

House Bill 168 (AS PASSED HOUSE AND SENATE)

By: Representatives Petrea of the 166th, Stephens of the 164th, Williamson of the 115th,
Fleming of the 121st, Clark of the 147th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 42-5-36 of the Official Code of Georgia Annotated, relating to
2 confidentiality of information supplied by inmates, penalties for breach, classified nature of
3 department investigation reports, confidentiality of certain identifying information, and
4 custodians of records, so as to provide that certain information within inmate files of the
5 Department of Corrections shall not be classified as confidential state secrets when requested
6 by the district attorney for purposes of responding to proposed actions of the State Board of
7 Pardons and Paroles; to provide for a definition; to provide for an exception; to provide for
8 nondisclosure; to provide for related matters; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Code Section 42-5-36 of the Official Code of Georgia Annotated, relating to confidentiality
13 of information supplied by inmates, penalties for breach, classified nature of department
14 investigation reports, confidentiality of certain identifying information, and custodians of
15 records, is amended by revising subsection (c) and adding a new subsection to read as
16 follows:

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17 "(c)(1) As used in this subsection, the term:

18 (A) 'Dangerous sexual offense' shall have the same meaning as set forth in Code
19 Section 42-1-12.

20 (B) 'Serious offense' shall have the same meaning as set forth in Code Section 42-9-42.

21 ~~(B)~~(C) 'Serious violent felony' shall have the same meaning as set forth in Code
22 Section 17-10-6.1.

23 (2) All institutional inmate files and central office inmate files of the department shall
24 be classified as confidential state secrets and privileged under law, unless declassified in
25 writing by the commissioner; provided, however, that ~~these~~:

26 (A)(i) Except for medical records, this subsection shall not apply to information
27 requested by the district attorney of the circuit in which the inmate was sentenced for
28 a serious violent felony or sentenced for a dangerous sexual offense against a person
29 less than 18 years of age for purposes of such district attorney submitting information
30 or filing a written objection under Code Section 42-9-43;

31 (ii) The commissioner shall furnish the records provided for under division (i) of this
32 subparagraph that were created on and after January 31, 2010, upon receipt of the
33 request for such records from the district attorney, and such request shall state that the
34 records are sought for purposes of submitting information or filing a written objection
35 under Code Section 42-9-43; and

36 (iii) Any record provided for under this subparagraph shall be held in confidence by
37 the district attorney and shall not be subject to disclosure under Article 4 of
38 Chapter 18 of Title 50 and shall be subject to the provisions of subsection (f) of this
39 Code section.

40 (B) These records shall be subject to subpoena by a court of competent jurisdiction of
41 this state and provided, further, that the; and

42 (C) The commissioner shall prepare a report of the conduct of record of any inmate
43 -serving a sentence for a serious violent felony. When the report includes conduct which

44 would constitute a serious offense, reasonably related information connected to such
45 offense shall be included in the report. Such report shall be subject to disclosure under
46 paragraph (2) of subsection (a) of Code Section 42-9-43."

47 "(f) No person shall divulge or cause to be divulged in any manner any confidential state
48 secret. Any person violating this Code section or any person who causes or procures a
49 violation of this Code section or conspires to violate this Code section shall, upon
50 conviction, be guilty of a misdemeanor."

51 **SECTION 2.**

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