

Georgia Codes**TITLE 42 - PENAL INSTITUTIONS****CHAPTER 1 - GENERAL PROVISIONS****ARTICLE 1 - INMATE POLICIES****§ 42-1-1 - Giving information to or receiving money from inmate in penal institution**

O.C.G.A. 42-1-1 (2010)

42-1-1. Giving information to or receiving money from inmate in penal institution

(a) No employee of a penal institution may give advice to an inmate regarding the name or the employment of an attorney at law in any case where the inmate is confined in a penal institution or receive any sum of money paid as fees or otherwise to attorneys at law in a criminal case or cases against any inmate with which they may be connected in any capacity.

(b) Any person who violates this Code section shall be guilty of a misdemeanor.

§ 42-1-2 - Reward for information leading to capture of escaped inmate of penal institution under jurisdiction of Board of Corrections

O.C.G.A. 42-1-2 (2010)

42-1-2. Reward for information leading to capture of escaped inmate of penal institution under jurisdiction of Board of Corrections

(a) Any person, other than a law enforcement officer, who furnishes information leading to the capture of an escaped inmate from a penal institution under the jurisdiction of the Board of Corrections may receive a reward of up to \$200.00 which shall be payable at the time the escaped inmate is returned to the custody of the Board of Corrections. The commissioner of corrections, at his discretion, may pay the reward to any person from funds appropriated or otherwise available to the Department of Corrections.

(b) When more than one person furnishes information which would entitle them to receive the rewards pursuant to subsection (a) of this Code section, the reward shall be paid to the first person furnishing the information; and, if more than one person furnishes the information at the same time, the reward shall be prorated among all persons furnishing such information.

§ 42-1-3 - Defendant sentenced to death or life imprisonment not to be made trusty during time case on appeal; manner of confinement of defendant

O.C.G.A. 42-1-3 (2010)

42-1-3. Defendant sentenced to death or life imprisonment not to be made trusty during time case on appeal; manner of confinement of defendant

Any defendant who has been convicted of a felony and sentenced to death or life imprisonment shall not be made a trusty at any penal institution or facility in this state during the time that his case is on appeal. The defendant shall be confined in the same manner as other prisoners.

§ 42-1-4 - Work-release programs for county prisoners

O.C.G.A. 42-1-4 (2010)

42-1-4. Work-release programs for county prisoners

(a) Any person sentenced to confinement as a county prisoner under paragraph (1) of subsection (a) of Code Section 17-10-3 or otherwise sentenced to confinement as a county prisoner may, if there is reasonable cause to believe that he will honor his trust, be allowed to participate in a work-release program as authorized by this Code section. Participation in a work-release program shall be voluntary on the part of the inmate.

(b) When an inmate receives permission to participate in a work-release program, the limits of the place of the confinement of the inmate shall be expanded by allowing the inmate under prescribed conditions to work at paid employment or participate in a training program in the community

while continuing as an inmate of the institution to which he is committed. The willful failure of an inmate to remain within the extended limits of his confinement or to return within the prescribed time to the institution shall constitute an escape from the institution and shall be punished as provided in Code Section 16-10-52.

(c) If there is reasonable cause to believe that an inmate will honor his trust, the inmate may be authorized to participate in a work-release program by:

- (1) The sentencing judge at the time of sentencing; or
- (2) The sheriff, warden, or other official in charge of the institution to which the inmate is committed if written approval is obtained from the sentencing judge.

(d) An inmate authorized to participate in a work-release program under this Code section shall comply with all rules and regulations promulgated by the institution in which he is confined relative to the handling, disbursement, and holding in trust of all funds earned by the inmate while under the jurisdiction of the institution. An amount determined to be the cost of the inmate's keep and confinement shall be deducted from the earnings of each inmate, and such amount shall be deposited in the treasury of the county. After deduction for keep and confinement the official in charge of the institution shall:

- (1) Allow the inmate to draw from the balance a reasonable sum to cover his incidental expenses;
- (2) Retain to the inmate's credit an amount as deemed necessary to accumulate a reasonable sum to be paid to him on his release from the institution; and
- (3) Cause to be paid any additional balance as is needed for the support of the inmate's dependents.

(e) No inmate participating in a work-release program under this Code section shall be deemed to be an agent, employee, or involuntary servant of the county while working or participating in training or going to and from his place of employment or training.

§ 42-1-5 - Use of inmate for private gain

O.C.G.A. 42-1-5 (2010)

42-1-5. Use of inmate for private gain

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

(1) "Custodian" means a warden, sheriff, jailer, deputy sheriff, police officer, or any other law enforcement officer having actual custody of an inmate.

(2) "Inmate" means any person who is lawfully incarcerated in a penal institution.

(3) "Penal institution" means any place of confinement for persons accused of or convicted of violating a law of this state or an ordinance of a political subdivision of this state.

(b) It shall be unlawful for a custodian of an inmate of a penal institution to use such inmate or allow such inmate to be used for any purpose resulting in private gain to any individual.

(c) Any person who violates subsection (b) of this Code section shall be guilty of a misdemeanor.

(d) This Code section shall not apply to:

(1) Work on private property because of natural disasters;

(1.1) Work on private property as a form of victim compensation in accordance with Chapter 15A of Title 17;

(2) Work or other programs or releases which have the prior approval of the board or commissioner of corrections;

(3) Community service work programs;

(4) Work-release programs; or

(5) Work programs authorized by Article 6 of Chapter 5 of this title.

§ 42-1-6 - Injury or contact by inmate presenting possible threat of transmission of communicable disease

O.C.G.A. 42-1-6 (2010)

42-1-6. Injury or contact by inmate presenting possible threat of transmission of communicable disease

If any inmate of any state or county correctional institution, county or municipal jail, or other similar facility, while such inmate is in custody or in the process of being taken into custody, injures or has injured or contacts or has contacted a law enforcement officer, correctional officer, firefighter, emergency medical technician, or other person in such a manner as to present a possible threat of transmission of a communicable disease to the person so injured or contacted, then the warden, jailer, or other official having charge of such inmate may take all reasonable steps to determine whether the inmate has a communicable disease capable of being transmitted by the injury or contact involved. Such steps may include, but shall not be limited to, any appropriate medical examination of or collection of medical specimens from the inmate. In the event an inmate refuses to cooperate in any such procedures, the warden, jailer, or other official may apply to the superior court of the county for an order authorizing the use of any degree of force reasonably necessary to complete such procedures. Upon a showing of probable cause that the injury presents the threat of transmission of a communicable disease, the court shall issue an order authorizing the petitioner to use reasonable measures to perform any medical procedures reasonably necessary to ascertain whether a communicable disease has been transmitted. In addition to any other grounds sufficient to show probable cause for the issuance of such an order, such probable cause may be conclusively established by evidence of the injury or contact in question and a statement by a licensed physician that the nature of the injury or contact is such as to present a threat of transmission of a communicable disease if the inmate has such a disease. The cost of any procedures carried out under this Code section shall be borne by the jurisdiction having custody of the inmate.

§ 42-1-7 - Notification to transporting law enforcement agency of inmate's or patient's infectious or communicable disease

O.C.G.A. 42-1-7 (2010)

42-1-7. Notification to transporting law enforcement agency of inmate's or patient's infectious or communicable disease

(a) For the purposes of this Code section, the term "infectious or communicable disease" shall include infectious hepatitis, tuberculosis, influenza, measles, chicken pox, meningitis, HIV as defined in Code Section 31-22-9.1, or any venereal disease enumerated in Code Section 31-17-1.

(b) Notwithstanding any other provision of law, any state or county correctional institution, municipal or county detention facility, or any facility as defined in Code Section 37-3-1 shall notify any state or local law enforcement agency required to transport an inmate or patient if such inmate or patient has been diagnosed as having an infectious or communicable disease. Notification shall be limited to the fact that such inmate or patient has an infectious or communicable disease and whether such disease is airborne or transmissible by blood or other body fluids; provided, however, that the specific disease shall not be disclosed. The Department of Community Health shall provide a guide for appropriate precautions to be taken by any person or persons transporting such inmate or patient and shall develop a form to be used for the purpose of ensuring that such precautions are taken.

(c) Information released or obtained pursuant to this Code section shall be privileged and confidential and shall only be released or obtained by the institutions, facilities, or agencies who are parties to the transportation of the patient or inmate. Any person making an unauthorized disclosure of such information shall be guilty of a misdemeanor.

§ 42-1-8 - Home arrest program

O.C.G.A. 42-1-8 (2010)

42-1-8. Home arrest program

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

(1) "Educational program" means a program of learning recognized by the State Board of Education.

(2) "Habilitative program" means and includes an alcohol or drug treatment program, mental health program, family counseling, community service, or any other community program ordered or approved by the court having jurisdiction over the offender or by the sheriff.

(3) "Home arrest" means an electronic monitoring of an offender at a residence approved and accepted by the court, the sheriff, or the director or administrator of the home arrest program.

(b) Notwithstanding the provisions of Code Section 42-1-4, any person who is confined in a county jail (1) after conviction and sentencing, (2) pending completion of a presentencing report, or (3) after return for a violation of the terms of probation may, in the discretion of the sheriff and subject to the eligibility requirements set forth in subsection (d) of this Code section, be assigned to a home arrest program under supervision of the sheriff. If it appears to the court that an offender subject to its jurisdiction is a suitable candidate for a home arrest program, the court may, subject to the eligibility requirements of subsection (d) of this Code section, order the offender to a home arrest program. Further, the sheriff or the court may authorize the offender to participate in educational or other habilitative programs designed to supplement home arrest.

(c) Whenever the sheriff assigns an offender to home arrest, the court which sentenced such offender or before which such offender's case is pending shall be notified in writing by the sheriff or the director or administrator of the home arrest program to which the offender is assigned of

the offender's place of employment and the location of any educational or habilitative program in which the offender participates. The court, in its discretion, may revoke the authority for any offender to participate in home arrest, whether such offender was assigned to home arrest by the court or the sheriff. The sheriff or home arrest director or administrator may enter into an agreement to accept into the local home arrest program offenders who are sentenced to home arrest or who have met all home arrest standards.

(d) In order to qualify for assignment to a home arrest program, an offender:

(1) May not be subject to any outstanding warrants or orders from any other court or law enforcement agency;

(2) Shall not have any criminal record or any history within the preceding five years of any assaultive offenses of an aggravated nature, including, but not limited to, aggravated assault; aggravated battery; rape; child molestation; robbery; trafficking or distribution of a controlled substance or marijuana; homicide by vehicle; felony bail-jumping; or escape; or

(3) May not have any life-threatening illnesses or disabilities that would interfere with the ability to work on a regular schedule.

(e) An offender's employment under this Code section shall be with a legitimate, recognized, and established employer. An offender assigned to a home arrest program who, without proper authority, leaves his home or the work area to which he is assigned, who leaves or fails to attend an assigned educational or other rehabilitative program, or who leaves the vehicle or route of travel in going to or returning from his assigned place of work shall be guilty of a misdemeanor. If the offender leaves the county or the area of restriction, he may be found guilty of escape under Code Section 16-10-52. An offender who is found guilty of a misdemeanor under this subsection or of escape shall be ineligible for further participation in a home arrest program during his current term of confinement.

(f) Any wages earned by an offender in home arrest under this Code section may, upon order of the court or the sheriff, be paid to the director or administrator of the home arrest program after

standard payroll deductions required by federal or state law have been withheld. Distribution of such wages shall be made for the following purposes:

(1) To defray the cost of home arrest electronic monitoring equipment and supervision provided by the local jail or detention center, or to pay for any damage to the monitoring equipment in the offender's possession or the failure to return the equipment to the program;

(2) To pay travel and other such expenses of the offender necessitated by his home arrest employment or participation in an educational or rehabilitative program;

(3) To provide support and maintenance for the offender's dependents or to make payments to the local department of family and children services or probation, as appropriate, on behalf of any offender's dependents receiving public assistance;

(4) To pay any fines, restitution, or other costs ordered by the court; and

(5) Any balance remaining after payment of costs and expenses listed in paragraphs (1) through (4) of this subsection shall be retained to the credit of the offender and shall be paid to him upon release from confinement.

(g) No offender participating in home arrest pursuant to this Code section shall be deemed to be an agent, employee, or involuntary servant of the county while working or participating in educational or other habilitative programs or while traveling to or from the place of employment.

(h) Local jails shall qualify for compensation for costs of incarceration of all persons pursuant to this Code section, less any payments from the offender pursuant to subsection (f) of this Code section.

§ 42-1-9 - Work-release, educational, and habilitative programs for county prisoners

O.C.G.A. 42-1-9 (2010)

42-1-9. Work-release, educational, and habilitative programs for county prisoners

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

(1) "Educational program" means a program of learning recognized by the State Board of Education.

(2) "Habilitative program" means and includes an alcohol or drug treatment program, mental health program, family counseling, community service, or any other community program ordered or approved by the court having jurisdiction over the offender or by the sheriff.

(3) "Work release" means full-time employment or participation in an acceptable and suitable vocational training program.

(b) Notwithstanding the provisions of Code Section 42-1-4, any person who is confined in a county jail (1) after conviction and sentencing, (2) pending completion of a presentencing report, or (3) after return for a violation of the terms of probation may, in the discretion of the sheriff and subject to the eligibility requirements set forth in subsection (d) of this Code section, be assigned to a work-release program under supervision of the sheriff. If it appears to the court that an offender subject to its jurisdiction is a suitable candidate for a work-release program, the court may, subject to the eligibility requirements of subsection (d) of this Code section, order the offender to a work-release program. Further, the sheriff or the court may authorize the offender inmate to participate in educational or other habilitative programs designed to supplement work release.

(c) Whenever the sheriff assigns an inmate to work release, the court which sentenced such offender or before which such offender's case is pending shall be notified in writing by the sheriff or the director or administrator of the work-release program to which the offender is assigned of the offender's place of employment and the location of any educational or habilitative program in which the offender participates. The court, in its discretion, may revoke the authority for any inmate to participate in work release, whether such inmate was assigned to work release by the court or the sheriff. The sheriff or work-release director or administrator may enter into an agreement to accept into the local work-release program inmates who are sentenced to work release or who have met all work-release standards.

(d) In order to qualify for assignment to a work-release program, an offender:

(1) May not be subject to any outstanding warrants or orders from any other court or law enforcement agency;

(2) Shall not have any criminal record or any history within the preceding five years of any assaultive offenses of an aggravated nature, including, but not limited to, aggravated assault; aggravated battery; rape; child molestation; robbery; trafficking or distribution of a controlled substance or marijuana; homicide by vehicle; felony bail-jumping; or escape; or

(3) May not have any life-threatening illnesses or disabilities that would interfere with the ability to work on a regular schedule.

(e) An inmate's employment under this Code section shall be with a legitimate, recognized, and established employer. An inmate assigned to a work-release program who, without proper authority, leaves the work area or site to which he is assigned, who leaves or fails to attend an assigned educational or other rehabilitative program, or who leaves the vehicle or route of travel in going to or returning from his assigned place of work shall be guilty of a misdemeanor. An offender who is found guilty of misdemeanor escape in accordance with this subsection shall be ineligible for further participation during his current term of confinement.

(f) Any wages earned by an inmate in work release under this Code section may, upon order of the court or the sheriff, be paid to the director or administrator of the work-release program after standard payroll deductions required by federal or state law have been withheld. Distribution of such wages shall be made for the following purposes:

(1) To defray the cost of the inmate's keep, confinement, and supervision, which sums shall be paid into the general treasury;

(2) To pay travel and other such expenses of the inmate necessitated by his work-release employment or participation in an educational or rehabilitative program;

(3) To provide support and maintenance for the inmate's dependents or to make payments to the local department of family and children services or probation, as appropriate, on behalf of any inmate's dependents receiving public assistance;

(4) To pay any fines, restitution, or other costs ordered by the court; and

(5) Any balance remaining after payment of costs and expenses listed in paragraphs (1) through (4) of this subsection shall be retained to the credit of the inmate and shall be paid to him upon release from confinement.

(g) No inmate participating in work release pursuant to this Code section shall be deemed to be an agent, employee, or involuntary servant of the county while working or participating in educational or other habilitative programs or while traveling to or from the place of employment.

(h) Local jails shall qualify for compensation for costs of incarceration of all persons pursuant to this Code section, less any payments from the inmate pursuant to subsection (f) of this Code section.

§ 42-1-10 - Preliminary urine screen drug tests

O.C.G.A. 42-1-10 (2010)

42-1-10. Preliminary urine screen drug tests

(a) Any probation officer, parole officer, or other official or employee of the Department of Corrections who supervises any person covered under the provisions of paragraphs (1) through (7) of this subsection shall be exempt from the provisions of Chapter 22 of Title 31 for the limited purposes of administering a preliminary urine screen drug test to any person who is:

- (1) Incarcerated;
- (2) Released as a condition of probation for a felony or misdemeanor;
- (3) Released as a condition of conditional release;
- (4) Released as a condition of parole;
- (5) Released as a condition of provisional release;
- (6) Released as a condition of pretrial release; or
- (7) Released as a condition of control release.

(b) The Department of Corrections and the State Board of Pardons and Paroles shall develop a procedure for the performance of preliminary urine screen drug tests in accordance with the manufacturer's standards for certification. Probation officers, parole officers, or other officials or employees of the Department of Corrections who are supervisors of any person covered under paragraphs (1) through (7) of subsection (a) of this Code section shall be authorized to perform preliminary urine screen drug tests in accordance with such procedure. Such procedure shall include instructions as to a confirmatory test by a licensed clinical laboratory where necessary.

§ 42-1-11 - Notification of crime victim of impending release of offender from imprisonment

O.C.G.A. 42-1-11 (2010)

42-1-11. Notification of crime victim of impending release of offender from imprisonment

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

(1) "Crime" means an act committed in this state which constitutes any violation of Chapter 5 of Title 16, relating to crimes against persons; Chapter 6 of Title 16, relating to sexual offenses; Article 1 or Article 3 of Chapter 7 of Title 16, relating to burglary and arson; or Article 1 or Article 2 of Chapter 8 of Title 16, relating to offenses involving theft and armed robbery.

(2) "Crime against the person or sexual offense" means any crime provided for in Chapter 5 or 6 of Title 16.

(3) "Custodial authority" means the commissioner of corrections if the offender is in the physical custody of the state, or the sheriff if the offender is incarcerated in a county jail, or the warden if the offender is incarcerated in a county correctional institution.

(4) "Offender" means a person sentenced to a term of incarceration in a state or county correctional institution.

(b) If the identity of a victim of a crime has been verified by the prosecuting attorney, who has, at the request of such victim, mailed a letter to the custodial authority requesting that the victim be notified of a change in the custodial status of an offender, then the custodial authority shall make

a good faith effort to notify the victim that the offender is to be released from imprisonment, including release on extended furlough; transferred to work release; released by mandatory release upon expiration of sentence; or has escaped from confinement; or if the offender has died. The good faith effort to notify the victim must occur prior to the release or transfer noted in this subsection. For a victim of a felony crime against the person or sexual offense for which the offender was sentenced to a term of imprisonment of more than 18 months, the good faith effort to notify the victim must occur no later than ten days before the offender's release from imprisonment, transfer to or release from work release, or as soon thereafter as is practical in situations involving emergencies.

(c) The notice given to a victim of a crime against a person or sexual offense must include the conditions governing the offender's release or transfer and either the identity of the corrections agent or the county officer who will be supervising the offender's release or a means to identify the agency that will be supervising the offender's release. The custodial authority complies with this Code section upon mailing the notice of impending release to the victim at the address which the victim has most recently provided to the custodial authority in writing.

(d) If an offender escapes from imprisonment or incarceration, including from release on extended furlough or work release, the custodial authority shall make all reasonable efforts to notify a victim who has requested notice of the offender's release under subsection (b) of this Code section within six hours after discovering the escape, or as soon thereafter as is practical, and shall also make reasonable efforts to notify the victim within 24 hours after the offender is apprehended or as soon thereafter as is practical. In emergencies, telephone notification for the victim will be attempted and the results documented in the offender's central file.

(e) All identifying information regarding the victim, including the victim's request and the notice provided by the custodial authority, shall be confidential and accessible only to the victim. It is the responsibility of the victim to provide the custodial authority with a current address.

(f) A designated official in the Department of Corrections, the county correctional facility, and the sheriff's office shall coordinate the receipt of all victim correspondence and shall monitor staff responses to requests for such notification from victims of crime.

(g) The custodial authority shall not be liable for a failure to notify the victim.

§ 42-1-11.1 - Alien prisoners eligible for deportation; cooperation with federal deportation program; waiver of extradition rights; transportation

O.C.G.A. 42-1-11.1 (2010)

42-1-11.1. Alien prisoners eligible for deportation; cooperation with federal deportation program; waiver of extradition rights; transportation

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

(1) "Alien prisoner" means a person who is not a citizen or national of the United States who is serving a sentence under the supervision of the department.

(2) "Board" means the State Board of Pardons and Paroles.

(3) "Department" means the Department of Corrections.

(4) "Release on a reprieve" means being released on a reprieve with a detainer to United States Immigration and Customs Enforcement.

(b) The department and board shall establish a process and agreements among multiple state, local, and federal agencies for the implementation of the United States Immigration and Customs Enforcement Rapid Removal of Eligible Parolees Accepted for Transfer (REPAT) Program or similar federal program, by whatever name, for the purpose of deporting alien prisoners in the state prison system who are eligible for deportation.

(c) The department shall include as a part of the intake process a procedure to identify alien prisoners eligible for deportation. The department shall coordinate with the federal authorities to

determine an alien prisoner's immigration status and eligibility for removal. The identity and information regarding alien prisoners eligible for deportation shall be provided expeditiously to the board, and the board shall then consider such alien prisoner for a release on a reprieve. Alien prisoners who would otherwise be ineligible for parole shall not become eligible by reason of eligibility for a release on a reprieve.

(d) Upon an alien prisoner's acceptance into the federal deportation program, the board may establish a tentative release month for the alien prisoner to be transferred into federal custody.

(e) No tentative parole release month based on a release on a reprieve shall be set until the alien prisoner is otherwise eligible for parole. No tentative parole release month shall be set for any date prior to the effective date of a final deportation removal order.

(f) The board shall provide notice and obtain acknowledgment in writing that notice was given to each alien prisoner who is eligible for a release on a reprieve that illegal reentry into the United States shall subject such alien prisoner to being returned to the custody of the department to complete the remainder of his or her court-imposed sentence. Prior to granting a release on a reprieve, the alien prisoner shall make a knowing, voluntary, and intelligent waiver in writing of all rights of extradition which would challenge the alien prisoner's parole revocation and return the alien prisoner to the department to complete the remainder of his or her sentence in the event such alien prisoner violates a condition of the release on a reprieve.

(g) An alien prisoner shall not be eligible for a release on a reprieve if the federal authorities determine that the alien prisoner's removal is not reasonably foreseeable.

(h) The department shall maintain exclusive control and responsibility for the custody and transportation of alien prisoners to and from federal facilities.

ARTICLE 2 - SEXUAL OFFENDER REGISTRATION REVIEW BOARD

§ 42-1-12 - State Sexual Offender Registry

O.C.G.A. 42-1-12 (2010)

42-1-12. State Sexual Offender Registry

(a) As used in this article, the term:

(1) "Address" means the street or route address of the sexual offender's residence. For purposes of this Code section, the term shall not mean a post office box.

(2) "Appropriate official" means:

(A) With respect to a sexual offender who is sentenced to probation without any sentence of incarceration in the state prison system or who is sentenced pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, the Division of Probation of the Department of Corrections;

(B) With respect to a sexual offender who is sentenced to a period of incarceration in a prison under the jurisdiction of the Department of Corrections and who is subsequently released from prison or placed on probation, the commissioner of corrections or his or her designee;

(C) With respect to a sexual offender who is placed on parole, the chairperson of the State Board of Pardons and Paroles or his or her designee; and

(D) With respect to a sexual offender who is placed on probation through a private probation agency, the director of the private probation agency or his or her designee.

(3) "Area where minors congregate" shall include all public and private parks and recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums, school bus stops, public libraries, and public and community swimming pools.

(4) "Assessment criteria" means the tests that the board members use to determine the likelihood that a sexual offender will commit another criminal offense against a victim who is a minor or commit a dangerous sexual offense.

(5) "Board" means the Sexual Offender Registration Review Board.

(6) "Child care facility" means all public and private pre-kindergarten facilities, day-care centers, child care learning centers, preschool facilities, and long-term care facilities for children.

(7) "Church" means a place of public religious worship.

(8) "Conviction" includes a final judgment of conviction entered upon a verdict or finding of guilty of a crime, a plea of guilty, or a plea of nolo contendere. A defendant who is discharged without adjudication of guilt and who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall be subject to the registration requirements of this Code section for the period of time prior to the defendant's discharge after completion of his or her sentence or upon the defendant being adjudicated guilty. Unless otherwise required by federal law, a defendant who is discharged without adjudication of guilt and who is not considered to have a criminal conviction pursuant to Article 3 of Chapter 8 of this title, relating to first offenders, shall not be subject to the registration requirements of this Code section upon the defendant's discharge.

(9) (A) "Criminal offense against a victim who is a minor" with respect to convictions occurring on or before June 30, 2001, means any criminal offense under Title 16 or any offense under federal law or the laws of another state or territory of the United States which consists of:

(i) Kidnapping of a minor, except by a parent;

(ii) False imprisonment of a minor, except by a parent;

(iii) Criminal sexual conduct toward a minor;

(iv) Solicitation of a minor to engage in sexual conduct;

(v) Use of a minor in a sexual performance;

(vi) Solicitation of a minor to practice prostitution; or

(vii) Any conviction resulting from an underlying sexual offense against a victim who is a minor.

(B) "Criminal offense against a victim who is a minor" with respect to convictions occurring after June 30, 2001, means any criminal offense under Title 16 or any offense under federal law or the laws of another state or territory of the United States which consists of:

(i) Kidnapping of a minor, except by a parent;

(ii) False imprisonment of a minor, except by a parent;

(iii) Criminal sexual conduct toward a minor;

(iv) Solicitation of a minor to engage in sexual conduct;

(v) Use of a minor in a sexual performance;

(vi) Solicitation of a minor to practice prostitution;

(vii) Use of a minor to engage in any sexually explicit conduct to produce any visual medium depicting such conduct;

(viii) Creating, publishing, selling, distributing, or possessing any material depicting a minor or a portion of a minor's body engaged in sexually explicit conduct;

(ix) Transmitting, making, selling, buying, or disseminating by means of a computer any descriptive or identifying information regarding a child for the purpose of offering or soliciting sexual conduct of or with a child or the visual depicting of such conduct;

(x) Conspiracy to transport, ship, receive, or distribute visual depictions of minors engaged in sexually explicit conduct; or

(xi) Any conduct which, by its nature, is a sexual offense against a victim who is a minor.

(C) For purposes of this paragraph, a conviction for a misdemeanor shall not be considered a criminal offense against a victim who is a minor, and conduct which is adjudicated in juvenile court shall not be considered a criminal offense against a victim who is a minor.

(10) (A) "Dangerous sexual offense" with respect to convictions occurring on or before June 30, 2006, means any criminal offense, or the attempt to commit any criminal offense, under Title 16 as specified in this paragraph 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) Rape in violation of Code Section 16-6-1;

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

(iv) Aggravated child molestation in violation of Code Section 16-6-4; or

(v) Aggravated sexual battery in violation of Code Section 16-6-22.2.

(B) "Dangerous sexual offense" with respect to convictions occurring after June 30, 2006, means any criminal offense, or the attempt to commit any criminal offense, under Title 16 as specified in this paragraph 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) False imprisonment in violation of Code Section 16-5-41 which involves a victim who is less than 14 years of age, except by a parent;

(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 prevention 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.

(C) For purposes of this paragraph, a conviction for a misdemeanor shall not be considered a dangerous sexual offense, and conduct which is adjudicated in juvenile court shall not be considered a dangerous sexual offense.

(10.1) "Day-care center" shall have the same meaning as set forth in paragraph (4) of Code Section 20-1A-2.

(11) "Institution of higher education" means a private or public community college, state university, state college, or independent postsecondary institution.

(12) "Level I risk assessment classification" means the sexual offender is a low sex offense risk and low recidivism risk for future sexual offenses.

(13) "Level II risk assessment classification" means the sexual offender is an intermediate sex offense risk and intermediate recidivism risk for future sexual offenses and includes all sexual offenders who do not meet the criteria for classification either as a sexually dangerous predator or for Level I risk assessment.

(14) "Minor" means any individual under the age of 18 years and any individual that the sexual offender believed at the time of the offense was under the age of 18 years if such individual was the victim of an offense.

(15) "Public and community swimming pools" includes municipal, school, hotel, motel, or any pool to which access is granted in exchange for payment of a daily fee. The term includes apartment complex pools, country club pools, or subdivision pools which are open only to residents of the subdivision and their guests. This term does not include a private pool or hot tub serving a single-family dwelling and used only by the residents of the dwelling and their guests.

(16) "Required registration information" means:

(A) Name; social security number; age; race; sex; date of birth; height; weight; hair color; eye color; fingerprints; and photograph;

(B) Address, within this state or out of state, and, if applicable in addition to the address, a rural route address and a post office box;

(C) If the place of residence is a motor vehicle or trailer, the vehicle identification number, the license tag number, and a description, including color scheme, of the motor vehicle or trailer;

(D) If the place of residence is a mobile home, the mobile home location permit number; the name and address of the owner of the home; a description, including the color scheme of the mobile home; and, if applicable, a description of where the mobile home is located on the property;

(E) If the place of residence is a manufactured home, the name and address of the owner of the home; a description, including the color scheme of the manufactured home; and, if applicable, a description of where the manufactured home is located on the property;

(F) If the place of residence is a vessel, live-aboard vessel, or houseboat, the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat;

(F.1) If the place of residence is the status of homelessness, information as provided under paragraph (2.1) of subsection (f) of this Code section;

(G) Date of employment, place of any employment, and address of employer;

(H) Place of vocation and address of the place of vocation;

(I) Vehicle make, model, color, and license tag number;

(J) If enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the name, address, and county of each institution, including each campus attended, and enrollment or employment status; and

(K) The name of the crime or crimes for which the sexual offender is registering and the date released from prison or placed on probation, parole, or supervised release.

(17) "Risk assessment classification" means the notification level into which a sexual offender is placed based on the board's assessment.

(18) "School" means all public and private kindergarten, elementary, and secondary schools.

(19) "School bus stop" means a school bus stop as designated by local school boards of education or by a private school.

(20) "Sexual offender" means any individual:

(A) Who has been convicted of a criminal offense against a victim who is a minor or any dangerous sexual offense;

(B) Who has been convicted under the laws of another state or territory, under the laws of the United States, under the Uniform Code of Military Justice, or in a tribal court of a criminal offense against a victim who is a minor or a dangerous sexual offense; or

(C) Who is required to register pursuant to subsection (e) of this Code section.

(21) "Sexually dangerous predator" means a sexual offender:

(A) Who was designated as a sexually violent predator between July 1, 1996, and June 30, 2006; or

(B) Who is determined by the Sexual Offender Registration Review Board to be at risk of perpetrating any future dangerous sexual offense.

(22) "Vocation" means any full-time, part-time, or volunteer employment with or without compensation exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year.

(b) Before a sexual offender who is required to register under this Code section is released from prison or placed on parole, supervised release, or probation, the appropriate official shall:

- (1) Inform the sexual offender of the obligation to register, the amount of the registration fee, and how to maintain registration;
- (2) Obtain the information necessary for the required registration information;
- (3) Inform the sexual offender that, if the sexual offender changes any of the required registration information, other than residence address, the sexual offender shall give the new information to the sheriff of the county with whom the sexual offender is registered within 72 hours of the change of information; if the information is the sexual offender's new residence address, the sexual offender shall give the information to the sheriff of the county with whom the sexual offender last registered within 72 hours prior to moving and to the sheriff of the county to which the sexual offender is moving within 72 hours prior to moving;
- (4) Inform the sexual offender that he or she shall also register in any state where he or she is employed, carries on a vocation, or is a student;
- (5) Inform the sexual offender that, if he or she changes residence to another state, the sexual offender shall register the new address with the sheriff of the county with whom the sexual offender last registered and that the sexual offender shall also register with a designated law enforcement agency in the new state within 72 hours after establishing residence in the new state;
- (6) Obtain fingerprints and a current photograph of the sexual offender;
- (7) Require the sexual offender to read and sign a form stating that the obligations of the sexual offender have been explained;
- (8) Obtain and forward any information obtained from the clerk of court pursuant to Code Section 42-5-50 to the sheriff's office of the county in which the sexual offender will reside; and
- (9) If required by Code Section 42-1-14, place any required electronic monitoring system on the sexually dangerous predator and explain its operation and cost.

(c) The Department of Corrections shall:

(1) Forward to the Georgia Bureau of Investigation a copy of the form stating that the obligations of the sexual offender have been explained;

(2) Forward any required registration information to the Georgia Bureau of Investigation;

(3) Forward the sexual offender's fingerprints and photograph to the sheriff's office of the county where the sexual offender is going to reside;

(4) Inform the board and the prosecuting attorney for the jurisdiction in which a sexual offender was convicted of the impending release of a sexual offender at least eight months prior to such release so as to facilitate compliance with Code Section 42-1-14; and

(5) Keep all records of sexual offenders in a secure facility until official proof of death of a registered sexual offender; thereafter, the records shall be destroyed in accordance with Code Sections 15-1-10, 15-6-62, and 15-6-62.1.

(d) No sexual offender shall be released from prison or placed on parole, supervised release, or probation until:

(1) The appropriate official has provided the Georgia Bureau of Investigation and the sheriff's office in the county where the sexual offender will be residing with the sexual offender's required registration information and risk assessment classification level; and

(2) The sexual offender's name has been added to the list of sexual offenders maintained by the Georgia Bureau of Investigation and the sheriff's office as required by this Code section.

(e) Registration pursuant to this Code section shall be required by any individual who:

- (1) Is convicted on or after July 1, 1996, of a criminal offense against a victim who is a minor;
- (2) Is convicted on or after July 1, 1996, of a dangerous sexual offense;
- (3) Has previously been convicted of a criminal offense against a victim who is a minor and may be released from prison or placed on parole, supervised release, or probation on or after July 1, 1996;
- (4) Has previously been convicted of a sexually violent offense or dangerous sexual offense and may be released from prison or placed on parole, supervised release, or probation on or after July 1, 1996;
- (5) Is a resident of Georgia who intends to reside in this state and who is convicted under the laws of another state or the United States, under the Uniform Code of Military Justice, or in a tribal court of a sexually violent offense, a criminal offense against a victim who is a minor on or after July 1, 1999, or a dangerous sexual offense on or after July 1, 1996;
- (6) Is a nonresident who changes residence from another state or territory of the United States or any other place to Georgia who is required to register as a sexual offender under federal law, military law, tribal law, or the laws of another state or territory or who has been convicted in this state of a criminal offense against a victim who is a minor or any dangerous sexual offense;
- (7) Is a nonresident sexual offender who enters this state for the purpose of employment or any other reason for a period exceeding 14 consecutive days or for an aggregate period of time exceeding 30 days during any calendar year regardless of whether such sexual offender is required to register under federal law, military law, tribal law, or the laws of another state or territory; or
- (8) Is a nonresident sexual offender who enters this state for the purpose of attending school as a full-time or part-time student regardless of whether such sexual offender is required to register under federal law, military law, tribal law, or the laws of another state or territory.

(f) Any sexual offender required to register under this Code section shall:

(1) Provide the required registration information to the appropriate official before being released from prison or placed on parole, supervised release, or probation;

(2) Register in person with the sheriff of the county in which the sexual offender resides within 72 hours after the sexual offender's release from prison or placement on parole, supervised release, probation, or entry into this state;

(2.1) In the case of a sexual offender whose place of residence is the status of homelessness, in lieu of the requirements of paragraph (2) of this subsection, register in person with the sheriff of the county in which the sexual offender sleeps within 72 hours after the sexual offender's release from prison or placement on parole, supervised release, probation, or entry into this state and provide the location where he or she sleeps;

(3) Maintain the required registration information with the sheriff of each county in which the sexual offender resides or sleeps;

(4) Renew the required registration information with the sheriff of the county in which the sexual offender resides or sleeps by reporting in person to the sheriff within 72 hours prior to such offender's birthday each year to be photographed and fingerprinted;

(5) Update the required registration information with the sheriff of the county in which the sexual offender resides within 72 hours of any change to the required registration information, other than where he or she resides or sleeps if such person is homeless. If the information is the sexual offender's new address, the sexual offender shall give the information regarding the sexual offender's new address to the sheriff of the county in which the sexual offender last registered within 72 hours prior to any change of address and to the sheriff of the county to which the sexual offender is moving within 72 hours prior to establishing such new address. If the sexual offender is homeless and the information is the sexual offender's new sleeping location, within 72 hours of

changing sleeping locations, the sexual offender shall give the information regarding the sexual offender's new sleeping location to the sheriff of the county in which the sexual offender last registered, and if the county has changed, to the sheriff of the county to which the sexual offender has moved; and

(6) Continue to comply with the registration requirements of this Code section for the entire life of the sexual offender, excluding ensuing periods of incarceration.

(g) A sexual offender required to register under this Code section may petition to be released from the registration requirements and from the residency or employment restrictions of this Code section in accordance with the provisions of Code Section 42-1-19.

(h) (1) The appropriate official or sheriff shall, within 72 hours after receipt of the required registration information, forward such information to the Georgia Bureau of Investigation. Once the data is entered into the Criminal Justice Information System by the appropriate official or sheriff, the Georgia Crime Information Center shall notify the sheriff of the sexual offender's county of residence, either permanent or temporary, the sheriff of the county of employment, and the sheriff of the county where the sexual offender attends an institution of higher education within 24 hours of entering the data or any change to the data.

(2) The Georgia Bureau of Investigation shall:

(A) Transmit all information, including the conviction data and fingerprints, to the Federal Bureau of Investigation within 24 hours of entering the data;

(B) Establish operating policies and procedures concerning record ownership, quality, verification, modification, and cancellation; and

(C) Perform mail out and verification duties as follows:

- (i) Send each month Criminal Justice Information System network messages to sheriffs listing sexual offenders due for verification;
- (ii) Create a photo image file from original entries and provide such entries to sheriffs to assist in sexual offender identification and verification;
- (iii) Mail a nonforwardable verification form to the last reported address of the sexual offender within ten days prior to the sexual offender's birthday;
- (iv) If the sexual offender changes residence to another state, notify the law enforcement agency with which the sexual offender shall register in the new state; and
- (v) Maintain records required under this Code section.

(i) The sheriff's office in each county shall:

(1) Prepare and maintain a list of all sexual offenders and sexually dangerous predators residing in each county. Such list shall include the sexual offender's name; age; physical description; address; crime of conviction, including conviction date and the jurisdiction of the conviction; photograph; and the risk assessment classification level provided by the board, and an explanation of how the board classifies sexual offenders and sexually dangerous predators;

(2) Electronically submit and update all information provided by the sexual offender within two business days to the Georgia Bureau of Investigation in a manner prescribed by the Georgia Bureau of Investigation;

(3) Maintain and provide a list, manually or electronically, of every sexual offender residing in each county so that it may be available for inspection:

(A) In the sheriff's office;

(B) In any county administrative building;

(C) In the main administrative building for any municipal corporation;

(D) In the office of the clerk of the superior court so that such list is available to the public; and

(E) On a website maintained by the sheriff of the county for the posting of general information;

(4) Update the public notices required by paragraph (3) of this Code section within two business days of the receipt of such information;

(5) Inform the public of the presence of sexual offenders in each community;

(6) Update the list of sexual offenders residing in the county upon receipt of new information affecting the residence address of a sexual offender or upon the registration of a sexual offender moving into the county by virtue of release from prison, relocation from another county, conviction in another state, federal court, military tribunal, or tribal court. Such list, and any additions to such list, shall be delivered, within 72 hours of updating the list of sexual offenders residing in the county, to all schools or institutions of higher education located in the county;

(7) Within 72 hours of the receipt of changed required registration information, notify the Georgia Bureau of Investigation through the Criminal Justice Information System of each change of information;

(8) Retain the verification form stating that the sexual offender still resides at the address last reported;

(9) Enforce the criminal provisions of this Code section. The sheriff may request the assistance of the Georgia Bureau of Investigation to enforce the provisions of this Code section;

(10) Cooperate and communicate with other sheriffs' offices in this state and in the United States to maintain current data on the location of sexual offenders;

(11) Determine the appropriate time of day for reporting by sexual offenders, which shall be consistent with the reporting requirements of this Code section;

(12) If required by Code Section 42-1-14, place any electronic monitoring system on the sexually dangerous predator and explain its operation and cost;

(13) Provide current information on names and addresses of all registered sexual offenders to campus police with jurisdiction for the campus of an institution of higher education if the campus is within the sheriff's jurisdiction; and

(14) Collect the annual \$250.00 registration fee from the sexual offender and transmit such fees to the state for deposit into the general fund.

(j) (1) The sheriff of the county where the sexual offender resides or last registered shall be the primary law enforcement official charged with communicating the whereabouts of the sexual offender and any changes in required registration information to the sheriff's office of the county or counties where the sexual offender is employed, volunteers, attends an institution of higher education, or moves.

(2) The sheriff's office may post the list of sexual offenders in any public building in addition to those locations enumerated in subsection (h) of this Code section.

(k) The Georgia Crime Information Center shall create the Criminal Justice Information System network transaction screens by which appropriate officials shall enter original data required by this Code section. Screens shall also be created for sheriffs' offices for the entry of record confirmation data; employment; changes of residence, institutions of higher education, or employment; or other pertinent data to assist in sexual offender identification.

(l) (1) On at least an annual basis, the Department of Education shall obtain from the Georgia Bureau of Investigation a complete list of the names and addresses of all registered sexual offenders and shall provide access to such information, accompanied by a hold harmless provision, to each school in this state. In addition, the Department of Education shall provide information to each school in this state on accessing and retrieving from the Georgia Bureau of Investigation's website a list of the names and addresses of all registered sexual offenders.

(2) On at least an annual basis, the Department of Early Care and Learning shall provide current information to all child care programs regulated pursuant to Code Section 20-1A-10 and to all child care learning centers, day-care, group day-care, and family day-care programs regulated pursuant to Code Section 49-5-12 on accessing and retrieving from the Georgia Bureau of Investigation's website a list of the names and addresses of all registered sexual offenders and shall include, on a continuing basis, such information with each application for licensure, commissioning, or registration for early care and education programs.

(3) On at least an annual basis, the Department of Human Services shall provide current information to all long-term care facilities for children on accessing and retrieving from the Georgia Bureau of Investigation's website a list of the names and addresses of all registered sexual offenders.

(m) Within ten days of the filing of a defendant's discharge and exoneration of guilt pursuant to Article 3 of Chapter 8 of this title, the clerk of court shall transmit the order of discharge and exoneration to the Georgia Bureau of Investigation and any sheriff maintaining records required under this Code section.

(n) Any individual who:

(1) Is required to register under this Code section and who fails to comply with the requirements of this Code section;

(2) Provides false information; or

(3) Fails to respond directly to the sheriff of the county where he or she resides or sleeps within 72 hours prior to such individual's birthday

shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than 30 years; provided, however, that upon the conviction of the second offense under this subsection, the defendant shall be punished by imprisonment for not less than five nor more than 30 years.

(o) The information collected pursuant to this Code section shall be treated as private data except that:

(1) Such information may be disclosed to law enforcement agencies for law enforcement purposes;

(2) Such information may be disclosed to government agencies conducting confidential background checks; and

(3) The Georgia Bureau of Investigation or any sheriff maintaining records required under this Code section shall, in addition to the requirements of this Code section to inform the public of the presence of sexual offenders in each community, release such other relevant information collected under this Code section that is necessary to protect the public concerning sexual offenders required to register under this Code section, except that the identity of a victim of an offense that requires registration under this Code section shall not be released.

(p) The Board of Public Safety is authorized to promulgate rules and regulations necessary for the Georgia Bureau of Investigation and the Georgia Crime Information Center to implement and carry out the provisions of this Code section.

(q) Law enforcement agencies, employees of law enforcement agencies, and state officials shall be immune from liability for good faith conduct under this article.

§ 42-1-13 - Sexual Offender Registration Review Board; composition; appointment; administration and duties; immunity from liability

O.C.G.A., 42-1-13 (2010)

42-1-13, Sexual Offender Registration Review Board; composition; appointment; administration and duties; immunity from liability

(a) The Sexual Offender Registration Review Board shall be composed of three professionals licensed under Title 43 and knowledgeable in the field of the behavior and treatment of sexual offenders; at least one representative from a victims' rights advocacy group or agency; and at least two representatives from law enforcement, each of whom is either employed by a law enforcement agency as a certified peace officer under Title 35 or retired from such employment. The members of the board shall be appointed by the commissioner of behavioral health and developmental disabilities for terms of four years. On and after July 1, 2006, successors to the members of the board shall be appointed by the Governor. Members of the board shall take office on the first day of September immediately following the expired term of that office and shall serve for a term of four years and until the appointment of their respective successors. No member shall serve on the board more than two consecutive terms. Vacancies occurring on the board, other than those caused by expiration of a term of office, shall be filled in the same manner as the original appointment to the position vacated for the remainder of the unexpired term and until a successor is appointed. Members shall be entitled to an expense allowance and travel cost reimbursement the same as members of certain other boards and commissions as provided in Code Section 45-7-21.

(b) The board shall be attached to the Department of Behavioral Health and Developmental Disabilities for administrative purposes and, provided there is adequate funding, shall:

- (1) Exercise its quasi-judicial, rule-making, or policy-making functions independently of the department and without approval or control of the department;
 - (2) Prepare its budget, if any, and submit its budgetary requests, if any, through the department;
and
 - (3) Hire its own personnel if authorized by the Constitution of this state or by statute or if the General Assembly provides or authorizes the expenditure of funds therefor.
- (c) Members of the board shall be immune from liability for good faith conduct under this article.

**§ 42-1-14 - Risk assessment classification; classification as "sexually dangerous predator";
electronic monitoring**

O.C.G.A. 42-1-14 (2010)

42-1-14. Risk assessment classification; classification as "sexually dangerous predator";
electronic monitoring

(a) (1) The board shall determine the likelihood that a sexual offender will engage in another crime against a victim who is a minor or a dangerous sexual offense. The board shall make such determination for any sexual offender convicted on or after July 1, 2006, of a criminal offense against a victim who is a minor or a dangerous sexual offense and for any sexual offender incarcerated on July 1, 2006, but convicted prior to July 1, 2006, of a criminal offense against a victim who is a minor. Any sexual offender who changes residence from another state or territory of the United States or any other place to this state and who is not already designated under Georgia law as a sexually dangerous predator, sexual predator, or a sexually violent predator shall have his or her required registration information forwarded by the sheriff of his or her county of registration to the board for the purpose of risk assessment classification. The board shall also make such determination upon the request of a superior court judge for purposes of considering a

petition to be released from registration restrictions or residency or employment restrictions as provided for in Code Section 42-1-19.

(2) A sexual offender shall be placed into Level I risk assessment classification, Level II risk assessment classification, or sexually dangerous predator classification based upon the board's assessment criteria and information obtained and reviewed by the board. The sexual offender may provide the board with information, including, but not limited to, psychological evaluations, sexual history polygraph information, treatment history, and personal, social, educational, and work history, and may agree to submit to a psychosexual evaluation or sexual history polygraph conducted by the board. If the sexual offender has undergone treatment through the Department of Corrections, such treatment records shall also be submitted to the board for evaluation. The prosecuting attorney shall provide the board with any information available to assist the board in rendering an opinion, including, but not limited to, criminal history and records related to previous criminal history. The clerk of court shall send a copy of the sexual offender's conviction to the board and notify the board that a sexual offender's evaluation will need to be performed. The board shall render its recommendation for risk assessment classification within:

(A) Sixty days of receipt of a request for an evaluation if the sexual offender is being sentenced pursuant to subsection (c) of Code Section 17-10-6.2;

(B) Six months prior to the sexual offender's proposed release from confinement if the offender is incarcerated;

(C) Sixty days of receipt of the required registration information from the sheriff when the sexual offender changes residence from another state or territory of the United States or any other place to this state and is not already classified;

(D) Sixty days if the sexual offender is sentenced to a probated or suspended sentence; and

(E) Ninety days if such classification is requested by the court pursuant to a petition filed under Code Section 42-1-19.

(3) The board shall notify the sex offender by first-class mail of its determination of risk assessment classification and shall send a copy of such classification to the Georgia Bureau of Investigation, the Department of Corrections, the sheriff of the county where the sexual offender is registered, and the sentencing court, if applicable.

(b) If the board determines that a sexual offender should be classified as a Level II risk assessment classification or as a sexually dangerous predator, the sexual offender may petition the board to reevaluate his or her classification. To file a petition for reevaluation, the sexual offender shall be required to submit his or her written petition for reevaluation to the board within 30 days from the date of the letter notifying the sexual offender of his or her classification. The sexual offender shall have 60 days from the date of the notification letter to submit information as provided in subsection (a) of this Code section in support of the sexual offender's petition for reevaluation. If the sexual offender fails to submit the petition or supporting documents within the time limits provided, the classification shall be final. The board shall notify the sexual offender by first-class mail of its decision on the petition for reevaluation of risk assessment classification and shall send a copy of such notification to the Georgia Bureau of Investigation, the Department of Corrections, the sheriff of the county where the sexual offender is registered, and the sentencing court, if applicable.

(c) A sexual offender who is classified by the board as a Level II risk assessment classification or as a sexually dangerous predator may file a petition for judicial review of his or her classification within 30 days of the date of the notification letter or, if the sexual offender has requested reevaluation pursuant to subsection (b) of this Code section, within 30 days of the date of the letter denying the petition for reevaluation. The petition for judicial review shall name the board as defendant, and the petition shall be filed in the superior court of the county where the offices of the board are located. Within 30 days after service of the appeal on the board, the board shall submit a summary of its findings to the court and mail a copy, by first-class mail, to the sexual

offender. The findings of the board shall be considered prima-facie evidence of the classification. The court shall also consider any relevant evidence submitted, and such evidence and documentation shall be mailed to the parties as well as submitted to the court. The court may hold a hearing to determine the issue of classification. The court may uphold the classification of the board, or, if the court finds by a preponderance of the evidence that the sexual offender is not placed in the appropriate classification level, the court shall place the sexual offender in the appropriate risk assessment classification. The court's determination shall be forwarded by the clerk of the court to the board, the sexual offender, the Georgia Bureau of Investigation, and the sheriff of the county where the sexual offender is registered.

(d) Any individual who was classified as a sexually violent predator prior to July 1, 2006, shall be classified as a sexually dangerous predator on and after July 1, 2006.

(e) Any sexually dangerous predator shall be required to wear an electronic monitoring system that shall have, at a minimum:

(1) The capacity to locate and record the location of a sexually dangerous predator by a link to a global positioning satellite system;

(2) The capacity to timely report or record a sexually dangerous predator's presence near or within a crime scene or in a prohibited area or the sexually dangerous predator's departure from specific geographic locations; and

(3) An alarm that is automatically activated and broadcasts the sexually dangerous predator's location if the global positioning satellite monitor is removed or tampered with by anyone other than a law enforcement official designated to maintain and remove or replace the equipment.

Such electronic monitoring system shall be worn by a sexually dangerous predator for the remainder of his or her natural life. The sexually dangerous predator shall pay the cost of such system to the Department of Corrections if the sexually dangerous predator is on probation; to the

State Board of Pardons and Paroles if the sexually dangerous predator is on parole; and to the sheriff after the sexually dangerous predator completes his or her term of probation and parole or if the sexually dangerous predator has moved to this state from another state, territory, or country. The electronic monitoring system shall be placed upon the sexually dangerous predator prior to his or her release from confinement. If the sexual offender is not in custody, within 72 hours of the decision classifying the sexual offender as a sexually dangerous predator in accordance with subsection (b) of this Code section, the sexually dangerous predator shall report to the sheriff of the county of his or her residence for purposes of having the electronic monitoring system placed on the sexually dangerous predator.

(f) In addition to the requirements of registration for all sexual offenders, a sexually dangerous predator shall report to the sheriff of the county where such predator resides six months following his or her birth month and update or verify his or her required registration information.

§ 42-1-15 - Restriction on registered offenders residing, working, or loitering within certain distance of child care facilities, churches, schools, or areas where minors congregate; penalty for vio

O.C.G.A. 42-1-15 (2010)

42-1-15. Restriction on registered offenders residing, working, or loitering within certain distance of child care facilities, churches, schools, or areas where minors congregate; penalty for violations; civil causes of action

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

(1) "Individual" means a person who is required to register pursuant to Code Section 42-1-12.

(2) "Lease" means a right of occupancy pursuant to a written and valid lease or rental agreement.

(3) "Minor" means any person who is under 18 years of age.

(4) "Volunteer" means to engage in an activity in which one could be, and ordinarily would be, employed for compensation, and which activity involves working with, assisting, or being engaged in activities with minors; provided, however, that such term shall not include participating in activities limited to persons who are 18 years of age or older or participating in worship services or engaging in religious activities or activities at a place of worship that do not include supervising, teaching, directing, or otherwise participating with minors who are not supervised by an adult who is not an individual required to register pursuant to Code Section 42-1-12.

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

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

(2) On or after July 1, 2008, no individual who is a sexually dangerous predator shall be employed by or volunteer at any business or entity that is located within 1,000 feet of an area where minors congregate if the commission of the act for which such individual is required to register occurred on or after July 1, 2008. Such distance shall be determined by measuring from

the outer boundary of the property of the location at which the sexually dangerous predator is employed or volunteers to the outer boundary of the area where minors congregate at their closest points.

(d) Notwithstanding any ordinance or resolution adopted pursuant to Code Section 16-6-24 or subsection (d) of Code Section 16-11-36, it shall be unlawful for any individual to loiter, as prohibited by Code Section 16-11-36, at any child care facility, school, or area where minors congregate.

(e) (1) If an individual owns or leases real property and resides on such property and a child care facility, church, school, or area where minors congregate thereafter locates itself within 1,000 feet of such property, or if an individual has established employment at a location and a child care facility, church, or school thereafter locates itself within 1,000 feet of such employment, or if a sexual predator has established employment and an area where minors congregate thereafter locates itself within 1,000 feet of such employment, such individual shall not be guilty of a violation of subsection (b) or (c) of this Code section, as applicable, if such individual successfully complies with subsection (f) of this Code section.

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

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

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

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

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

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

(g) Any individual who knowingly violates this Code section shall be guilty of a felony and shall be punished by imprisonment for not less than ten nor more than 30 years.

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

§ 42-1-16 - Definitions; employment restrictions for sexual offenders; penalties

O.C.G.A. 42-1-16 (2010)

42-1-16. Definitions; employment restrictions for sexual offenders; penalties

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

(1) "Area where minors congregate" shall include all public and private parks and recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums, school bus stops, and public and community swimming pools.

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

(3) "Lease" means a right of occupancy pursuant to a written and valid lease or rental agreement.

(4) "Minor" means any person who is under 18 years of age.

(b) Any individual who committed an act between July 1, 2006, and June 30, 2008, for which such individual is required to register shall not reside within 1,000 feet of any child care facility, church, school, or area where minors congregate. Such distance shall be determined by measuring from the outer boundary of the property on which the individual resides to the outer boundary of the property of the child care facility, church, school, or area where minors congregate at their closest points.

(c) (1) Any individual who committed an act between July 1, 2006, and June 30, 2008, for which such individual is required to register shall not be employed by any child care facility, school, or church or by or at any business or entity that is located within 1,000 feet of a child care facility, a school, or a church. Such distance shall be determined by measuring from the outer boundary of the property of the location at which such individual is employed to the outer boundary of the child care facility, school, or church at their closest points.

(2) Any individual who committed an act between July 1, 2006, and June 30, 2008, for which such individual is required to register who is a sexually dangerous predator shall not be employed

by any business or entity that is located within 1,000 feet of an area where minors congregate. Such distance shall be determined by measuring from the outer boundary of the property of the location at which the sexually dangerous predator is employed to the outer boundary of the area where minors congregate at their closest points.

(d) Notwithstanding any ordinance or resolution adopted pursuant to Code Section 16-6-24 or subsection (d) of Code Section 16-11-36, it shall be unlawful for any individual to loiter, as prohibited by Code Section 16-11-36, at any child care facility, school, or area where minors congregate.

(e) (1) If an individual owns or leases real property and resides on such property and a child care facility, church, school, or area where minors congregate thereafter locates itself within 1,000 feet of such property, or if an individual has established employment at a location and a child care facility, church, or school thereafter locates itself within 1,000 feet of such employment, or if a sexual predator has established employment and an area where minors congregate thereafter locates itself within 1,000 feet of such employment, such individual shall not be guilty of a violation of subsection (b) or (c) of this Code section, as applicable, if such individual successfully complies with subsection (f) of this Code section.

(2) An individual owning or leasing real property and residing on such property or being employed within 1,000 feet of a prohibited location, as specified in subsection (b) or (c) of this Code section, shall not be guilty of a violation of this Code section if such individual had established such property ownership, leasehold, or employment prior to July 1, 2006, and such individual successfully complies with subsection (f) of this Code section.

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

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

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

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

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

(g) Any individual who knowingly violates this Code section shall be guilty of a felony and shall be punished by imprisonment for not less than ten nor more than 30 years.

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

§ 42-1-17 - Definitions; residency restrictions for sexual offenders; penalties

O.C.G.A. 42-1-17 (2010)

42-1-17. Definitions; residency restrictions for sexual offenders; penalties

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

(1) "Area where minors congregate" shall include all public and private parks and recreation facilities, playgrounds, skating rinks, neighborhood centers, gymnasiums, and similar facilities providing programs or services directed towards persons under 18 years of age.

(2) "Child care facility" means all public and private pre-kindergarten facilities, day-care centers, and preschool facilities.

(3) "Individual" means a person who is required to register pursuant to Code Section 42-1-12.

(4) "Lease" means a right of occupancy pursuant to a written and valid lease or rental agreement.

(5) "Minor" means any person who is under 18 years of age.

(b) Any individual who committed an act between June 4, 2003, and June 30, 2006, for which such individual is required to register shall not reside within 1,000 feet of any child care facility, school, or area where minors congregate. Such distance shall be determined by measuring from the outer boundary of the property on which the individual resides to the outer boundary of the property of the child care facility, school, or area where minors congregate at their closest points.

(c) (1) If an individual owns or leases real property and resides on such property and a child care facility, school, or area where minors congregate thereafter locates itself within 1,000 feet of such property, such individual shall not be guilty of a violation of subsection (b) of this Code section if such individual successfully complies with subsection (d) of this Code section.

(2) An individual owning or leasing real property and residing on such property within 1,000 feet of a prohibited location, as specified in subsection (b) of this Code section, shall not be guilty of a violation of this Code section if such individual had established such property ownership or leasehold prior to June 4, 2003, and such individual successfully complies with subsection (d) of this Code section.

(d) (1) If an individual is notified that he or she is in violation of subsection (b) of this Code section, and if such individual claims that he or she is exempt from such prohibition pursuant to

subsection (c) of this Code section, such individual shall provide sufficient proof demonstrating his or her exemption to the sheriff of the county where the individual is registered within ten days of being notified of any such violation.

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

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

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

(e) Any individual who knowingly violates this Code section shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than three years.

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

§ 42-1-18 - "Photograph" defined; photographing minor without consent of parent or guardian prohibited; penalty

O.C.G.A. 42-1-18 (2010)

42-1-18. "Photograph" defined; photographing minor without consent of parent or guardian prohibited; penalty

(a) As used in this Code section, the term "photograph" means to take any picture, film or digital photograph, motion picture film, videotape, or similar visual representation or image of a person.

(b) No individual shall intentionally photograph a minor without the consent of the minor's parent or guardian.

(c) Any individual who knowingly violates this Code section shall be guilty of a misdemeanor of a high and aggravated nature.

§ 42-1-19 - Petition for release from registration requirements

O.C.G.A. 42-1-19 (2010)

42-1-19. Petition for release from registration requirements

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

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

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

(B) Is totally and permanently disabled as such term is defined in Code Section 49-4-80; or

(C) Is otherwise seriously physically incapacitated due to illness or injury;

(2) Was sentenced for a crime that became punishable as a misdemeanor on or after July 1, 2006, and meets the criteria set forth in subparagraphs (c)(1)(A) through (c)(1)(F) of Code Section 17-10-6.2;

(3) Is required to register solely because he or she was convicted of kidnapping or false imprisonment involving a minor and such offense did not involve a sexual offense against such minor or an attempt to commit a sexual offense against such minor. For purposes of this paragraph, the term "sexual offense" means any offense listed in division (a)(10)(B)(i) or (a)(10)(B)(iv) through (a)(10)(B)(xix) of Code Section 42-1-12; or

(4) Has completed all prison, parole, supervised release, and probation for the offense which required registration pursuant to Code Section 42-1-12 and meets the criteria set forth in subparagraphs (c)(1)(A) through (c)(1)(F) of Code Section 17-10-6.2.

(b) (1) A petition for release pursuant to this Code section shall be filed in the superior court of the jurisdiction in which the individual was convicted; provided, however, that if the individual was not convicted in this state, such petition shall be filed in the superior court of the county where the individual resides.

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

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

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

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

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

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

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

(1) Any evidence introduced by the petitioner;

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

(3) Any other relevant evidence.

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

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