

The House Committee on Judiciary Non-Civil offers the following substitute to HB 341:

A BILL TO BE ENTITLED  
AN ACT

To amend Title 16 and Code Section 17-10-6.2 of the Official Code of Georgia Annotated, relating to crimes and offenses and punishment for sexual offenders, respectively, so as to change provisions relating to trafficking of individuals for sexual servitude; to change provisions relating to the model notice for the human trafficking hotline; to change provisions relating to punishment for other sexual offenses; to clarify provisions relating to the probation portion of a split sentence imposed for certain sexual offenses; to amend Code Section 42-1-12 of the Official Code of Georgia Annotated, relating to the State Sexual Offender Registry, so as to provide a conforming cross-reference; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is amended by revising subsections (c) and (f) of Code Section 16-5-46, relating to trafficking of persons for labor or sexual servitude, as follows:

"(c) A person commits the offense of trafficking ~~a person~~ an individual for sexual servitude when that person knowingly ~~subjects another person~~ subjects an individual to or maintains ~~another person~~ an individual in sexual servitude ~~or knowingly recruits~~;

(1) Subjects an individual to or maintains ~~another person~~ an individual in sexual servitude ~~or knowingly recruits~~;

(2) Recruits, entices, harbors, transports, provides, or obtains by any means ~~another person~~ an individual for the purpose of sexual servitude; ~~or~~

(3) Patronizes or solicits by any means an individual for the purpose of sexual servitude."

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

(2) Any person who commits the offense of trafficking an individual for labor ~~or sexual~~ servitude against an individual who is ~~under the age of 18 years shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than ten nor more than 20 years and a fine not to exceed \$100,000.00; provided, however, that if the offense is committed against an individual~~ under 18 years of age and such individual under the age of 18 years was coerced or deceived into being trafficked for labor ~~or sexual servitude~~ or if the offense is committed against an individual who has a developmental disability, the person shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than 25 nor more than 50 years or life imprisonment and a fine not to exceed \$100,000.00.

(3) Except as provided in paragraph (4) of this subsection, any person who violates subsection (c) of this Code section shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than ten nor more than 20 years and a fine not to exceed \$100,000.00; provided, however, that if such conduct is a violation of paragraph (3) of subsection (c) of this Code section and is committed against an individual who is 16 or 17 years of age, such person shall be punished by imprisonment for not less than five nor more than 20 years.

(4) Any person who violates subsection (c) of this Code section committed against an individual under 18 years of age and such individual under the age of 18 years was coerced or deceived into a violation of subsection (c) of this Code section or if the offense is committed against an individual who has a developmental disability, the person shall be guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for not less than 25 nor more than 50 years or life imprisonment and a fine not to exceed \$100,000.00."

## SECTION 2.

Said title is further amended by revising subsection (c) and repealing subsection (e) of Code Section 16-5-47, relating to posting model notice with human trafficking hotline information in businesses and on the Internet, as follows:

"(c) The On or before August 1, 2013, the Georgia Bureau of Investigation shall develop a model notice that complies with the requirements of this subsection and make the model notice is available for download on from its Internet website. Such notice shall be at least 8 1/2 inches by 11 inches in size; and printed in a 16 point font in English, Spanish, and any other language deemed appropriate by the director of the Georgia Bureau of Investigation, and state the following: Such model notice shall provide information giving individuals a method to contact the National Human Trafficking Hotline and the Statewide Georgia Hotline for Domestic Minor Trafficking.

~~'Are you or someone you know being sold for sex or made/forced to work for little or no pay and cannot leave? Call the National Human Trafficking Resource Center at 1-888-373-7888 for help. All victims of slavery and human trafficking have rights and are protected by international, federal, and state law.~~

~~The hotline is:~~

- ~~(1) Anonymous and confidential;~~
- ~~(2) Available 24 hours a day, seven days a week;~~
- ~~(3) Able to provide help, referral to services, training, and general information;~~
- ~~(4) Accessible in 170 languages;~~
- ~~(5) Operated by a nonprofit, nongovernmental organization; and~~
- ~~(6) Toll free."~~

### SECTION 3.

Said title is further amended by revising subsection (a) of Code Section 16-6-13, relating to penalties for violating Code Sections 16-6-9 through 16-6-12, as follows:

"(a) Except as otherwise provided in subsection (b) of this Code section, a person convicted of ~~any of the offenses enumerated in Code Sections 16-6-10 through 16-6-12~~ violating:

(1) Code Section 16-6-10 shall be punished as for a misdemeanor of a high and aggravated nature. A person convicted of the offense enumerated in, and at the sole discretion of the judge, all but 24 hours of any term of imprisonment imposed may be suspended, stayed, or probated;

(2) Code Section 16-6-9 shall be punished as for a misdemeanor;

(3) Code Section 16-6-11 shall be punished as for a misdemeanor of a high and aggravated nature, and at the sole discretion of the judge, all but 24 hours of any term of imprisonment imposed may be suspended, stayed, or probated; or

(4) Code Section 16-6-12 shall be punished as for a misdemeanor of a high and aggravated nature, and at the sole discretion of the judge, all but 24 hours of any term of imprisonment imposed may be suspended, stayed, or probated."

### SECTION 4.

Said title is further amended by revising paragraph (1) of subsection (f) of Code Section 16-12-100, relating to sexual exploitation of children, as follows:

"(f)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, any person who violates a provision of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five nor more than 20 years and by a fine of not more than \$100,000.00; provided, however, that if the

person so convicted is a member of the immediate family of the victim, no fine shall be imposed. Any person punished as provided in this paragraph shall, in addition, be subject to the sentencing and punishment provisions of Code Section 17-10-6.2."

## SECTION 5.

Code Section 17-10-6.2 of the Official Code of Georgia Annotated, relating to punishment for sexual offenders, is amended by revising subsections (a) and (b) as follows:

"(a) As used in this Code section, the term 'sexual offense' means:

(1) Aggravated assault with the intent to rape, ~~as defined in~~ violation of Code Section 16-5-21;

(2) False imprisonment, ~~as defined in~~ violation of Code Section 16-5-41, if the victim is not the child of the defendant and the victim is less than 14 years of age;

(3) Sodomy, ~~as defined in~~ violation of Code Section 16-6-2, unless subject to the provisions of subsection (d) of Code Section 16-6-2;

(4) Statutory rape, ~~as defined in~~ violation of Code Section 16-6-3, if the person convicted of the crime is 21 years of age or older;

(5) Child molestation, ~~as defined in~~ violation of subsection (a) of Code Section 16-6-4, unless subject to the provisions of paragraph (2) of subsection (b) of Code Section 16-6-4;

(6) Enticing a child for indecent purposes, ~~as defined in~~ violation of Code Section 16-6-5, unless subject to the provisions of subsection (c) of Code Section 16-6-5;

(7) Sexual assault against persons in custody, ~~as defined in~~ violation of Code Section 16-6-5.1;

(8) Incest, ~~as defined in~~ violation of Code Section 16-6-22;

(9) A second or subsequent conviction for sexual battery, ~~as defined in~~ violation of Code Section 16-6-22.1; or

(10) Sexual exploitation of children, ~~as defined in~~ violation of Code Section 16-12-100, unless subject to the provisions of paragraph (2) or (3) of subsection (f) of Code Section 16-12-100.

(b) Except as provided in subsection (c) of this Code section, and notwithstanding any other provisions of law to the contrary, any person convicted of a sexual offense shall be sentenced to a split sentence which shall include the minimum term of imprisonment specified in the Code section applicable to ~~the~~ such sexual offense. No portion of the mandatory minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld by the ~~sentencing~~ court ~~and~~. Any such sentence shall include, in addition to the mandatory term of imprisonment, an additional probated sentence of at least one year; provided, however, that when a court imposes consecutive sentences for sexual offenses,

the requirement that the court impose a probated sentence of at least one year shall only apply to the final consecutive sentence imposed. No person convicted of a sexual offense shall be sentenced as a first offender pursuant to Article 3 of Chapter 8 of Title 42, ~~relating to probation for first offenders~~, or any other provision of Georgia law relating to the sentencing of first offenders."

## SECTION 6.

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

"(B.1) 'Dangerous sexual offense' with respect to convictions occurring ~~after June 30, 2015~~ between July 1, 2015, and June 30, 2017, means any criminal offense, or the attempt to commit any criminal offense, under Title 16 as specified in this ~~paragraph~~ subparagraph or any offense under federal law or the laws of another state or territory of the United States which consists of the same or similar elements of the following offenses:

- (i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;
- (ii) Kidnapping in violation of Code Section 16-5-40 which involves a victim who is less than 14 years of age, except by a parent;
- (iii) Trafficking a person for sexual servitude in violation of Code Section 16-5-46;
- (iv) Rape in violation of Code Section 16-6-1;
- (v) Sodomy in violation of Code Section 16-6-2;
- (vi) Aggravated sodomy in violation of Code Section 16-6-2;
- (vii) Statutory rape in violation of Code Section 16-6-3, if the individual convicted of the offense is 21 years of age or older;
- (viii) Child molestation in violation of Code Section 16-6-4;
- (ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the person was convicted of a misdemeanor offense;
- (x) Enticing a child for indecent purposes in violation of Code Section 16-6-5;
- (xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;
- (xii) Incest in violation of Code Section 16-6-22;
- (xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;
- (xiv) Aggravated sexual battery in violation of Code Section 16-6-22.2;
- (xv) Sexual exploitation of children in violation of Code Section 16-12-100;
- (xvi) Electronically furnishing obscene material to minors in violation of Code Section 16-12-100.1;

(xvii) Computer pornography and child exploitation in violation of Code Section 16-12-100.2;

(xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or

(xix) Any conduct which, by its nature, is a sexual offense against a victim who is a minor or an attempt to commit a sexual offense against a victim who is a minor.

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

(i) Aggravated assault with the intent to rape in violation of Code Section 16-5-21;

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

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

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

(v) Sodomy in violation of Code Section 16-6-2;

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

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

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

(ix) Aggravated child molestation in violation of Code Section 16-6-4, unless the person was convicted of a misdemeanor offense;

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

(xi) Sexual assault against persons in custody in violation of Code Section 16-6-5.1;

(xii) Incest in violation of Code Section 16-6-22;

(xiii) A second conviction for sexual battery in violation of Code Section 16-6-22.1;

(xiv) Aggravated sexual battery in violation of Code Section 16-6-22.2;

(xv) Sexual exploitation of children in violation of Code Section 16-12-100;

(xvi) Electronically furnishing obscene material to minors in violation of Code Section 16-12-100.1;

(xvii) Computer pornography and child exploitation in violation of Code Section 16-12-100.2;

(xviii) Obscene telephone contact in violation of Code Section 16-12-100.3; or

(xix) Any conduct which, by its nature, is a sexual offense against a victim who is a minor or an attempt to commit a sexual offense against a victim who is a minor."

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**SECTION 7.**

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