

House Bill 885 (COMMITTEE SUBSTITUTE)

By: Representatives Petrea of the 166<sup>th</sup>, Fleming of the 121<sup>st</sup>, Cantrell of the 22<sup>nd</sup>, Collins of the 68<sup>th</sup>, Newton of the 123<sup>rd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Code Section 42-5-36 of the Official Code of Georgia Annotated, relating to confidentiality of information supplied by inmates, penalties for breach, classified nature of department investigation reports, confidentiality of certain identifying information, and custodians of records, so as to provide that certain information within inmate files of the Department of Corrections shall not be classified as confidential state secrets when requested by the district attorney for purposes of responding to proposed actions of the State Board of Pardons and Paroles; to provide for a definition; to provide for an exception; to provide for nondisclosure; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 42-5-36 of the Official Code of Georgia Annotated, relating to confidentiality of information supplied by inmates, penalties for breach, classified nature of department investigation reports, confidentiality of certain identifying information, and custodians of records, is amended by revising subsection (c) and adding a new subsection to read as follows:

"(c)(1) As used in this subsection, the term:

(A) 'Dangerous sexual offense' shall have the same meaning as set forth in Code Section 42-1-12.

(B) 'Serious offense' shall have the same meaning as set forth in Code Section 42-9-42.

~~(B)~~(C) 'Serious violent felony' shall have the same meaning as set forth in Code Section 17-10-6.1.

(2) All institutional inmate files and central office inmate files of the department shall be classified as confidential state secrets and privileged under law, unless declassified in writing by the commissioner; provided, however, that ~~these~~:

H. B. 885 (SUB)

(A)(i) Except for medical records, this subsection shall not apply to information requested by the district attorney of the circuit in which the inmate was sentenced for a serious violent felony or sentenced for a dangerous sexual offense against a person less than 18 years of age for purposes of such district attorney submitting information or filing a written objection under Code Section 42-9-43;

(ii) The commissioner shall furnish the records provided for under division (i) of this subparagraph that were created on and after January 31, 2010, upon receipt of the request for such records from the district attorney, and such request shall state that the records are sought for purposes of submitting information or filing a written objection under Code Section 42-9-43; and

(iii) Any record provided for under this subparagraph shall be held in confidence by the district attorney and shall not be subject to disclosure under Article 4 of Chapter 18 of Title 50 and shall be subject to the provisions of subsection (f) of this Code section.

(B) These records shall be subject to subpoena by a court of competent jurisdiction of this state and provided, further, that the; and

(C) The commissioner shall prepare a report of the conduct of record of any inmate serving a sentence for a serious violent felony. When the report includes conduct which would constitute a serious offense, reasonably related information connected to such offense shall be included in the report. Such report shall be subject to disclosure under paragraph (2) of subsection (a) of Code Section 42-9-43."

"(f) No person shall divulge or cause to be divulged in any manner any confidential state secret. Any person violating this Code section or any person who causes or procures a violation of this Code section or conspires to violate this Code section shall, upon conviction, be guilty of a misdemeanor."

## SECTION 2.

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