

House Bill 910

By: Representatives Rakestraw of the 19th, Powell of the 32nd, Efstration of the 104th, Reeves of the 34th, and Teasley of the 37th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 3 of Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia
2 Annotated, relating to invasions of privacy, so as to prohibit sexual extortion; to provide for
3 definitions; to provide for elements of the crime; to provide for penalties; to provide for
4 venue; to amend Code Section 42-1-12 of the Official Code of Georgia Annotated, relating
5 to the State Sexual Offender Registry, so as to provide a conforming cross-reference; to
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 3 of Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
10 relating to invasions of privacy, is amended by adding a new Code section to read as follows:

11 "16-11-92.

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

13 (1) 'Distribute' means to sell, lend, rent, lease, give, advertise, publish, exhibit, or
14 otherwise disseminate.

15 (2) 'Intimate parts' means the genital area, anus, groin, inner thighs, or buttocks of a male
16 or female, or the breasts of a female.

17 (3) 'Nudity' shall have the same meaning as set forth in Code Section 16-11-90.

18 (4) 'Sexually explicit conduct' shall have the same meaning as set forth in Code Section
19 16-12-100.

20 (b) No person shall cause an individual to engage in sexually explicit conduct or distribute
21 any image, photograph, or video that depicts nudity, intimate parts, or sexually explicit
22 conduct by transmitting a communication by any means that threatens to:

23 (1) Distribute such image, photograph, or video;

24 (2) Inflict bodily injury on an individual;

25 (3) Commit any other criminal offense;

26 (4) Accuse another person of a criminal offense;

- 27 (5) Distribute any information tending to subject an individual to hatred, contempt, or
28 ridicule or to impair his or her credit or business repute;
- 29 (6) Take or withhold action as a public official;
- 30 (7) Cause a public official to take or withhold action;
- 31 (8) Testify or provide information with respect to a person's legal claim or defense; or
32 (9) Withhold testimony or information with respect to a person's legal claim or defense.
- 33 (c)(1) Any person that violates this Code section but does not cause an individual to
34 engage in sexually explicit conduct or distribute an image, photograph, or video that
35 depicts nudity, intimate parts, or sexually explicit conduct shall be guilty of and upon
36 conviction be punished as for a misdemeanor of a high and aggravated nature; provided,
37 however, that upon conviction for a second or subsequent violation, such person shall be
38 guilty of a felony punishable by imprisonment for not less than one year and not more
39 than five years.
- 40 (2) Any person that violates this Code section and causes an individual to engage in
41 sexually explicit conduct or distribute an image, photograph, or video that depicts nudity,
42 intimate parts, or sexually explicit conduct shall be guilty of a felony and upon conviction
43 shall be punished by imprisonment for not less than one year and not more than 15 years.
- 44 (d) A person shall be subject to prosecution in this state pursuant to Code Section 17-2-1
45 for any conduct made unlawful by this Code section in which the person engages while:
- 46 (1) Within or outside this state if, by such conduct, the person commits a violation of this
47 Code section that involves an individual who resides in this state; or
- 48 (2) Within this state if, by such conduct, the person commits a violation of this Code
49 section that involves an individual who resides within or outside this state.
- 50 (e) Subsection (b) of this Code section shall not apply to:
- 51 (1) Images, photographs, or videos that depict nudity, intimate parts, or sexually explicit
52 conduct and that were originally made for commercial purposes;
- 53 (2) Images, photographs, or videos that depict an individual engaged in sexually explicit
54 conduct or that depict nudity or intimate parts in a public setting;
- 55 (3) Images, photographs, or videos that depict an individual engaged in sexually explicit
56 conduct or that depict nudity or intimate parts when the distribution of such depiction is
57 relevant to a pending civil action; or
- 58 (4) The activities of law enforcement and any prosecution agency in the investigation
59 and prosecution of criminal offenses."

SECTION 2.

60
61 Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the State Sexual
62 Offender Registry, is amended by revising subparagraph (a)(10)(B.2) and adding a new
63 subparagraph to read as follows:

64 "(B.2) 'Dangerous sexual offense' with respect to convictions occurring after June 30,
65 2017 between July 1, 2017, and June 30, 2018, means any criminal offense, or the
66 attempt to commit any criminal offense, under Title 16 as specified in this subparagraph
67 or any offense under federal law or the laws of another state or territory of the United
68 States which consists of the same or similar elements of the following offenses:

- 69 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
- 70 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who
- 71 is less than 14 years of age, except by a parent;
- 72 (iii) Trafficking an individual for sexual servitude in violation of Code Section
- 73 16-5-46;
- 74 (iv) Rape in violation of Code Section 16-6-1;
- 75 (v) Sodomy in violation of Code Section 16-6-2;
- 76 (vi) Aggravated sodomy in violation of Code Section 16-6-2;
- 77 (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted
- 78 of the offense is 21 years of age or older;
- 79 (viii) Child molestation in violation of Code Section 16-6-4;
- 80 (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the
- 81 person was convicted of a misdemeanor offense;
- 82 (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
- 83 (xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;
- 84 (xii) Incest in violation of Code Section 16-6-22;
- 85 (xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;
- 86 (xiv) Aggravated sexual battery in violation of Code Section 16-6-22.2;
- 87 (xv) Sexual exploitation of children in violation of Code Section 16-12-100;
- 88 (xvi) Electronically furnishing obscene material to minors in violation of Code
- 89 Section 16-12-100.1;
- 90 (xvii) Computer pornography and child exploitation in violation of Code Section
- 91 16-12-100.2;
- 92 (xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or
- 93 (xix) Any conduct which, by its nature, is a sexual offense against a victim who is a
- 94 minor or an attempt to commit a sexual offense against a victim who is a minor.

95 (B.3) 'Dangerous sexual offense' with respect to convictions occurring after June 30,
96 2018, means any criminal offense, or the attempt to commit any criminal offense, under

- 97 Title 16 as specified in this subparagraph or any offense under federal law or the laws
 98 of another state or territory of the United States which consists of the same or similar
 99 elements of the following offenses:
- 100 (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
 - 101 (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who
 102 is less than 14 years of age, except by a parent;
 - 103 (iii) Trafficking an individual for sexual servitude in violation of Code Section
 104 16-5-46;
 - 105 (iv) Rape in violation of Code Section 16-6-1;
 - 106 (v) Sodomy in violation of Code Section 16-6-2;
 - 107 (vi) Aggravated sodomy in violation of Code Section 16-6-2;
 - 108 (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted
 109 of the offense is 21 years of age or older;
 - 110 (viii) Child molestation in violation of Code Section 16-6-4;
 - 111 (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the
 112 person was convicted of a misdemeanor offense;
 - 113 (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
 - 114 (xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;
 - 115 (xii) Incest in violation of Code Section 16-6-22;
 - 116 (xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;
 - 117 (xiv) Aggravated sexual battery in violation of Code Section 16-6-22.2;
 - 118 (xv) Sexual extortion in violation of Code Section 16-11-92;
 - 119 (xvi) Sexual exploitation of children in violation of Code Section 16-12-100;
 - 120 (xvii) Electronically furnishing obscene material to minors in violation of Code
 121 Section 16-12-100.1;
 - 122 (xviii) Computer pornography and child exploitation in violation of Code Section
 123 16-12-100.2;
 - 124 (xix) Obscene telephone contact in violation of Code Section 16-12-100.3; or
 - 125 (xx) Any conduct which, by its nature, is a sexual offense against a victim who is a
 126 minor or an attempt to commit a sexual offense against a victim who is a minor."

127 **SECTION 3.**

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