

Senate Bill 506

By: Senators Jordan of the 6th, Merritt of the 9th, Sims of the 12th, Harbison of the 15th, Halpern of the 39th and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and
2 offenses, so as to enact the "PROTECT Children Act of 2022"; to provide for a short title;
3 to provide for the offense of aggravated assault by causing another to consume a controlled
4 substance; to provide for definitions; to amend Code Section 17-3-1 of the Official Code of
5 Georgia Annotated, relating to limitations on prosecution generally, so as to extend the
6 statute of limitations for commencing felony and misdemeanor actions for a crime victim
7 who is a minor at the time of the offense; to amend Code Section 20-2-201 of the Official
8 Code of Georgia Annotated, relating to specific course requirements, in-service or continuing
9 education, and online offerings, so as to provide for sexual abuse and sexual trafficking
10 awareness training for certain school personnel; to provide for severability; to amend Article
11 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to sexual
12 offender registration review board, so as to provide that certain sexual offenders be
13 prohibited from utilizing any commercial social networking website; to provide for
14 definitions; to provide for violation and penalty; to amend Code Section 42-1-19 of the
15 Official Code of Georgia Annotated, relating to petition for release from registration
16 requirements, so as to provide for victim notification relative to the filing of a petition of
17 release; to provide for related matters; to repeal conflicting laws; and for other purposes.

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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **SECTION 1.**

20 This Act shall be known and may be cited as the "PROTECT Children Act of 2022."

21 **SECTION 2.**

22 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses is
23 amended in Code Section 16-5-21, relating to aggravated assault is amended by revising
24 subsection (a) as follows:

25 "(a) A person commits the offense of aggravated assault when he or she assaults:

26 (1) With intent to murder, to rape, or to rob;

27 (2) With a deadly weapon or with any object, device, or instrument which, when used
28 offensively against a person, is likely to or actually does result in serious bodily injury;

29 (3) With any object, device, or instrument which, when used offensively against a
30 person, is likely to or actually does result in strangulation; or

31 (4) With any controlled substance by causing another person to consume or ingest the
32 controlled substance without his or her knowledge when intentionally used to diminish
33 the capacity of or to incapacitate such other person; or

34 (5) A person or persons without legal justification by discharging a firearm from within
35 a motor vehicle toward a person or persons."

36 **SECTION 3.**

37 Said title is further amended by revising Code Section 16-6-1, relating to rape, as follows:

38 "16-6-1.

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

40 (1) 'Against the will of such other person' means:

41 (A) Without consent of the other person;

- 42 (B) After consent is revoked by the other person or the other person acts or responds
 43 in a manner that would cause a reasonable person to believe consent is revoked;
 44 (C) When the other person, due to any act, is rendered temporarily incapable of either
 45 appraising the nature of his or her conduct or controlling his or her conduct;
 46 (D) When consent is obtained by threat, force, or coercion; or
 47 (E) When the circumstances are such that any reasonable person would be led to
 48 believe that such act is without consent, expressed or otherwise, of the other person.
 49 (2) 'Forcibly' means acts of physical force, threats of death or physical bodily harm, or
 50 mental coercion. When the other person is mentally incapable, mentally incapacitated,
 51 or physically helpless and unable to consent to the act, and such force, threat, or coercion
 52 is used to affect the penetration of the female sex organ by the male sex organ.
 53 (b) A person commits the offense of rape when ~~he~~ that person has carnal knowledge of:
 54 (1) Another person ~~A female~~ forcibly and against her will ~~the will of such other person;~~
 55 or
 56 (2) A ~~female~~ child who is less than ten years of age.
 57 Carnal knowledge in rape occurs when there is any penetration of the female sex organ by
 58 the male sex organ. The fact that the person allegedly raped is the ~~wife~~ spouse of the
 59 defendant shall not be a defense to a charge of rape.
 60 ~~(b)~~(c) A person convicted of the offense of rape shall be punished by death, by
 61 imprisonment for life without parole, by imprisonment for life, or by a split sentence that
 62 is a term of imprisonment for not less than 25 years and not exceeding life imprisonment,
 63 followed by probation for life. Any person convicted under this Code section shall, in
 64 addition, be subject to the sentencing and punishment provisions of Code Sections
 65 17-10-6.1 and 17-10-7.
 66 (d) When evidence relating to an allegation of rape is collected in the course of a medical
 67 examination of the person who is the victim of the alleged crime, the Georgia Crime
 68 Victims Emergency Fund, as provided for in Chapter 15 of Title 17, shall be responsible

69 for the cost of the medical examination to the extent that expense is incurred for the limited
70 purpose of collecting evidence."

71 **SECTION 4.**

72 Code Section 17-3-1 of the Official Code of Georgia Annotated, relating to limitations on
73 prosecution generally, is amended by revising subsections (c) and (e) as follows:

74 "(c) Except as otherwise provided in Code Section 17-3-2.1, prosecution for felonies other
75 than those specified in subsections (a), (b), and (d) of this Code section shall be
76 commenced within four years after the commission of the crime, provided that prosecution
77 for felonies committed against victims who are at the time of the commission of the offense
78 under the age of 18 years shall be commenced within ~~seven~~ ten years after the commission
79 of the crime."

80 "(e) Prosecution for misdemeanors shall be commenced within two years after the
81 commission of the crime, provided, however, that prosecution for an offense that is
82 classified as a sexual offense pursuant to Chapter 6 of Title 16, or as an offense related to
83 minors pursuant to Chapter 12 of Title 16 committed against victims who are at the time
84 of the commission of the offense under the age of 18 years shall be commenced within ten
85 years after the commission of the crime."

86 **SECTION 5.**

87 Code Section 20-2-201 of the Official Code of Georgia Annotated, relating to specific course
88 requirements, in-service or continuing education, and online offerings, is amended by
89 revising subsection (b) as follows:

90 "(b)(1) Each local unit of administration shall be required to provide all professional
91 personnel certificated by the Professional Standards Commission 12 clock hours of
92 in-service or continuing education in each calendar year, or meet requirements of the
93 Southern Association of Colleges and Schools. Such in-service programs shall be

94 developed by the local unit of administration in conjunction with such agencies as
95 regional educational service agencies, colleges and universities, and other appropriate
96 organizations. These programs shall be designed to address identified needs determined
97 by appropriate personnel evaluation instruments.

98 (2) The in-service programs provided for in paragraph (1) of this subsection ~~These~~
99 ~~programs~~ shall also focus on improving the skills of certificated personnel that directly
100 relate to improving student achievement, as reflected in the revised certification renewal
101 rules established by the Professional Standards Commission pursuant to paragraph (4.1)
102 of subsection (b) of Code Section 20-2-200 regarding the impact of professional learning
103 on student achievement. ~~These~~ Such programs shall also include in-service training
104 programs on sexual abuse and assault awareness and prevention for professional
105 personnel who will be providing instruction in annual age-appropriate sexual abuse and
106 assault awareness and prevention education in kindergarten through grade nine pursuant
107 to subsection (b) of Code Section 20-2-143. Records of attendance shall be maintained
108 by local units of administration and shall be monitored by appropriate Department of
109 Education staff.

110 (3) The in-service programs provided for in paragraph (1) of this subsection shall include
111 in-service education and awareness training on child sexual abuse and sex trafficking for
112 all school personnel who work directly with students in grades kindergarten through
113 grade 12. Any education and awareness training related to child sexual abuse and sex
114 trafficking shall include, but shall not be limited to, best practices from the field of
115 prevention, the grooming process of sexual predators, the warning signs of sexual abuse
116 and sex trafficking, how to intervene when sexual abuse or sex trafficking is suspected
117 or disclosed, legal responsibilities for reporting sexual abuse or sex trafficking, and
118 available resources for assistance. Such education and training may be provided by local
119 nongovernmental organizations with expertise in such areas, local law enforcement
120 officers, or other officers of the court. All school personnel who work with students in

121 grades kindergarten through grade 12 are required to receive two hours of training
122 consistent with this section in odd-numbered years beginning in 2023. Records of
123 attendance shall be maintained by local units of administration and shall be monitored by
124 appropriate Department of Education staff."

125 **SECTION 6.**

126 Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to
127 Sexual Offender Registration Review Board, is amended by adding a new Code section, to
128 read as follows:

129 "42-1-14.1.

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

131 (1) 'Commercial social networking website' includes any website, application, portal,
132 or other means of accessing the internet that:

133 (A) Is operated by a person that derives revenue from membership fees, advertising,
134 or other sources related to the operation of the website, application, portal, or other
135 means of accessing the internet;

136 (B) Allows users to create personal web pages or profiles that contain the user's name
137 or nickname, photographs of the user, and other personal information; and

138 (C) Provides users or visitors a mechanism by which to communicate with others, such
139 as a message board, chat room, or instant messenger.

140 Such term shall not include a website that is either owned or operated by a local, state,
141 or federal governmental entity or that has as its primary purpose the facilitation of
142 commercial transactions, the dissemination of news, the discussion of political or social
143 issues, or professional networking.

144 (2) 'High-risk sex offender' means any individual who is registered with the State Sexual
145 Offender Registry and who has been classified as a dangerous sexual predator pursuant

146 to Code Section 42-1-14 based on a conviction of a sexually violent offense committed
147 against a minor.

148 (b) It shall be unlawful for any person who has been classified as a high-risk sex offender
149 to access or use any commercial social networking website to:

150 (1) Communicate with a person who the offender believes is under 16 years of age;

151 (2) Contact a person who the offender believes is under 16 years of age;

152 (3) Pose falsely as a person under 16 years of age with the intent to commit an unlawful
153 sex act with a person the offender believes is under 16 years of age; or

154 (4) Gather information about a person who the offender believes is under 16 years of
155 age.

156 (c) For purposes of determining jurisdiction, an offense shall be deemed to be committed
157 in this state if the transmission that constitutes the offense either originates in this state or
158 is received in this state.

159 (d) Any person that violates this Code section shall be guilty of a felony and upon
160 conviction thereof, shall be punished by imprisonment for not less than one nor more than
161 ten years or by a fine of not more than \$10,000.00.

162 (e) This Code section shall be severable in accordance with Code Section 1-1-3, relating
163 to severability."

164 **SECTION 7.**

165 Code Section 42-1-19 of the Official Code of Georgia Annotated, relating to petition for
166 release from registration requirements, is amended by revising subsection (b) as follows:

167 "(b)(1) A petition for release pursuant to this Code section shall be filed in the superior
168 court of the jurisdiction in which the individual was convicted; provided, however, that
169 if the individual was not convicted in this state, such petition shall be filed in the superior
170 court of the county where the individual resides.

171 (2) Such petition shall be served on the district attorney of the jurisdiction where the
172 petition is filed, the sheriff of the county where the petition is filed; and the sheriff of the
173 county where the individual resides. Service on the district attorney and sheriff may be
174 had by mailing a copy of the petition with a proper certificate of service.

175 (3) The district attorney shall provide notice to the victim of the underlying offense that
176 a petition for release has been filed and shall further provide notice of the location and
177 time of any hearings scheduled by the court to hear evidence on the petition. The
178 required notice may be provided electronically or by telephone or by some other means,
179 as requested by the victim. The victim shall be responsible for notifying the district
180 attorney's office of any changes in the victim's address, telephone number, or other
181 contact information.

182 (4) The judge in any hearing held to consider a petition for release shall inquire as to
183 whether the victim is present and wishes to be heard. If the victim is present and wishes
184 to be heard, the court shall grant the victim an opportunity to be reasonably heard. The
185 right to be reasonably heard may be exercised, at the victim's discretion, through an oral
186 statement, submission of a written statement, or submission of an audio or video
187 statement.

188 ~~(3)~~(5) If a petition for release is denied, another petition for release shall not be filed
189 within a period of two years from the date of the final order on a previous petition."

190

SECTION 8.

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