

House Bill 341 (AS PASSED HOUSE AND SENATE)

By: Representatives Reeves of the 34th, Coomer of the 14th, Golick of the 40th, Kelley of the 16th, Strickland of the 111th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 and Code Section 17-10-6.2 of the Official Code of Georgia Annotated,
2 relating to crimes and offenses and punishment for sexual offenders, respectively, so as to
3 change provisions relating to trafficking of individuals for sexual servitude; to change
4 provisions relating to the model notice for the human trafficking hotline; to change
5 provisions relating to punishment for other sexual offenses; to clarify provisions relating to
6 the probation portion of a split sentence imposed for certain sexual offenses; to amend Code
7 Section 42-1-12 of the Official Code of Georgia Annotated, relating to the State Sexual
8 Offender Registry, so as to provide a conforming cross-reference; to provide for related
9 matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is
13 amended by revising subsections (c) and (f) of Code Section 16-5-46, relating to trafficking
14 of persons for labor or sexual servitude, as follows:

15 "(c) A person commits the offense of trafficking ~~a person~~ an individual for sexual servitude
16 when that person knowingly ~~subjects another person;~~

17 (1) ~~Subjects an individual~~ to or maintains ~~another person~~ an individual in sexual
18 servitude ~~or knowingly recruits;~~

19 (2) Recruits, entices, harbors, transports, provides, or obtains by any means ~~another~~
20 person an individual for the purpose of sexual servitude; ~~or~~

21 (3) Solicits by any means an individual to perform sexually explicit conduct on behalf
22 of such person when such individual is the subject of sexual servitude."

23 "(f)(1) Except as provided in paragraph (2) of this subsection, any person who commits
24 the offense of trafficking an individual for labor ~~or sexual~~ servitude shall be guilty of a
25 felony, and upon conviction thereof, shall be punished by imprisonment for not less than
26 ten nor more than 20 years and a fine not to exceed \$100,000.00.

27 (2) Any person who commits the offense of trafficking an individual for labor or sexual
 28 servitude against an individual who is ~~under the age of 18 years shall be guilty of a~~
 29 ~~felony, and upon conviction thereof, shall be punished by imprisonment for not less than~~
 30 ~~ten nor more than 20 years and a fine not to exceed \$100,000.00; provided, however, that~~
 31 ~~if the offense is committed against an individual~~ under 18 years of age and such
 32 individual under the age of 18 years was coerced or deceived into being trafficked for
 33 labor or sexual servitude or if the offense is committed against an individual who has a
 34 developmental disability, the person shall be guilty of a felony, and upon conviction
 35 thereof, shall be punished by imprisonment for not less than 25 nor more than 50 years
 36 or life imprisonment and a fine not to exceed \$100,000.00.

37 (3) Except as provided in paragraph (4) of this subsection, any person who violates
 38 paragraph (1) or (2) of subsection (c) of this Code section shall be guilty of a felony, and
 39 upon conviction thereof, shall be punished by imprisonment for not less than ten nor
 40 more than 20 years.

41 (4) Any person who violates paragraph (1) or (2) of subsection (c) of this Code section
 42 committed against an individual under 18 years of age and such individual under the age
 43 of 18 years was coerced or deceived into such violation or if such violation is committed
 44 against an individual who has a developmental disability, such person shall be guilty of
 45 a felony, and upon conviction thereof, shall be punished by imprisonment for not less
 46 than 25 nor more than 50 years or life imprisonment.

47 (5) Any person who violates paragraph (3) of subsection (c) of this Code section shall
 48 be guilty of a felony. When such offense is committed against an individual who is 16
 49 or 17 years of age, upon conviction, such person shall be punished by imprisonment for
 50 not less than five nor more than 20 years. When such offense is committed against an
 51 individual who is younger than 16 years of age or an individual known to have a
 52 developmental disability, upon conviction, such person shall be punished by
 53 imprisonment for not less than ten nor more than 20 years."

54 **SECTION 2.**

55 Said title is further amended by revising subsection (c) and repealing subsection (e) of Code
 56 Section 16-5-47, relating to posting model notice with human trafficking hotline information
 57 in businesses and on the Internet, as follows:

58 "(c) ~~The On or before August 1, 2013, the~~ Georgia Bureau of Investigation shall develop
 59 a model notice that ~~complies with the requirements of this subsection and make the model~~
 60 notice is available for download ~~on~~ from its Internet website. Such notice shall be at least
 61 8 1/2 inches by 11 inches in size; ~~and~~ and printed in a 16 point font in English, Spanish, and
 62 any other language deemed appropriate by the director of the Georgia Bureau of

63 Investigation, and state the following: Such model notice shall provide information giving
 64 individuals a method to contact the National Human Trafficking Hotline and the Statewide
 65 Georgia Hotline for Domestic Minor Trafficking.

66 ~~'Are you or someone you know being sold for sex or made/forced to work for little or no~~
 67 ~~pay and cannot leave? Call the National Human Trafficking Resource Center at~~
 68 ~~1-888-373-7888 for help. All victims of slavery and human trafficking have rights and~~
 69 ~~are protected by international, federal, and state law.~~

70 The hotline is:

- 71 ~~(1) Anonymous and confidential;~~
- 72 ~~(2) Available 24 hours a day, seven days a week;~~
- 73 ~~(3) Able to provide help, referral to services, training, and general information;~~
- 74 ~~(4) Accessible in 170 languages;~~
- 75 ~~(5) Operated by a nonprofit, nongovernmental organization; and~~
- 76 ~~(6) Toll free."~~

77 SECTION 3.

78 Said title is further amended by revising subsection (a) of Code Section 16-6-13, relating to
 79 penalties for violating Code Sections 16-6-9 through 16-6-12, as follows:

80 "(a) Except as otherwise provided in subsection (b) of this Code section, a person
 81 convicted of ~~any of the offenses enumerated in Code Sections 16-6-10 through 16-6-12~~
 82 violating:

83 (1) Code Section 16-6-10 shall be punished as for a misdemeanor of a high and
 84 aggravated nature. A person convicted of the offense enumerated in, and at the sole
 85 discretion of the judge, all but 24 hours of any term of imprisonment imposed may be
 86 suspended, stayed, or probated;

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

88 (3) Code Section 16-6-11 shall be punished as for a misdemeanor of a high and
 89 aggravated nature, and at the sole discretion of the judge, all but 24 hours of any term of
 90 imprisonment imposed may be suspended, stayed, or probated; or

91 (4) Code Section 16-6-12 shall be punished as for a misdemeanor of a high and
 92 aggravated nature, and at the sole discretion of the judge, all but 24 hours of any term of
 93 imprisonment imposed may be suspended, stayed, or probated."

94 SECTION 4.

95 Said title is further amended by revising paragraph (1) of subsection (f) of Code Section
 96 16-12-100, relating to sexual exploitation of children, as follows:

97 "(f)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, any
 98 person who violates a provision of this Code section shall be guilty of a felony and, upon
 99 conviction thereof, shall be punished by imprisonment for not less than five nor more
 100 than 20 years and by a fine of not more than \$100,000.00; provided, however, that if the
 101 person so convicted is a member of the immediate family of the victim, no fine shall be
 102 imposed. Any person punished as provided in this paragraph shall, in addition, be subject
 103 to the sentencing and punishment provisions of Code Section 17-10-6.2."

104 **SECTION 5.**

105 Code Section 17-10-6.2 of the Official Code of Georgia Annotated, relating to punishment
 106 for sexual offenders, is amended by revising subsections (a) and (b) as follows:

107 "(a) As used in this Code section, the term 'sexual offense' means:

- 108 (1) Aggravated assault with the intent to rape, ~~as defined in~~ violation of Code Section
 109 16-5-21;
- 110 (2) False imprisonment, ~~as defined in~~ violation of Code Section 16-5-41, if the victim
 111 is not the child of the defendant and the victim is less than 14 years of age;
- 112 (3) Sodomy, ~~as defined in~~ violation of Code Section 16-6-2, unless subject to the
 113 provisions of subsection (d) of Code Section 16-6-2;
- 114 (4) Statutory rape, ~~as defined in~~ violation of Code Section 16-6-3, if the person convicted
 115 of the crime is 21 years of age or older;
- 116 (5) Child molestation, ~~as defined in~~ violation of subsection (a) of Code Section 16-6-4,
 117 unless subject to the provisions of paragraph (2) of subsection (b) of Code Section
 118 16-6-4;
- 119 (6) Enticing a child for indecent purposes, ~~as defined in~~ violation of Code Section
 120 16-6-5, unless subject to the provisions of subsection (c) of Code Section 16-6-5;
- 121 (7) Sexual assault against persons in custody, ~~as defined in~~ violation of Code Section
 122 16-6-5.1;
- 123 (8) Incest, ~~as defined in~~ violation of Code Section 16-6-22;
- 124 (9) A second or subsequent conviction for sexual battery, ~~as defined in~~ violation of Code
 125 Section 16-6-22.1; or
- 126 (10) Sexual exploitation of children, ~~as defined in~~ violation of Code Section 16-12-100,
 127 unless subject to the provisions of paragraph (2) or (3) of subsection (f) of Code Section
 128 16-12-100.

129 (b) Except as provided in subsection (c) of this Code section, and notwithstanding any
 130 other provisions of law to the contrary, any person convicted of a sexual offense shall be
 131 sentenced to a split sentence which shall include the minimum term of imprisonment
 132 specified in the Code section applicable to ~~the~~ such sexual offense. No portion of the

133 mandatory minimum sentence imposed shall be suspended, stayed, probated, deferred, or
 134 withheld by the ~~sentencing court and~~. Any such sentence shall include, in addition to the
 135 mandatory term of imprisonment, an additional probated sentence of at least one year;
 136 provided, however, that when a court imposes consecutive sentences for sexual offenses,
 137 the requirement that the court impose a probated sentence of at least one year shall only
 138 apply to the final consecutive sentence imposed. No person convicted of a sexual offense
 139 shall be sentenced as a first offender pursuant to Article 3 of Chapter 8 of Title 42, ~~relating~~
 140 ~~to probation for first offenders~~, or any other provision of Georgia law relating to the
 141 sentencing of first offenders."

142 **SECTION 6.**

143 Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the State Sexual
 144 Offender Registry, is amended by revising subparagraph (a)(10)(B.1) and adding a new
 145 subparagraph to read as follows:

146 "(B.1) 'Dangerous sexual offense' with respect to convictions occurring ~~after June 30,~~
 147 2015 between July 1, 2015, and June 30, 2017, means any criminal offense, or the
 148 attempt to commit any criminal offense, under Title 16 as specified in this ~~paragraph~~
 149 subparagraph or any offense under federal law or the laws of another state or territory
 150 of the United States which consists of the same or similar elements of the following
 151 offenses:

- 152 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
- 153 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who
 154 is less than 14 years of age, except by a parent;
- 155 (iii) Trafficking a person for sexual servitude in violation of Code Section 16-5-46;
- 156 (iv) Rape in violation of Code Section 16-6-1;
- 157 (v) Sodomy in violation of Code Section 16-6-2;
- 158 (vi) Aggravated sodomy in violation of Code Section 16-6-2;
- 159 (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted
 160 of the offense is 21 years of age or older;
- 161 (viii) Child molestation in violation of Code Section 16-6-4;
- 162 (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the
 163 person was convicted of a misdemeanor offense;
- 164 (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
- 165 (xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;
- 166 (xii) Incest in violation of Code Section 16-6-22;
- 167 (xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;
- 168 (xiv) Aggravated sexual battery in violation of Code Section 16-6-22.2;

- 169 (xv) Sexual exploitation of children in violation of Code Section 16-12-100;
 170 (xvi) Electronically furnishing obscene material to minors in violation of Code
 171 Section 16-12-100.1;
 172 (xvii) Computer pornography and child exploitation in violation of Code Section
 173 16-12-100.2;
 174 (xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or
 175 (xix) Any conduct which, by its nature, is a sexual offense against a victim who is a
 176 minor or an attempt to commit a sexual offense against a victim who is a minor.
- 177 (B.2) 'Dangerous sexual offense' with respect to convictions occurring after June 30,
 178 2017, means any criminal offense, or the attempt to commit any criminal offense, under
 179 Title 16 as specified in this subparagraph or any offense under federal law or the laws
 180 of another state or territory of the United States which consists of the same or similar
 181 elements of the following offenses:
- 182 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
 183 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who
 184 is less than 14 years of age, except by a parent;
 185 (iii) Trafficking an individual for sexual servitude in violation of Code Section
 186 16-5-46;
 187 (iv) Rape in violation of Code Section 16-6-1;
 188 (v) Sodomy in violation of Code Section 16-6-2;
 189 (vi) Aggravated sodomy in violation of Code Section 16-6-2;
 190 (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted
 191 of the offense is 21 years of age or older;
 192 (viii) Child molestation in violation of Code Section 16-6-4;
 193 (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the
 194 person was convicted of a misdemeanor offense;
 195 (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
 196 (xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;
 197 (xii) Incest in violation of Code Section 16-6-22;
 198 (xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;
 199 (xiv) Aggravated sexual battery in violation of Code Section 16-6-22.2;
 200 (xv) Sexual exploitation of children in violation of Code Section 16-12-100;
 201 (xvi) Electronically furnishing obscene material to minors in violation of Code
 202 Section 16-12-100.1;
 203 (xvii) Computer pornography and child exploitation in violation of Code Section
 204 16-12-100.2;
 205 (xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or

206 (xix) Any conduct which, by its nature, is a sexual offense against a victim who is a
207 minor or an attempt to commit a sexual offense against a victim who is a minor."

208 **SECTION 7.**

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