

The House Committee on Judiciary Non-Civil offers the following substitute to SB 493:

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 the sexual offender risk review board, so as to provide for additional penalties for  
3 registered sexual offenders convicted of photographing a minor without the consent of the  
4 minor's parent or guardian; to provide that such persons are prohibited from possessing,  
5 owning, or operating an unmanned aircraft system with the intent to photograph, observe,  
6 follow, or contact any person without his or her consent; to provide for criminal penalties;  
7 to provide for definitions; to provide for release from sexual offender registration  
8 requirements under certain circumstances; to amend Chapter 8 of Title 42 of the Official  
9 Code of Georgia Annotated, relating to probation, so as to provide for a possible term of  
10 probation; to provide for an effective date; to provide for applicability; to provide for related  
11 matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to the  
15 sexual offender risk review board, is amended by revising Code Section 42-1-18, relating to

S. B. 493 (SUB)

16 photographing minor without consent of parent or guardian prohibited and penalty, as  
17 follows:

18 "42-1-18.

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

20 (1) 'Minor' shall have the same meaning as set forth in Code Section 42-1-12.

21 (2) 'Photograph' means to create, capture, transmit, or record by electronic or other  
22 means a photographic image 'photograph' means to take any picture, film or digital  
23 photograph, motion picture film, videotape, or similar visual representation or image of  
24 a person.

25 (3) 'Unmanned aircraft system' means a powered, aerial vehicle, not including a satellite,  
26 that:

27 (A) Does not carry a human operator and is operated without the possibility of direct  
28 human intervention from within or on the vehicle;

29 (B) Uses aerodynamic forces to provide vehicle lift;

30 (C) Can fly autonomously or be piloted remotely;

31 (D) Can be expendable or recoverable; and

32 (E) Has the ability to photograph.

33 (b)(1) No person required to register as a sexual offender pursuant to Code Section  
34 42-1-12 shall intentionally photograph a minor without the consent of the minor's parent  
35 or guardian.

36 (c)(2) Any person who knowingly violates this Code section commits the offense of  
37 intentionally photographing a minor without the consent of such minor's parent or  
38 guardian in violation of paragraph (1) of this subsection shall, upon the first conviction  
39 thereof, be guilty of a misdemeanor of a high and aggravated nature and shall be punished  
40 as provided by Code Section 17-10-4; provided, however, that, if a fine is imposed  
41 pursuant to Code Section 17-10-4, such fine shall not be less than \$1,500.00.

42 (3) Any person who commits the offense of intentionally photographing a minor without  
43 the consent of such minor's parent or guardian in violation of paragraph (1) of this  
44 subsection shall, upon a second or subsequent conviction thereof, be guilty of a felony  
45 and shall be punished by imprisonment for not less than one nor more than 30 years and  
46 a fine of not less than \$5,000.00 nor more than \$100,000.00.

47 (4) For the purpose of this subsection, the term 'conviction' shall include a plea of nolo  
48 contendere.

49 (c)(1) No person required to register as a sexual offender pursuant to Code  
50 Section 42-1-12 shall knowingly possess, own, or operate an unmanned aircraft system  
51 with the intent to photograph, observe, follow, or contact any particular person without  
52 his or her consent or photograph, observe, follow, or contact any person in a way that  
53 violates the person's reasonable expectation of privacy.

54 (2) Any person who violates paragraph (1) of this subsection shall be guilty of a felony  
55 and shall be punished by imprisonment for not less than five nor more than ten years and  
56 a fine of not less than \$20,000.00 nor more than \$100,000.00."

57 **SECTION 2.**

58 Said article is further amended by revising Code Section 42-1-19, relating to petition for  
59 release from registration requirements, as follows:

60 "42-1-19.

61 (a) An individual required to register pursuant to Code Section 42-1-12 may petition a  
62 superior court for release from registration requirements and from any residency or  
63 employment restrictions of this article if the individual:

64 (1) Has completed all prison, parole, supervised release, and probation for the offense  
65 which required registration pursuant to Code Section 42-1-12; and:

66 (A) Is confined to a hospice facility, skilled nursing home, residential care facility for  
67 the elderly, or nursing home;

- 68 (B) Is totally and permanently disabled as such term is defined in Code Section  
69 49-4-80; or
- 70 (C) Is otherwise seriously physically incapacitated due to illness or injury; or  
71 (D) Has reached the age of 80 years;
- 72 (2) Was sentenced for a crime that became punishable as a misdemeanor on or after  
73 July 1, 2006, and meets the criteria set forth in subparagraphs (c)(1)(A) through (c)(1)(F)  
74 of Code Section 17-10-6.2;
- 75 (3) Is required to register solely because he or she was convicted of kidnapping or false  
76 imprisonment involving a minor and such offense did not involve a sexual offense against  
77 such minor or an attempt to commit a sexual offense against such minor. For purposes  
78 of this paragraph, the term 'sexual offense' means any offense listed in division  
79 (a)(10)(B)(i) or (a)(10)(B)(iv) through (a)(10)(B)(xix) of Code Section 42-1-12; or
- 80 (4) Has completed all prison, parole, supervised release, and probation for the offense  
81 which required registration pursuant to Code Section 42-1-12 and meets the criteria set  
82 forth in subparagraphs (c)(1)(A) through (c)(1)(F) of Code Section 17-10-6.2; or
- 83 (5) Was convicted of a sexual offense and required to register under the laws of another  
84 state or territory, under the laws of the United States, under the Uniform Code of Military  
85 Justice, or in a tribal court and:
- 86 (A) Has completed all prison, parole, supervised release, and probation for the offense  
87 which required registration pursuant to Code Section 42-1-12 and meets the criteria set  
88 forth in subparagraphs (c)(1)(A) through (c)(1)(F) of Code Section 17-10-6.2; and  
89 (B) Has been removed from the registry in the other state or territory and can provide  
90 the court with documentation supporting the same.
- 91 (b)(1) A petition for release pursuant to this Code section shall be filed in the superior  
92 court of the jurisdiction in which the individual was convicted; provided, however, that,  
93 if the individual was not convicted in this state, such petition shall be filed in the superior  
94 court of the county where the individual resides.

95 (2) Such petition shall be served on the district attorney of the jurisdiction where the  
96 petition is filed, the sheriff of the county where the petition is filed, and the sheriff of the  
97 county where the individual resides. Service on the district attorney and sheriff may be  
98 had by mailing a copy of the petition with a proper certificate of service.

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

101 (c)(1) An individual who meets the requirements of paragraph (1), (2), or (3) of  
102 subsection (a) of this Code section shall be considered for release from registration  
103 requirements and from residency or employment restrictions.

104 (2) An individual who meets the requirements of paragraph (4) of subsection (a) of this  
105 Code section may be considered for release from registration requirements and from  
106 residency or employment restrictions only if:

107 (A) ~~Ten~~ Five years have elapsed since the individual completed all prison, parole,  
108 supervised release, and probation for the offense which required registration pursuant  
109 to Code Section 42-1-12; ~~or~~ and

110 (B) The individual has been classified by the board as a Level I risk assessment  
111 classification, provided that, if the board has not done a risk assessment classification  
112 for such individual within the last five years, the court shall order such classification  
113 to be completed prior to considering the petition for release.

114 (3) An individual who meets the requirements of paragraph (5) of subsection (a) of this  
115 Code section may be considered for release from registration requirements and from  
116 residency or employment restrictions only if:

117 (A) Ten years have elapsed since the individual completed all prison, parole,  
118 supervised release, and probation for the offense which required registration pursuant  
119 to Code Section 42-1-12; and

120 (B) The individual has been classified by the board as a Level I risk assessment  
121 classification, provided that, if the board has not done a risk assessment classification

122 for such individual within the last five years, the court shall order such classification  
123 to be completed prior to considering the petition for release.

124 (d) In considering a petition pursuant to this Code section, the court may consider:

125 (1) Any evidence introduced by the petitioner;

126 (2) Any evidence introduced by the district attorney, board, or sheriff; and

127 (3) Any other relevant evidence.

128 (e) The court shall hold a hearing on the petition if requested by the petitioner.

129 (f) The court may issue an order releasing the individual from registration requirements  
130 or residency or employment restrictions, in whole or part, if the court finds by a  
131 preponderance of the evidence that the individual does not pose a substantial risk of  
132 perpetrating any future dangerous sexual offense. The court may release an individual  
133 from such requirements or restrictions for a specific period of time. The court shall send  
134 a copy of any order releasing an individual from any requirements or restrictions to the  
135 sheriff and the district attorney of the jurisdiction where the petition is filed, to the sheriff  
136 of the county where the individual resides, to the Department of Corrections, to the  
137 Department of Community Supervision, and to the Georgia Bureau of Investigation."

138

### SECTION 3.

139 Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to probation, is  
140 amended in subsection (b) of Code Section 42-8-35, relating to terms and conditions of  
141 probation and supervision, by striking "and" at the end of paragraph (3), replacing the period  
142 with "; and" at the end of paragraph (4), and adding a new paragraph to read as follows:

143 "(5) Prohibited from possessing, owning, or operating an unmanned aircraft system as  
144 defined in Code Section 42-1-18."

145

**SECTION 4.**

146 This Act shall become effective on July 1, 2024, and shall apply to all offenses committed  
147 on or after such date.

148

**SECTION 5.**

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