

The Senate Committee on Judiciary offered the following substitute to SB 35:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated,
2 relating to Sexual Offender Registration Review Board, so as to prohibit sex offenders from
3 residing near their victims and such victims' immediate family members; to provide for a
4 definition; to prohibit sex offenders from loitering near the residences of their victims and
5 such victims' immediate family members; to provide for exceptions; to provide for related
6 matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to
10 Sexual Offender Registration Review Board, is amended by revising Code Section 42-1-15,
11 relating to restriction on registered offenders residing, working, or loitering within certain
12 distance of child care facilities, churches, schools, or areas where minors congregate, penalty
13 for violations, and civil causes of action, as follows:

14 "42-1-15.

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

16 (1) 'Immediate family member' means a spouse, child, or parent.

17 ~~(1)~~(2) 'Individual' means a person who is required to register pursuant to Code Section
18 42-1-12.

19 ~~(2)~~(3) 'Lease' means a right of occupancy pursuant to a written and valid lease or rental
20 agreement.

21 ~~(3)~~(4) 'Minor' means any person who is under 18 years of age.

22 ~~(4)~~(5) 'Volunteer' means to engage in an activity in which one could be, and ordinarily
23 would be, employed for compensation, and which activity involves working with,
24 assisting, or being engaged in activities with minors; provided, however, that such term
25 shall not include participating in activities limited to persons who are 18 years of age or
26 older or participating in worship services or engaging in religious activities or activities

27 at a place of worship that do not include supervising, teaching, directing, or otherwise
 28 participating with minors who are not supervised by an adult who is not an individual
 29 required to register pursuant to Code Section 42-1-12.

30 (b)(1) On and after July 1, 2008, no individual shall reside within 1,000 feet of any child
 31 care facility, church, school, or area where minors congregate if the commission of the
 32 act for which such individual is required to register occurred on or after July 1, 2008.
 33 Such distance shall be determined by measuring from the outer boundary of the property
 34 on which the individual resides to the outer boundary of the property of the child care
 35 facility, church, school, or area where minors congregate at their closest points.

36 (2) On and after July 1, 2020, no individual shall move to reside within 2,000 feet of the
 37 property on which his or her former victim or an immediate family member of such
 38 victim resides. Such distance shall be determined by measuring from the outer boundary
 39 of the property on which the individual resides to the outer boundary of the property
 40 where the former victim or immediate family member of the former victim resides.

41 (c)(1) On and after July 1, 2008, no individual shall be employed by or volunteer at any
 42 child care facility, school, or church or by or at any business or entity that is located
 43 within 1,000 feet of a child care facility, a school, or a church if the commission of the
 44 act for which such individual is required to register occurred on or after July 1, 2008.
 45 Such distance shall be determined by measuring from the outer boundary of the property
 46 of the location at which such individual is employed or volunteers to the outer boundary
 47 of the child care facility, school, or church at their closest points.

48 (2) On or after July 1, 2008, no individual who is a sexually dangerous predator shall be
 49 employed by or volunteer at any business or entity that is located within 1,000 feet of an
 50 area where minors congregate if the commission of the act for which such individual is
 51 required to register occurred on or after July 1, 2008. Such distance shall be determined
 52 by measuring from the outer boundary of the property of the location at which the
 53 sexually dangerous predator is employed or volunteers to the outer boundary of the area
 54 where minors congregate at their closest points.

55 (d) Notwithstanding any ordinance or resolution adopted pursuant to Code Section 16-6-24
 56 or subsection (d) of Code Section 16-11-36, it shall be unlawful for any individual or for
 57 any person who is or should be registered on another state's sexual offender registry to
 58 loiter, as prohibited by Code Section 16-11-36, at:

59 (1) At any child care facility, school, or area where minors congregate; or

60 (2) Within 2,000 feet of the property where his or her former victim or an immediate
 61 family member of the victim resides.

62 (e)(1) If an individual owns or leases real property and resides on such property and a
 63 child care facility, church, school, or area where minors congregate thereafter locates

64 itself within 1,000 feet of such property, or if an individual has established employment
65 at a location and a child care facility, church, or school thereafter locates itself within
66 1,000 feet of such employment, or if a sexual predator has established employment and
67 an area where minors congregate thereafter locates itself within 1,000 feet of such
68 employment, such individual shall not be guilty of a violation of paragraph (1) of
69 subsection (b) or subsection (c) of this Code section, as applicable, if such individual
70 successfully complies with subsection (f) of this Code section.

71 (2) An individual owning or leasing real property and residing on such property or being
72 employed within 1,000 feet of a prohibited location, as specified in paragraph (1) of
73 subsection (b) or subsection (c) of this Code section, shall not be guilty of a violation of
74 this Code section if such individual had established such property ownership, leasehold,
75 or employment prior to July 1, 2008, and such individual successfully complies with
76 subsection (f) of this Code section.

77 (3) If an individual owns or leases real property and resides on such property and his or
78 her former victim or an immediate family member of such victim begins residing within
79 2,000 feet of such property, such individual shall not be guilty of a violation of
80 paragraph (2) of subsection (b) of this Code section if such individual successfully
81 complies with subsection (f) of this Code section.

82 (4) An individual owning or leasing real property and residing on such property within
83 2,000 feet of a prohibited location, as specified in paragraph (2) of subsection (b) of this
84 Code section, shall not be guilty of a violation of this Code section if such individual had
85 established such property ownership, leasehold, or employment prior to July 1, 2020, and
86 such individual successfully complies with subsection (f) of this Code section.

87 (f)(1) If an individual is notified that he or she is in violation of subsection (b) or (c) of
88 this Code section, and if such individual claims that he or she is exempt from such
89 prohibition pursuant to subsection (e) of this Code section, such individual shall provide
90 sufficient proof demonstrating his or her exemption to the sheriff of the county where the
91 individual is registered within ten days of being notified of any such violation.

92 (2) For purposes of providing proof of residence, the individual may provide a driver's
93 license, government issued identification, or any other documentation evidencing where
94 the individual's habitation is fixed. For purposes of providing proof of property
95 ownership, the individual shall provide a copy of his or her warranty deed, quitclaim
96 deed, or voluntary deed, or other documentation evidencing property ownership.

97 (3) For purposes of providing proof of a leasehold, the individual shall provide a copy
98 of the applicable lease agreement. Leasehold exemptions shall only be for the duration
99 of the executed lease.

100 (4) For purposes of providing proof of employment, the individual may provide an
 101 Internal Revenue Service Form W-2, a pay check, or a notarized verification of
 102 employment from the individual's employer, or other documentation evidencing
 103 employment. Such employment documentation shall evidence the location in which such
 104 individual actually carries out or performs the functions of his or her job.

105 (5) Documentation provided pursuant to this subsection may be required to be date
 106 specific, depending upon the individual's exemption claim.

107 (g)(1) Except as provided in paragraph (2) of this subsection, any Any individual who
 108 knowingly violates this Code section shall be guilty of a felony and shall for a first
 109 offense be punished by imprisonment for not less than ~~ten~~ one nor more than ~~30~~ three
 110 years, for a second offense be punished by imprisonment for not less than three nor more
 111 than five years, and for a third or subsequent offense be punished by imprisonment for
 112 not less than five nor more than seven years.

113 (2) Any individual who knowingly and intentionally violates paragraph (2) of
 114 subsection (b) or paragraph (2) of subsection (d) of this Code section shall be guilty of
 115 a felony and shall for a first offense be punished by imprisonment for not less than one
 116 nor more than three years, for a second offense be punished by imprisonment for not less
 117 than three nor more than five years, and for a third or subsequent offense be punished by
 118 imprisonment for not less than five nor more than seven years.

119 (h) Nothing in this Code section shall create, either directly or indirectly, any civil cause
 120 of action against or result in criminal prosecution of any person, firm, corporation,
 121 partnership, trust, or association other than an individual required to be registered under
 122 Code Section 42-1-12."

123 **SECTION 2.**

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