

**AS PASSED SENATE****SENATE SUBSTITUTE TO HB 188**

## A BILL TO BE ENTITLED

## AN ACT

1 To amend Article 2 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated,  
2 relating to appellate practice, so as to enact "Mariam's Law"; to revise the name of the Sexual  
3 Offender Registration Review Board; to amend Title 16 of the Official Code of Georgia  
4 Annotated, relating to crimes and offenses, so as to provide a definition; to provide that  
5 punishment for certain sexual offenses shall be life imprisonment and shall require such  
6 persons to wear a device capable of tracking the location of the probationer by electronic  
7 means, including global positioning satellite systems; to provide for the removal of an  
8 electronic monitoring device; to provide for determination of unit of prosecution with regard  
9 to visual media; to amend Code Section 17-10-6.2, relating to punishment for sexual  
10 offenders, and Code Section 35-3-4, relating to powers and duties of bureau generally, so as  
11 to revise the name of the Sexual Offender Registration Review Board; to amend Title 42 of  
12 the Official Code of Georgia Annotated, relating to penal institutions, so as to revise the  
13 name of the Sexual Offender Registration Review Board; to revise definitions; to require to  
14 location tracking for certain sexual offenders; to provide for procedure for removal of such  
15 requirement; to repeal and reenact a Code section relative to risk assessment, classification  
16 as "sexually dangerous predator," and electronic monitoring; to provide for risk assessment  
17 classification process, notice, timing, and procedure to request reclassification; to provide for  
18 presentence risk assessment classification of sexual offenders; to provide for termination of  
19 certain probated sentences; to make conforming changes; to provide for related matters; to

20 provide a short title; to provide for an effective date; to provide for applicability; to repeal  
21 conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **PART I**  
24 **SECTION 1-1.**

25 This Act shall be known and may be cited as "Mariam's Law."

26 **PART II**  
27 **SECTION 2-1.**

28 Article 2 of Chapter 6 of Title 5 of the Official Code of Georgia Annotated, relating to  
29 appellate practice, is amended in Code Section 5-6-35, relating to cases requiring application  
30 for appeal, requirements for application, exhibits, response, issuance of appellate court order  
31 regarding appeal, procedure, supersedeas, jurisdiction of appeal, and appeals involving  
32 nonmonetary judgments in custody cases, by revising paragraph (5.1) of subsection (a) as  
33 follows:

34 "(5.1) Appeals from decisions of superior courts reviewing decisions of the Sexual  
35 Offender ~~Registration~~ Risk Review Board;"

**PART III**  
**SECTION 3-1.**

38 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
39 amended by revising subsection (j) of Code Section 16-5-21, relating to aggravated assault,  
40 as follows:

41 "(j)(1) Any person who commits the offense of aggravated assault with intent to rape  
42 against a child under the age of 14 years shall be punished by imprisonment for not less  
43 than 25 nor more than 50 years.

44 (2)(A) As used in this paragraph, the term 'sexual felony' shall mean a felony  
45 conviction of:

46 (i) Aggravated assault with the intent to rape in violation of subsection (a) of this  
47 Code section;

48 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who  
49 is under 14 years of age, except by a parent;

50 (iii) Trafficking an individual for sexual servitude in violation of Code Section  
51 16-5-46;

52 (iv) Rape in violation of Code Section 16-6-1;

53 (v) Aggravated sodomy in violation of Code Section 16-6-2;

54 (vi) Statutory rape in violation of Code Section 16-6-3, if the individual convicted of  
55 the offense is 21 years of age or older;

56 (vii) Child molestation in violation of Code Section 16-6-4;

57 (viii) Aggravated child molestation in violation of Code Section 16-6-4;

58 (ix) Enticing a child for indecent purposes in violation of Code Section 16-6-5;

59 (x) Improper sexual contact by employee or agent in the first or second degree or  
60 improper sexual contact by a foster parent in the first or second degree in violation of

61 Code Section 16-6-5.1, unless the punishment imposed was not subject to Code  
 62 Section 17-10-6.2;  
 63 (xi) Incest in violation of Code Section 16-6-22;  
 64 (xii) Aggravated sexual battery in violation of Code Section 16-6-22.2; or  
 65 (xiii) Sexual exploitation of children in violation of Code Section 16-12-100.  
 66 (B) Any person having been previously convicted of a sexual felony who is convicted  
 67 of the offense of aggravated assault with the intent to rape shall be punished by  
 68 imprisonment for life or a split sentence that is a term of imprisonment followed by  
 69 probation for life. As a condition of probation, the court shall impose the requirement  
 70 of electronic monitoring as set forth in paragraph (14) of subsection (a) of Code Section  
 71 42-8-35. Any person convicted under this subsection paragraph shall, in addition, be  
 72 subject to the sentencing and punishment provisions of Code Section 17-10-6.2."

73 **SECTION 3-2.**

74 Said title is further amended by revising subsection (d) of Code Section 16-5-40, relating to  
 75 kidnapping, as follows:

76 "(d) A person convicted of the offense of kidnapping shall be punished by:

77 (1) Imprisonment for not less than ten nor more than 20 years if the kidnapping involved  
 78 a victim who was 14 years of age or older;

79 (2) Imprisonment for life or by a split sentence that is a term of imprisonment for not less  
 80 than 25 years and not exceeding life imprisonment, followed by probation for life, if the  
 81 kidnapping involved a victim who is ~~less than~~ under 14 years of age;

82 (2.1)(A) As used in this paragraph, the term 'sexual felony' shall have the same  
 83 meaning as set forth in paragraph (2) of subsection (j) of Code Section 16-5-21.

84 (B) Any person having been previously convicted of a sexual felony who is convicted  
 85 of the offense of kidnapping which involves a victim who is under 14 years of age,  
 86 except by a parent, shall be punished by imprisonment for life or a split sentence that

87 is a term of imprisonment followed by probation for life. As a condition of probation,  
88 the court shall impose the requirement of electronic monitoring as set forth in  
89 paragraph (14) of subsection (a) of Code Section 42-8-35;

90 (3) Life imprisonment or death if the kidnapping was for ransom; or

91 (4) Life imprisonment or death if the person kidnapped received bodily injury."

92 **SECTION 3-3.**

93 Said title is further amended by revising subsection (f) of Code Section 16-5-46, relating to  
94 trafficking of persons for labor or sexual servitude, as follows:

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

99 (2) Any person who commits the offense of trafficking an individual for labor servitude  
100 or sexual servitude against an individual who is under 18 years of age or if the offense  
101 is committed against an individual who has a developmental disability, the person shall  
102 be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for  
103 not less than 25 nor more than 50 years or life imprisonment and a fine not to  
104 exceed \$100,000.00.

105 (3)(A) As used in this paragraph, the term 'sexual felony' shall have the same meaning  
106 as set forth in paragraph (2) of subsection (j) of Code Section 16-5-21.

107 (B) Any person having been previously convicted of a sexual felony who is convicted  
108 of the offense of trafficking of persons for sexual servitude shall be punished by  
109 imprisonment for life or a split sentence that is a term of imprisonment followed by  
110 probation for life. As a condition of probation, the court shall impose the requirement  
111 of electronic monitoring as set forth in paragraph (14) of subsection (a) of Code  
112 Section 42-8-35."

113 **SECTION 3-4.**

114 Said title is further amended by adding a new subsection to Code Section 16-6-1, relating to  
115 rape, to read as follows:

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

118 (2) Any person having been previously convicted of a sexual felony who is convicted of  
119 the offense of rape shall be punished by imprisonment for life or a split sentence that is  
120 a term of imprisonment followed by probation for life. As a condition of probation, the  
121 court shall impose the requirement of electronic monitoring as set forth in paragraph (14)  
122 of subsection (a) of Code Section 42-8-35."

123 **SECTION 3-5.**

124 Said title is further amended by adding a new subsection to Code Section 16-6-2, relating to  
125 sodomy, aggravated sodomy, and medical expenses, to read as follows:

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

128 (2) Any person having been previously convicted of a sexual felony who is convicted of  
129 the felony offense of aggravated sodomy shall be punished by imprisonment for life or  
130 a split sentence that is a term of imprisonment followed by probation for life. As a  
131 condition of probation, the court shall impose the requirement of electronic monitoring  
132 as set forth in paragraph (14) of subsection (a) of Code Section 42-8-35."

133 **SECTION 3-6.**

134 Said title is further amended by adding a new subsection to Code Section 16-6-3, relating to  
135 statutory rape, to read as follows:

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

138 (2) Any person having been previously convicted of a sexual felony who is convicted of  
139 the felony offense of statutory rape when the individual convicted was 21 years of age  
140 or older, shall be punished by imprisonment for life or a split sentence that is a term of  
141 imprisonment followed by probation for life. As a condition of probation, the court shall  
142 impose the requirement of electronic monitoring as set forth in paragraph (14) of  
143 subsection (a) of Code Section 42-8-35."

144 **SECTION 3-7.**

145 Said title is further amended by adding a new subsection to Code Section 16-6-4, relating to  
146 child molestation and aggravated child molestation, to read as follows:

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

149 (2) Except as provided in paragraph (2) of subsection (b) of this Code section, any  
150 person having been previously convicted of a sexual felony who is convicted of the  
151 felony offense of child molestation or aggravated child molestation shall be punished by  
152 imprisonment for life or a split sentence that is a term of imprisonment followed by  
153 probation for life. As a condition of probation, the court shall impose the requirement of  
154 electronic monitoring as set forth in paragraph (14) of subsection (a) of Code  
155 Section 42-8-35."

156 **SECTION 3-8.**

157 Said title is further amended by adding a new subsection to Code Section 16-6-5, relating  
158 to enticing a child for indecent purposes, to read as follows:

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

161 (2) Any person having been previously convicted of a sexual felony who is convicted of  
162 the felony offense of enticing a child for indecent purposes shall be punished by

163 imprisonment for life or a split sentence that is a term of imprisonment followed by  
164 probation for life. As a condition of probation, the court shall impose the requirement of  
165 electronic monitoring as set forth in paragraph (14) of subsection (a) of Code  
166 Section 42-8-35."

167 **SECTION 3-9.**

168 Said title is further amended by adding a new subsection to Code Section 16-6-5.1, relating  
169 to improper sexual contact by employee, agent, or foster parent, consent not a defense, and  
170 penalty, to read as follows:

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

173 (2) Except as provided in paragraph (3) of subsection (g) of this Code section, any  
174 person having been previously convicted of a sexual felony who is convicted of the  
175 felony offense of improper sexual contact by employee, agent, or foster parent in the first  
176 or second degree, shall be punished by imprisonment for life or a split sentence that is a  
177 term of imprisonment followed by probation for life. As a condition of probation, the  
178 court shall impose the requirement of electronic monitoring as set forth in paragraph (14)  
179 of subsection (a) of Code Section 42-8-35."

180 **SECTION 3-10.**

181 Said title is further amended by adding a new subsection to Code Section 16-6-22, relating  
182 to incest, to read as follows:

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

185 (2) Any person having been previously convicted of a sexual felony who is convicted of  
186 the offense of incest shall be punished by imprisonment for life or a split sentence that  
187 is a term of imprisonment followed by probation for life. As a condition of probation, the



188 court shall impose the requirement of electronic monitoring as set forth in paragraph (14)  
 189 of subsection (a) of Code Section 42-8-35."

190 **SECTION 3-11.**

191 Said title is further amended by adding a new subsection to Code Section 16-6-22.2, relating  
 192 to aggravated sexual battery, to read as follows:

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

195 (2) Any person having been previously convicted of a sexual felony who is convicted of  
 196 the offense of aggravated sexual battery shall be punished by imprisonment for life or a  
 197 split sentence that is a term of imprisonment followed by probation for life. As a  
 198 condition of probation, the court shall impose the requirement of electronic monitoring  
 199 as set forth in paragraph (14) of subsection (a) of Code Section 42-8-35."

200 **SECTION 3-12.**

201 Said title is further amended in Code Section 16-7-29, relating to interference with electronic  
 202 monitoring devices, "electronic monitoring device" defined, and penalty, is amended by  
 203 revising subsection (b) as follows:

204 "(b) It shall be unlawful for any person to knowingly and without authority remove,  
 205 destroy, or circumvent the operation of an electronic monitoring device which is being used  
 206 for the purpose of monitoring a person who is:

- 207 (1) Complying with a home arrest program as set forth in Code Section 42-1-8;
- 208 (2) Wearing an electronic monitoring device as a condition of bond or pretrial release;
- 209 (3) Wearing an electronic monitoring device as a condition of probation; or
- 210 (4) Wearing an electronic monitoring device as a condition of parole; ~~or~~
- 211 ~~(5) Wearing an electronic monitoring device as required in Code Section 42-1-14."~~

212 **SECTION 3-13.**

213 Said title is further amended by adding a new subsection to Code Section 16-12-100, relating  
214 to sexual exploitation of children, reporting violation, civil forfeiture, and penalties, to read  
215 as follows:

216 "(g)(1) As used in this subsection, the term 'sexual felony' shall have the same meaning  
217 as set forth in Code Section 16-5-21.

218 (2) Any person having been previously convicted of a sexual felony who is convicted of  
219 the felony offense of sexual exploitation of children shall be punished by imprisonment  
220 for life or a split sentence that is a term of imprisonment followed by probation for life.  
221 As a condition of probation, the court shall impose the requirement of electronic  
222 monitoring as set forth in paragraph (14) of subsection (a) of Code Section 42-8-35."

223 **PART IV**224 **SECTION 4-1.**

225 Code Section 17-10-6.2 of the Official Code of Georgia Annotated, relating to punishment  
226 for sexual offenders, is amended by revising subsection (d) as follows:

227 "(d) If the court imposes a probated sentence, the defendant shall submit to review by the  
228 Sexual Offender ~~Registration~~ Risk Review Board for purposes of risk assessment  
229 classification within ~~ten~~ 60 days of being sentenced and shall otherwise comply with  
230 Article 2 of Chapter 1 of Title 42."

231

**PART V**

232

**SECTION 5-1.**

233 Code Section 35-3-4 of the Official Code of Georgia Annotated, relating to powers and  
 234 duties of bureau generally, is amended by revising division (15)(B)(i) of subsection (a) as  
 235 follows:

236 "(B) As used in this paragraph, the term:

237 (i) 'Board' means the Sexual Offender ~~Registration~~ Risk Review Board."

238

**PART VI**

239

**SECTION 6-1.**

240 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended  
 241 in Code Section 42-1-12, relating to State Sexual Offender Registry, by revising  
 242 paragraph (5) of subsection (a), by revising paragraphs (1) and (9) of subsection (b), and by  
 243 revising paragraphs (11) through (13) of subsection (i) as follows:

244 "(5) 'Board' means the Sexual Offender ~~Registration~~ Risk Review Board."

245 "(1) Inform the sexual offender of the obligation to register, the amount of ~~the registration~~  
 246 ~~fee~~ associated fees, and how to maintain registration;"

247 "(9) If required by a court or by Code Section ~~42-1-14~~ 42-1-13.1, place any required  
 248 ~~electronic monitoring system on the sexually dangerous predator~~ location tracking device  
 249 upon a sexual offender and explain its operation and cost."

250 "(11) Determine the appropriate time of day for reporting by sexual offenders, which shall  
 251 be consistent with the reporting requirements of this Code section; and

252 ~~(12) If required by Code Section 42-1-14, place any electronic monitoring system on the~~  
 253 ~~sexually dangerous predator and explain its operation and cost; and~~

254 ~~(13)~~(12) Provide current information on names and addresses of all registered sexual  
255 offenders to campus police with jurisdiction for the campus of an institution of higher  
256 education if the campus is within the sheriff's jurisdiction."

257

**SECTION 6-2.**

258 Said title is further amended by revising Code Section 42-1-13, relating to Sexual Offender  
259 Registration Review Board, composition, appointment, administration and duties, and  
260 immunity from liability, as follows:

261 "42-1-13.

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

279 (b) The board shall be attached to the Department of Behavioral Health and  
280 Developmental Disabilities for administrative purposes and, provided there is adequate  
281 funding, shall:

282 (1) Exercise its quasi-judicial, rule-making, or policy-making functions independently  
283 of the department and without approval or control of the department;

284 (2) Prepare its budget, if any, and submit its budgetary requests, if any, through the  
285 department; and

286 (3) Hire its own personnel, including, but not limited to, administrative personnel and  
287 clinical evaluators.

288 (c)(1) The board shall acquire, collect, and analyze information, including, but not  
289 limited to, criminal history record information, in determining a sexual offender's risk  
290 assessment as provided for under Code Section 42-1-14.

291 (2) The board may employ investigators under the board's administration and supervision  
292 to complete the duties provided for under paragraph (1) of this subsection. The Georgia  
293 Bureau of Investigation shall maintain at least one position under the bureau's  
294 administration and supervision which shall facilitate the provision of summarized  
295 criminal history record information to the board from the Georgia Crime Information  
296 Center and the National Crime Information Center.

297 (d) Members of the board shall be immune from liability for good faith conduct under this  
298 article."

299

#### **SECTION 6-2A.**

300 Said title is further amended by adding a new Code section to read as follows:

301 "42-1-13.1.

302 (a)(1) A sexual offender shall be fitted by the Department of Community Supervision  
303 with a device capable of tracking the location of the sexual offender by means including  
304 electronic surveillance or global positioning satellite systems while he or she is on  
305 probation or parole and awaiting risk assessment classification from the board and when:

306 (A) Such offender has previously been convicted of a felony sexual offense in violation  
307 of Chapter 6 of Title 16; or

308 (B) His or her assigned community supervision officer determines that a special need  
309 exists for an offender to be fitted with such device due to the immediate danger to  
310 society the offender poses based upon a substantial risk of perpetrating a future  
311 dangerous sexual offense.

312 (2) Except when a petition for release has been granted pursuant to subsection (b) of this  
313 Code section or location tracking has been issued as a condition of probation or term of  
314 parole, a sexual offender shall be released from the location tracking requirements of this  
315 Code section upon the conclusion of his or her term of probation or parole.

316 (3) The costs relating to the fitting of a location tracking device and any monitoring  
317 thereof shall be borne by the sexual offender.

318 (b) A sexual offender required to be fitted by the department with a device capable of  
319 tracking the location of such offender pursuant to this Code section may petition the  
320 superior court of the county where the offender resides for release from such location  
321 tracking requirements within 30 days of the fitting. The court shall hold a hearing on the  
322 petition for release if requested by the petitioner. The court may issue an order suspending  
323 a sexual offender from the location tracking requirements of this Code section if the court  
324 finds by a preponderance of the evidence that the offender does not pose an immediate  
325 danger to society due to substantial risk of perpetrating any future dangerous sexual  
326 offense. The court shall send a copy of any order suspending an individual from the  
327 location tracking requirements of this Code section to the Department of Community  
328 Supervision."

329

### **SECTION 6-3.**

330 Said title is further amended by repealing Code Section 42-1-14, relating to risk assessment  
331 classification, classification as "sexually dangerous predator," and electronic monitoring, in  
332 its entirety and enacting a new Code Section 42-1-14 to read as follows:

333 "42-1-14.

334 (a)(1) The board shall determine the likelihood that a sexual offender will engage in  
335 another crime against a victim who is a minor or a dangerous sexual offense. Any sexual  
336 offender who changes residence from another state or territory of the United States or any  
337 other place to this state and who is not already designated under Georgia law as a  
338 sexually dangerous predator, sexual predator, or sexually violent predator shall have his  
339 or her required registration information forwarded by the sheriff of his or her county of  
340 registration to the board for the purpose of risk assessment classification. The board shall  
341 also make such risk assessment classification upon the request of a superior court judge  
342 for purposes of considering a petition to be released from registration requirements or  
343 residency or employment restrictions as provided for in Code Section 42-1-19.

344 (2) A sexual offender shall be placed into Level I risk assessment classification, Level II  
345 risk assessment classification, or sexually dangerous predator classification based upon  
346 the board's assessment criteria and by information obtained and reviewed by the board.  
347 The sexual offender may provide the board with information, including, but not limited  
348 to, psychological evaluations, sexual history polygraph information, treatment history,  
349 and personal, social, educational, and work history. If the sexual offender has undergone  
350 treatment or supervision through the Department of Corrections or the Department of  
351 Community Supervision, such treatment records shall also be submitted to the board for  
352 evaluation. The prosecuting attorney shall provide the board with any information  
353 available to assist the board in rendering an opinion, including, but not limited to,  
354 criminal history and records related to previous criminal history and shall provide the  
355 same information to the sexual offender as was provided to the board. The board shall  
356 be authorized to obtain available information from supervision records prior to July 1,

357 2015, and all public records obtained and electronically retained by the State Board of  
358 Pardons and Paroles during its investigation of such sexual offender and shall provide the  
359 same information to such sexual offender as was provided to the board, but if such  
360 records are classified as confidential state secrets, such records shall remain confidential  
361 state secrets in accordance with Code Section 42-9-53 and shall not be made available to  
362 any other person or entity or be subject to subpoena unless declassified by the State  
363 Board of Pardons and Paroles. Any person divulging or causing to be divulged any  
364 confidential state secret shall be guilty of a misdemeanor. The clerk of the court of the  
365 appropriate jurisdiction where the sexual offender resides shall send a copy of the order  
366 seeking classification for purposes of sentencing and a copy of the sexual offender's  
367 conviction to the board and notify the board that a sexual offender's risk assessment  
368 evaluation will need to be performed. The board shall render its recommendation for risk  
369 assessment classification within:

370 (A) Sixty days of receipt of a request for a risk assessment evaluation if the sexual  
371 offender is being sentenced pursuant to subsection (c) of Code Section 17-10-6.2 or as  
372 part of a presentence investigation pursuant to subsection (b) of Code Section 42-8-34;

373 (B) Six months prior to the sexual offender's proposed release from confinement if the  
374 offender is incarcerated;

375 (C) Sixty days of receipt of the required registration information from the sheriff when  
376 the sexual offender changes residence from another state or territory of the United  
377 States or any other place to this state and is not already classified;

378 (D) Sixty days if the sexual offender is sentenced to a probated or suspended sentence;  
379 and

380 (E) Ninety days if such classification is requested by the court pursuant to a petition  
381 filed under Code Section 42-1-19.

382 (3) The board shall notify the sexual offender by first-class mail of its determination of  
383 risk assessment classification and shall send a copy of such classification to the Georgia



384 Bureau of Investigation, the Department of Corrections, the State Board of Pardons and  
385 Paroles, the Department of Community Supervision, the sheriff of the county in which  
386 the sexual offender is registered, and to counsel for the sexual offender and the  
387 sentencing court, if applicable.

388 (b) If the board determines that a sexual offender should be classified as a Level II risk  
389 assessment classification or as a sexually dangerous predator, the sexual offender may  
390 petition the board to reevaluate his or her classification. To file a petition for reevaluation,  
391 the sexual offender shall be required to submit his or her written petition for reevaluation  
392 to the board within 30 days from the date of the letter notifying the sexual offender of his  
393 or her classification. The sexual offender shall have 120 days from the date of the  
394 notification letter to submit information as provided in subsection (a) of this Code section  
395 in support of such sexual offender's petition for reevaluation. If the sexual offender fails  
396 to submit the petition or supporting documents within the time limits provided, the  
397 classification shall be final. The board shall notify the sexual offender by first-class mail  
398 of its decision on the petition for reevaluation of risk assessment classification and shall  
399 send a copy of such notification to the Georgia Bureau of Investigation, the Department of  
400 Corrections, the State Board of Pardons and Paroles, the Department of Community  
401 Supervision, the sheriff of the county in which the sexual offender is registered, and to  
402 counsel for the sexual offender and the sentencing court, if applicable. The sexual offender  
403 may request reevaluation after ten years following his or her initial classification and no  
404 more than once every five years thereafter.

405 (c) A sexual offender who is classified by the board as a Level II risk assessment  
406 classification or as a sexually dangerous predator may file a petition for judicial review of  
407 his or her classification within 30 days of the date of the notification letter or, if the sexual  
408 offender has requested reevaluation pursuant to subsection (b) of this Code section,  
409 within 30 days of the date of the letter denying the petition for reevaluation. The petition  
410 for judicial review shall name the board as defendant, and the petition shall be filed in the

411 superior court of the county in which the offices of the board are located. Within 30 days  
412 after service of the appeal on the board, the board shall submit a summary of its findings  
413 to the court and mail a copy, by first-class mail, to the sexual offender. The findings of the  
414 board shall be considered prima-facie evidence of the classification. The court shall also  
415 consider any relevant evidence submitted, and such evidence and documentation shall be  
416 mailed to the parties as well as submitted to the court. The court shall hold a hearing to  
417 determine the issue of classification. The court may uphold the classification of the board,  
418 or, if the court finds by a preponderance of the evidence that the sexual offender is not  
419 placed in the appropriate classification level, the court shall place the sexual offender in the  
420 appropriate risk assessment classification. The court's determination shall be forwarded  
421 by the clerk of the court to the board, the sexual offender, the Georgia Bureau of  
422 Investigation, the Department of Corrections, the State Board of Pardons and Paroles, and  
423 the Department of Community Supervision, and the sheriff of the county in which the  
424 sexual offender is registered, and counsel for the sexual offender, if applicable.  
425 (d) Any individual who was classified as a sexually violent predator prior to July 1, 2006,  
426 shall be classified as a sexually dangerous predator on and after July 1, 2006.  
427 (e) In addition to the requirements of registration for all sexual offenders, a sexually  
428 dangerous predator shall report in person to the sheriff of the county in which such predator  
429 resides six months following his or her birth month and update or verify his or her required  
430 registration information."

431 **SECTION 6-4.**

432 Said title is further amended in Code Section 42-8-34, relating to sentencing hearings and  
433 determinations, presentence investigations, payment of fees, fines, and cost, post-conviction,  
434 presentence bond, continuing jurisdiction, and transferal of probation supervision, by  
435 revising subsection (b) as follows:

436 "(b) Prior to the sentencing hearing, the court may refer the case to an officer of the circuit  
437 in which the court is located for investigation and recommendation; provided, however,

438 that the court shall refer such case when a life sentence may be imposed because of a  
439 previous conviction of a sexual felony, as such term is defined in Code Section 16-5-21.  
440 The court, upon such reference, shall direct an officer to make an investigation and to  
441 report to the court, in writing at a specified time, upon the circumstances of the offense and  
442 the criminal record, social history, and present condition of the defendant, together with the  
443 officer's recommendation, and when such reference is because of a previous conviction of  
444 a sexual felony, the court shall direct the Sexual Offender Risk Review Board to determine  
445 the classification level of the defendant in writing and report the board's recommendation  
446 to the court. It, and it shall be the duty of such officer to carry out the directive of the  
447 court. The officer's and the Sexual Offender Risk Review Board's written findings shall  
448 be provided to the prosecuting attorney and defendant no later than ten days prior to the  
449 sentencing hearing, or as otherwise ordered by the court."

450

**SECTION 6-5.**

451 Said title is further amended in Code Section 42-8-37, relating to effect of termination of  
452 probated portion of sentence, review of cases of persons receiving probated sentence, and  
453 reports, by adding a new subsection to read as follows:

454 "(e)(1) When a probationer is on probation for life for a sexual felony as defined in Code  
455 Section 16-5-21, DCS shall file a petition to terminate his or her probation if, after  
456 serving ten years on probation, the probationer has:

457 (A) Paid all restitution owed;

458 (B) Not had his or her probation revoked during such period;

459 (C) Not been arrested for anything other than a nonserious traffic offense as defined  
460 in Code Section 35-3-37; and

461 (D) Not been classified as a sexually dangerous predator by the Sexual Offender Risk  
462 Review Board.

463 Within 30 days before issuing an order terminating the offender's probation, the court or  
464 its clerk must provide written notice to the District Attorney and the State Board of  
465 Pardons and Paroles regarding the court's intention to terminate such offender's term of  
466 probation. The prosecuting attorney shall be given an opportunity to be heard on the  
467 matter during the 30 days before the termination order is issued by the court.

468 (2) When the court is presented with such petition, it shall take whatever action it  
469 determines to be for the best interest of justice and the welfare of society. When such  
470 petition is unopposed, the court shall issue an order as soon as possible or otherwise set  
471 the matter for a hearing within 90 days of receiving such petition. Such petition shall  
472 request an updated classification from the Sexual Offender Risk Review Board. Such  
473 classification shall be requested six months before the petition for removal is filed, and  
474 the board shall render such reclassification within five months of the petitioner's request.

475 (3) This subsection is intended to be retroactive and applied to any probationer under the  
476 supervision of DCS.

477 (4) If such petition is not granted, a petition shall be filed every five years thereafter until  
478 the probationer meets the requirements under paragraph (1) of this subsection."

479

#### **SECTION 6-6.**

480 Said title is further amended in Code Section 42-9-53, relating to preservation of documents,  
481 classification of information and documents, divulgence of confidential state secrets, and  
482 conduct of hearings, by revising paragraph (2) of subsection (b) as follows:

483 "(2) The department may make supervision records of the department available to  
484 officials employed with the Department of Corrections and the Sexual Offender  
485 Registration Risk Review Board, and to the sexual offender as set forth in Code 42-1-14,  
486 provided that the same shall remain confidential and not available to any other person or  
487 subject to subpoena unless declassified by the commissioner of community supervision."

488

**PART VII**

489

**SECTION 7-1.**

490 This Act shall become effective upon its approval by the Governor or upon its becoming law  
491 without such approval and the punishment provisions of this Act shall apply to all offenses  
492 committed on and after July 1, 2023.

493

**SECTION 7-2.**

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