

Senate Bill 493

By: Senators Hatchett of the 50th, Kennedy of the 18th, Gooch of the 51st, Summers of the 13th, Strickland of the 17th and others

AS PASSED

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

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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.