be determined by measuring from the outer boundary of the property of the location at which the sexually dangerous predator is employed to the outer boundary of the area where minors congregate at their closest points.
- (d) Notwithstanding any ordinance or resolution adopted pursuant to Code Section 16-6-24 or subsection (d) of Code Section 16-11-36, it shall be unlawful for any individual to loiter, as prohibited by Code Section 16-11-36, at any child care facility, school, or area where minors congregate.
- (e)
- (1) If an individual owns or leases real property and resides on such property and a child care facility, church, school, or area where minors congregate thereafter locates itself within 1,000 feet of such property, or if an individual has established employment at a location and a child care facility, church, or school thereafter locates itself within 1,000 feet of such employment, or if a sexual predator has established employment and an area where

minors congregate thereafter locates itself within 1,000 feet of such employment, such individual shall not be guilty of a violation of subsection (b) or (c) of this Code section, as applicable, if such individual successfully complies with subsection (f) of this Code section.

(2) An individual owning or leasing real property and residing on such property or being employed within 1,000 feet of a prohibited location, as specified in subsection (b) or (c) of this Code section, shall not be guilty of a violation of this Code section if such individual had established such property ownership, leasehold, or employment prior to July 1, 2006, and such individual successfully complies with subsection (f) of this Code section.

(f)

(1) If an individual is notified that he or she is in violation of subsection (b) or (c) of this Code section, and if such individual claims that he or she is exempt from such prohibition pursuant to subsection (e) of this Code section, such individual shall provide sufficient proof demonstrating his or her exemption to the sheriff of the county where the individual is registered within ten days of being notified of any such violation.

(2) For purposes of providing proof of residence, the individual may provide a driver's license, government issued identification, or any other documentation evidencing where the individual's habitation is fixed. For purposes of providing proof of property ownership, the individual shall provide a copy of his or her warranty deed, quitclaim deed, or voluntary deed, or other documentation evidencing property ownership.

(3) For purposes of providing proof of a leasehold, the individual shall provide a copy of the applicable lease agreement. Leasehold exemptions shall only be for the duration of the executed lease.

(4) For purposes of providing proof of employment, the individual may provide an Internal Revenue Service Form W-2, a pay check, or a notarized verification of employment from the individual's employer, or other documentation evidencing employment. Such employment documentation shall evidence the location in which such individual actually carries out or performs the functions of his or her job.

(5) Documentation provided pursuant to this subsection may be required to be date specific, depending upon the individual's exemption claim.

(g) Any individual who knowingly violates this Code section shall be guilty of a felony and shall be punished by imprisonment for not less than ten nor more than 30 years.

(h) Nothing in this Code section shall create, either directly or indirectly, any civil cause of action against or result in criminal prosecution of any person, firm, corporation, partnership,

trust, or association other than an individual required to be registered under Code Section 42-1-12.

### **§ 42-1-17. Definitions; residency restrictions for sexual offenders; penalties**

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

- (1) "Area where minors congregate" shall include all public and private parks and recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums, and similar facilities providing programs or services directed towards persons under 18 years of age.
- (2) "Child care facility" means all public and private pre-kindergarten facilities, child care learning centers, and preschool facilities.
- (3) "Individual" means a person who is required to register pursuant to Code Section 42-1-12.
- (4) "Lease" means a right of occupancy pursuant to a written and valid lease or rental agreement.
- (5) "Minor" means any person who is under 18 years of age.

(b) Any individual who committed an act between June 4, 2003, and June 30, 2006, for which such individual is required to register shall not reside within 1,000 feet of any child care facility, school, or area where minors congregate. Such distance shall be determined by measuring from the outer boundary of the property on which the individual resides to the outer boundary of the property of the child care facility, school, or area where minors congregate at their closest points.

(c)

- (1) If an individual owns or leases real property and resides on such property and a child care facility, school, or area where minors congregate thereafter locates itself within 1,000 feet of such property, such individual shall not be guilty of a violation of subsection (b) of this Code section if such individual successfully complies with subsection (d) of this Code section.
- (2) An individual owning or leasing real property and residing on such property within 1,000 feet of a prohibited location, as specified in subsection (b) of this Code section, shall not be guilty of a violation of this Code section if such individual had established such property ownership or leasehold prior to June 4, 2003, and such individual successfully complies with subsection (d) of this Code section.

(d)

- (1) If an individual is notified that he or she is in violation of subsection (b) of this Code section, and if such individual claims that he or she is exempt from such prohibition pursuant to subsection (c) of this Code section, such individual shall provide sufficient proof demonstrating his or her exemption to the sheriff of the county where the individual is registered within ten days of being notified of any such violation.
  - (2) For purposes of providing proof of residence, the individual may provide a driver's license, government issued identification, or any other documentation evidencing where the individual's habitation is fixed. For purposes of providing proof of property ownership, the individual shall provide a copy of his or her warranty deed, quitclaim deed, or voluntary deed, or other documentation evidencing property ownership.
  - (3) For purposes of providing proof of a leasehold, the individual shall provide a copy of the applicable lease agreement. Leasehold exemptions shall only be for the duration of the executed lease.
  - (4) Documentation provided pursuant to this subsection may be required to be date specific, depending upon the individual's exemption claim.
- (e) Any individual who knowingly violates this Code section shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than three years.
- (f) Nothing in this Code section shall create, either directly or indirectly, any civil cause of action against or result in criminal prosecution of any person, firm, corporation, partnership, trust, or association other than an individual required to be registered under Code Section 42-1-12.

**§ 42-1-18. "Photograph" defined; photographing minor without consent of parent or guardian prohibited; penalty**

- (a) As used in this Code section, the term "photograph" means to take any picture, film or digital photograph, motion picture film, videotape, or similar visual representation or image of a person.
- (b) No person required to register as a sexual offender pursuant to Code Section 42-1-12 shall intentionally photograph a minor without the consent of the minor's parent or guardian.
- (c) Any person who knowingly violates this Code section shall be guilty of a misdemeanor of a high and aggravated nature.

# History

- § **15-24-1**: Code 1981, § 15-24-1, enacted by Ga. L. 2004, p. 466, § 3.
- § **15-24-2**: Code 1981, § 15-24-2, enacted by Ga. L. 2004, p. 466, § 3; Ga. L. 2008, p. 486, § 1/ HB 1297.
- § **16-4-1**: Code 1933, § 26-1001, enacted by Ga. L. 1968, p. 1249, § 1.
- § **16-4-6**: Code 1933, § 26-1006, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 2007, p. 501, § 1/ SB 79.
- § **16-5-21**: Laws 1833, Cobb's 1851 Digest, pp. 787-789; Laws 1840, Cobb's 1851 Digest, p. 788; Code 1863, §§ 4250, 4258, 4259, 4260; Ga. L. 1866, p. 151, § 1; Code 1868, §§ 4285, 4293, 4294, 4295; Code 1873, §§ 4351, 4359, 4360, 4361; Code 1882, §§ 4351, 4359, 4360, 4361; Penal Code 1895, §§ 97, 98, 99, 100; Penal Code 1910, §§ 97, 98, 99, 100; Code 1933, §§ 26-1403, 26-1404, 26-1405, 26-1406; Code 1933, § 26-1302, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1976, p. 543, § 1; Ga. L. 1982, p. 1242, § 2; Ga. L. 1984, p. 900, § 1; Ga. L. 1985, p. 628, § 1; Ga. L. 1991, p. 971, §§ 3, 4; Ga. L. 1994, p. 1012, § 8; Ga. L. 1994, p. 1920, §§ 1, 2; Ga. L. 1996, p. 988, § 1; Ga. L. 1997, p. 1453, § 1; Ga. L. 1999, p. 381, § 3; Ga. L. 2000, p. 1626, § 1; Ga. L. 2003, p. 140, § 16; Ga. L. 2004, p. 1072, § 1; Ga. L. 2006, p. 379, § 4/ HB 1059; Ga. L. 2010, p. 999, § 1/ HB 1002; Ga. L. 2011, p. 752, § 16/ HB 142; Ga. L. 2014, p. 432, § 2-2/ HB 826; Ga. L. 2014, p. 441, § 1/ HB 911; Ga. L. 2014, p. 599, § 3-1/ HB 60; Ga. L. 2015, p. 422, § 5-19/ HB 310.
- § **16-5-22**: Code 1933, § 26-1303, enacted by Ga. L. 1968, p. 1249, § 1.
- § **16-5-27**: Code 1981, § **16-5-27**, enacted by Ga. L. 2005, p. 820, § 1/ HB 10; Ga. L. 2011, p. 99, § 25/ HB 24.
- § **16-5-46**: Code 1981, § **16-5-46**, enacted by Ga. L. 2006, p. 105, § 3/ SB 529; Ga. L. 2011, p. 217, § 1/ HB 200; Ga. L. 2015, p. 693, § 2-2/ HB 233.
- § **16-5-60**: Code 1933, § 26-2910, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1988, p. 1799, § 3; Ga. L. 2003, p. 306, § 1.
- § **16-5-61**: Code 1981, § 16-5-61, enacted by Ga. L. 1988, p. 694, § 1; Ga. L. 1990, p. 1690, § 1.
- § **16-5-70**: Ga. L. 1878-79, p. 162, § 3; Code 1882, § 4612h; Penal Code 1895, § 708; Penal Code 1910, § 758; Code 1933, § 26-8001; Code 1933, § 26-2801, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1978, p. 228, § 1; Ga. L. 1981, p. 683, § 1; Ga. L. 1995, p. 957, § 2; Ga. L. 1996, p. 1071, § 1; Ga. L. 1999, p. 381, § 6; Ga. L. 2004, p. 57, § 3.
- § **16-5-90**: Code 1981, § 16-5-90, enacted by Ga. L. 1993, p. 1534, § 1; Ga. L. 1998, p. 885, § 1; Ga. L. 2000, p. 1283, § 1.
- § **16-5-91**: Code 1981, § 16-5-91, enacted by Ga. L. 1993, p. 1534, § 1; Ga. L. 1995, p. 911, § 1; Ga. L. 1998, p. 885, § 2; Ga. L. 2002, p. 862, § 1.
- § **16-5-92**: Code 1981, § 16-5-92, enacted by Ga. L. 1993, p. 1534, § 1.
- § **16-5-93**: Code 1981, § 16-5-93, enacted by Ga. L. 1993, p. 1534, § 1; Ga. L. 1997, p. 1453, § 1.
- § **16-5-94**: Code 1981, § 16-5-94, enacted by Ga. L. 1998, p. 885, § 3; Ga. L. 1999, p. 81, § 16.
- § **16-5-95**: Code 1981, § 16-5-95, enacted by Ga. L. 2003, p. 652, § 1; Ga. L. 2013, p. 667, § 1/ SB 86.
- § **16-5-96**: Code 1981, § 16-5-96, enacted by Ga. L. 2004, p. 621, § 3B; Ga. L. 2005, p. 60, § 16/ HB 95.

- § 16-5-100: Code 1981, § 16-5-100, enacted by Ga. L. 2013, p. 524, § 1-1/ HB 78; Ga. L. 2015, p. 598, § 1-1/ HB 72.
- § 16-5-102: Code 1981, § 16-5-102, enacted by Ga. L. 2013, p. 524, § 1-1/ HB 78.
- § 16-5-104: Code 1981, § 16-5-104, enacted by Ga. L. 2015, p. 598, § 1-3/ HB 72.
- § 16-5-105: Code 1981, § 16-5-104, enacted by Ga. L. 2013, p. 524, § 1-1/ HB 78; Code 1981, § 16-5-105, as redesignated by Ga. L. 2015, p. 598, § 1-3/ HB 72.
- § 16-5-110: Code 1981, § 16-5-110, enacted by Ga. L. 2005, p. 467, § 1/ HB 188; Ga. L. 2006, p. 72, § 16/ SB 465; Ga. L. 2006, p. 379, § 7/ HB 1059; Ga. L. 2007, p. 47, § 16/ SB 103.
- § 16-6-1: Laws 1833, Cobb's 1851 Digest, p. 787; Code 1863, §§ 4248, 4249; Ga. L. 1866, p. 151, § 1; Code 1868, §§ 4283, 4284; Code 1873, §§ 4349, 4350; Code 1882, §§ 4349, 4350; Penal Code 1895, §§ 93, 94; Penal Code 1910, §§ 93, 94; Code 1933, §§ 26-1301, 26-1302; Ga. L. 1960, p. 266, § 1; Code 1933, § 26-2001, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1978, p. 3, § 1; Ga. L. 1994, p. 1959, § 5; Ga. L. 1996, p. 1115, § 1; Ga. L. 1997, p. 6, § 2; Ga. L. 1999, p. 666, § 1; Ga. L. 2006, p. 379, § 8/ HB 1059; Ga. L. 2011, p. 214, § 1/ HB 503.
- § 16-6-2: Laws 1833, Cobb's 1851 Digest, p. 787; Code 1863, §§ 4251, 4252; Code 1868, §§ 4286, 4287; Code 1873, §§ 4352, 4353; Code 1882, §§ 4352, 4353; Penal Code 1895, §§ 382, 383; Penal Code 1910, §§ 373, 374; Code 1933, §§ 26-5901, 26-5902; Ga. L. 1949, p. 275, § 1; Code 1933, § 26-2002, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1994, p. 1959, § 7; Ga. L. 1996, p. 1115, § 2; Ga. L. 1997, p. 6, § 3; Ga. L. 2000, p. 1346, § 1; Ga. L. 2006, p. 379, § 9/ HB 1059; Ga. L. 2011, p. 214, § 2/ HB 503.
- § 16-6-3: Ga. L. 1918, p. 259, §§ 1, 2; Code 1933, §§ 26-1303, 26-1304; Code 1933, § 26-2018, enacted by Ga. L. 1968, p. 715, § 1; Ga. L. 1995, p. 957, § 3; Ga. L. 1996, p. 871, § 1; Ga. L. 1996, p. 1115, § 3; Ga. L. 2006, p. 379, § 10/ HB 1059.
- § 16-6-4: Ga. L. 1950, p. 387, § 1; Ga. L. 1953, Nov.-Dec. Sess., p. 408, § 1; Code 1933, § 26-2019, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1984, p. 685, § 1; Ga. L. 1984, p. 1495, § 1; Ga. L. 1985, p. 283, § 1; Ga. L. 1987, p. 617, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1993, p. 715, § 1; Ga. L. 1994, p. 1959, § 6; Ga. L. 1995, p. 957, § 4; Ga. L. 1997, p. 1578, § 1; Ga. L. 2006, p. 379, § 11/ HB 1059; Ga. L. 2009, p. 729, § 1/ HB 123.
- § 16-6-5: Ga. L. 1950, p. 387, § 2; Ga. L. 1953, Nov.-Dec. Sess., p. 408, § 2; Code 1933, § 26-2020, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1984, p. 1495, § 2; Ga. L. 1992, p. 6, § 16; Ga. L. 1992, p. 2131, § 1; Ga. L. 1995, p. 957, § 5; Ga. L. 2006, p. 379, § 12/ HB 1059.
- § 16-6-5.1: Code 1981, § 16-6-5.1, enacted by Ga. L. 1983, p. 721, § 1; Ga. L. 1990, p. 1003, § 1; Ga. L. 1991, p. 1108, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1992, p. 1940, § 1; Ga. L. 1999, p. 562, § 5; Ga. L. 2006, p. 379, § 13/ HB 1059; Ga. L. 2010, p. 168, § 2/ HB 571; Ga. L. 2011, p. 227, § 5/ SB 178; Ga. L. 2015, p. 422, § 5-20/ HB 310.
- § 16-6-6: Laws 1833, Cobb's 1851 Digest, p. 787; Code 1863, §§ 4253, 4254; Code 1868, §§ 4288, 4289; Code 1873, §§ 4354, 4355; Ga. L. 1880-81, p. 74, § 1; Code 1882, §§ 4354, 4355; Penal Code 1895, §§ 384, 385; Penal Code 1910, §§ 375, 376; Code 1933, §§ 26-5903, 26-5904; Code 1933, § 26-2004, enacted by Ga. L. 1968, p. 1249, § 1.
- § 16-6-7: Code 1933, § 26-2022, enacted by Ga. L. 1977, p. 315, § 1.
- § 16-6-8: Laws 1833, Cobb's 1851 Digest, p. 815; Code 1863, § 4420; Ga. L. 1865-66, p. 233, § 2; Code 1868, § 4461; Code 1873, § 4535; Code 1882, § 4535; Penal Code 1895, § 390; Penal Code 1910, § 381; Code

1933, § 26-6101; Code 1933, § 26-2011, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1991, p. 966, § 1; Ga. L. 1992, p. 6, § 16; Ga. L. 1996, p. 312, § 1; Ga. L. 1996, p. 354, § 1.

§ **16-6-22**: Laws 1833, Cobb's 1851 Digest, p. 814; Code 1863, § 4418; Code 1868, § 4459; Code 1873, § 4533; Code 1882, § 4533; Ga. L. 1886, p. 30, § 1; Penal Code 1895, § 380; Penal Code 1910, § 371; Ga. L. 1916, p. 51, § 1; Code 1933, § 26-5701; Code 1933, § 26-2006, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 2006, p. 379, § 14/ HB 1059; Ga. L. 2010, p. 168, § 3/ HB 571; Ga. L. 2015, p. 203, § 1-1/ SB 72.

§ **16-6-22.1**: Code 1981, § 16-6-22.1, enacted by Ga. L. 1990, p. 1003, § 2; Ga. L. 2003, p. 573, § 1.1; Ga. L. 2006, p. 379, § 15/ HB 1059.

§ **16-6-22.2**: Code 1981, § 16-6-22.2, enacted by Ga. L. 1990, p. 1003, § 2; Ga. L. 1994, p. 1959, § 8; Ga. L. 2006, p. 379, § 16/ HB 1059.

§ **16-6-23**: Ga. L. 1911, p. 179, §§ 1, 2; Code 1933, § 26-2105; Code 1933, § 26-9901, enacted by Ga. L. 1968, p. 1249, § 1.

§ **16-6-25**: Code 1981, § 16-6-25, enacted by Ga. L. 2006, p. 379, § 17/ HB 1059; Ga. L. 2007, p. 47, § 16/ SB 103; Ga. L. 2015, p. 422, § 5-21/ HB 310.

§ **16-12-100**: Ga. L. 1978, p. 2193, § 1; Ga. L. 1983, p. 1437, § 1; Ga. L. 1987, p. 1164, § 1; Ga. L. 1988, p. 11, §§ 1, 2; Ga. L. 1991, p. 886, § 3; Ga. L. 1995, p. 957, § 6; Ga. L. 1996, p. 6, § 16; Ga. L. 2003, p. 573, § 2; Ga. L. 2013, p. 663, § 1/ HB 156; Ga. L. 2015, p. 693, § 2-15/ HB 233.

§ **16-12-100.1**: Code 1981, § 16-12-100.1, enacted by Ga. L. 1993, p. 735, § 1; Ga. L. 2013, p. 663, § 2/ HB 156.

§ **16-12-100.2**: Code 1981, § 16-12-100.2, enacted by Ga. L. 1999, p. 232, § 2; Ga. L. 2003, p. 140, § 16; Ga. L. 2003, p. 573, § 3; Ga. L. 2007, p. 47, § 16/ SB 103; Ga. L. 2007, p. 283, § 2/ SB 98; Ga. L. 2013, p. 663, § 3/ HB 156.

§ **16-12-100.3**: Code 1981, § 16-12-100.3, enacted by Ga. L. 2000, p. 1237, § 1.

§ **16-12-103**: Code 1981, §§ 16-12-103, 16-12-104, enacted by Ga. L. 1983, p. 1437, § 2; Ga. L. 1984, p. 22, § 16; Ga. L. 1984, p. 1495, § 3; Ga. L. 1996, p. 273, § 2; Ga. L. 2005, p. 1261, § 1/ SB 106.

§ **17-3-1**: Code 1933, § 26-502, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1987, p. 330, § 1; Ga. L. 1996, p. 1115, § 4; Ga. L. 2002, p. 650, § 1; Ga. L. 2012, p. 899, § 4-1/ HB 1176.

§ **17-3-2**: Code 1933, § 26-503, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1969, p. 857, § 17.

§ **17-3-2.1**: Code 1981, § 17-3-2.1, enacted by Ga. L. 1992, p. 2973, § 1; Ga. L. 2012, p. 899, § 4-2/ HB 1176.

§ **17-3-2.2**: Code 1981, § 17-3-2.2, enacted by Ga. L. 2000, p. 1085, § 5.

§ **17-3-3**: Code 1933, § 26-504, enacted by Ga. L. 1968, p. 1249, § 1.

§ **17-5-70**: Code 1981, § 17-5-70, enacted by Ga. L. 2008, p. 486, § 3/ HB 1297.

§ **17-5-71**: Code 1981, § 17-5-71, enacted by Ga. L. 2008, p. 486, § 3/ HB 1297.

§ **17-5-72**: Code 1981, § 17-5-72, enacted by Ga. L. 2008, p. 486, § 3/ HB 1297; Ga. L. 2011, p. 214, § 3/ HB 503.

§ **17-5-73**: Code 1981, § 17-5-73, enacted by Ga. L. 2008, p. 486, § 3/ HB 1297.

§ **17-17-1**: Code 1981, § 17-17-1, enacted by Ga. L. 1995, p. 385, § 2; Ga. L. 2010, p. 214, § 6/ HB 567.

§ **17-17-3**: Code 1981, § 17-17-3, enacted by Ga. L. 1995, p. 385, § 2; Ga. L. 1996, p. 748, § 17; Ga. L. 1997, p. 1453, § 1; Ga. L. 2010, p. 214, § 7/ HB 567; Ga. L. 2013, p. 524, § 3-1/ HB 78; Ga. L. 2015, p. 422, § 5-40/ HB 310.

- § **17-17-4**: Code 1981, § 17-17-4, enacted by Ga. L. 1995, p. 385, § 2.
- § **17-17-5**: Code 1981, § 17-17-5, enacted by Ga. L. 1995, p. 385, § 2; Ga. L. 2010, p. 214, § 8/HB 567.
- § **17-17-6**: Code 1981, § 17-17-6, enacted by Ga. L. 1995, p. 385, § 2; Ga. L. 2011, p. 217, § 7/HB 200.
- § **17-17-7**: Code 1981, § 17-17-7, enacted by Ga. L. 1995, p. 385, § 2; Ga. L. 2014, p. 866, § 17/SB 340.
- § **17-17-8**: Code 1981, § 17-17-8, enacted by Ga. L. 1995, p. 385, § 2; Ga. L. 2010, p. 214, § 10/HB 567; Ga. L. 2015, p. 422, § 5-41/HB 310.
- § **17-17-8.1**: Code 1981, § 17-17-8.1, enacted by Ga. L. 2010, p. 214, § 11/HB 567.
- § **17-17-9**: Code 1981, § 17-17-9, enacted by Ga. L. 1995, p. 385, § 2; Ga. L. 2010, p. 214, § 12/HB 567; Ga. L. 2011, p. 99, § 35/HB 24; Ga. L. 2014, p. 866, § 17/SB 340.
- § **17-17-9.1**: Code 1981, § 17-17-9.1, enacted by Ga. L. 2010, p. 214, § 13/HB 567.
- § **17-17-10**: Code 1981, § 17-17-10, enacted by Ga. L. 1995, p. 385, § 2.
- § **17-17-11**: Code 1981, § 17-17-11, enacted by Ga. L. 1995, p. 385, § 2.
- § **17-17-12**: Code 1981, § 17-17-12, enacted by Ga. L. 1995, p. 385, § 2; Ga. L. 2002, p. 1093, § 1; Ga. L. 2003, p. 247, § 4; Ga. L. 2010, p. 214, § 14/HB 567.
- § **17-17-12.1**: Code 1981, § 17-17-12.1, enacted by Ga. L. 2010, p. 214, § 15/HB 567; Ga. L. 2011, p. 752, § 17/HB 142.
- § **17-17-13**: Code 1981, § 17-17-13, enacted by Ga. L. 1995, p. 385, § 2; Ga. L. 2015, p. 207, § 1/HB 71.
- § **17-17-14**: Code 1981, § 17-17-14, enacted by Ga. L. 1995, p. 385, § 2; Ga. L. 2014, p. 866, § 17/SB 340; Ga. L. 2015, p. 422, § 5-42/HB 310.
- § **17-17-15**: Code 1981, § 17-17-15, enacted by Ga. L. 1995, p. 385, § 2.
- § **17-17-16**: Code 1981, § 17-17-16, enacted by Ga. L. 1998, p. 270, § 10.
- § **17-18-1**: Code 1981, § 17-18-1, enacted by Ga. L. 1996, p. 1115, § 5; Ga. L. 2009, p. 453, § 1-15/HB 228; Ga. L. 2011, p. 705, § 5-3/HB 214.
- § **17-18-2**: Code 1981, § 17-18-2, enacted by Ga. L. 1996, p. 1115, § 5; Ga. L. 2011, p. 214, § 6/HB 503.
- § **20-2-314**: Code 1981, § **20-2-314**, enacted by Ga. L. 2000, p. 163, § 1; Ga. L. 2003, p. 915, § 1; Ga. L. 2015, p. 1376, § 27/HB 502.
- § **24-4-412**: Code 1981, § 24-4-412, enacted by Ga. L. 2011, p. 99, § 2/HB 24.
- § **24-4-413**: Code 1981, § 24-4-413, enacted by Ga. L. 2011, p. 99, § 2/HB 24.
- § **24-4-414**: Code 1981, § 24-4-414, enacted by Ga. L. 2011, p. 99, § 2/HB 24.
- § **24-4-415**: Code 1981, § 24-4-415, enacted by Ga. L. 2011, p. 99, § 2/HB 24.
- § **24-5-509**: Code 1981, § 24-5-509, enacted by Ga. L. 2012, p. 105, § 2/HB 711.
- § **31-7-9**: Code 1933, § 88-1913, enacted by Ga. L. 1980, p. 1040, § 2; Ga. L. 1982, p. 1249, §§ 1, 2; Ga. L. 1985, p. 898, § 1; Ga. L. 2008, p. 12, § 2-13/SB 433.
- § **35-1-2**: Code 1981, § 35-1-2, enacted by Ga. L. 2016, p. 145, § 2/SB 304.



- § 42-1-12:** Code 1981, § 42-1-12, enacted by Ga. L. 1996, p. 1520, § 1; Ga. L. 1997, p. 143, § 42; Ga. L. 1997, p. 380, § 1; Ga. L. 1998, p. 831, § 1; Ga. L. 1999, p. 81, § 42; Ga. L. 1999, p. 837, § 1; Ga. L. 2001, p. 1004, § 1; Ga. L. 2002, p. 571, § 1; Ga. L. 2002, p. 1400, §§ 1, 2; Ga. L. 2003, p. 140, § 42; Ga. L. 2003, p. 281, § 1; Ga. L. 2004, p. 645, § 5; Ga. L. 2004, p. 1064, §§ 1, 2; Ga. L. 2005, p. 453, § 1/106; Ga. L. 2006, p. 72, § 42/SB 465; Ga. L. 2006, p. 379, § 24/1059; Ga. L. 2008, p. 680, §§ 2, 3/SB 1; Ga. L. 2008, p. 810, §§ 3, 4/SB 474; Ga. L. 2009, p. 8, § 42/SB 46; Ga. L. 2009, p. 453, § 2-2/228; Ga. L. 2010, p. 167, § 1/651; Ga. L. 2010, p. 168, §§ 5, 6, 7, 8, 9, 10, 11/571; Ga. L. 2011, p. 752, § 42/142; Ga. L. 2012, p. 173, § 2-9/665; Ga. L. 2013, p. 135, § 10/354; Ga. L. 2015, p. 422, § 5-65/310; Ga. L. 2015, p. 675, § 4-2/SB 8.
- § 42-1-13:** Code 1981, § 42-1-13, enacted by Ga. L. 2006, p. 379, § 24/1059; Ga. L. 2009, p. 453, §§ 3-2, 3-3/228; Ga. L. 2012, p. 985, § 2/895.
- § 42-1-14:** Code 1981, § 42-1-14, enacted by Ga. L. 2006, p. 379, § 24/1059; Ga. L. 2010, p. 168, § 12/571; Ga. L. 2010, p. 878, § 42/1387; Ga. L. 2011, p. 752, § 42/142; Ga. L. 2012, p. 985, § 3/895; Ga. L. 2013, p. 1056, § 1/122; Ga. L. 2015, p. 422, § 5-66/310.
- § 42-1-15:** Code 1981, § 42-1-15, enacted by Ga. L. 2008, p. 680, § 4/SB 1; Ga. L. 2010, p. 168, § 13/571.
- § 42-1-16:** Code 1981, § 42-1-16, enacted by Ga. L. 2010, p. 168, § 14/571.
- § 42-1-17:** Code 1981, § 42-1-17, enacted by Ga. L. 2010, p. 168, § 14/571; Ga. L. 2013, p. 135, § 12/354.
- § 42-1-18:** Code 1981, § 42-1-18, enacted by Ga. L. 2010, p. 168, § 14/571; Ga. L. 2011, p. 505, § 1/162.