

The House Committee on Judiciary Non-Civil offers the following substitute to HB 425:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated,  
2 relating to the Sexual Offender Risk Review Board, so as to modify the restrictions on areas  
3 where sexual offenders are permitted; to provide for definitions; to provide for when an  
4 individual may petition for release from registration requirements; to revise and provide for  
5 certain risk assessment classifications; to provide for related matters; to repeal conflicting  
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to the  
10 Sexual Offender Risk Review Board, is amended by revising Code Section 42-1-15, relating  
11 to restriction on registered sexual offenders residing, working, or loitering within certain  
12 distance of child care facilities, churches, schools, or areas where minors congregate and  
13 penalties, as follows:

14 "42-1-15.

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

H. B. 425 (SUB)

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

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

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

21 (4) 'Place of worship' means a building for public religious services that is incorporated  
22 and actively functioning as such.

23 ~~(4)~~(5) 'Volunteer' means to engage in an activity in which one could be, and ordinarily  
24 would be, employed for compensation, and which activity involves working with,  
25 assisting, or being engaged in activities with minors; provided, however, that such term  
26 shall not include participating in activities limited to persons who are 18 years of age or  
27 older or participating in worship services or engaging in religious activities or activities  
28 at a place of worship that do not include supervising, teaching, directing, or otherwise  
29 participating with minors who are not supervised by an adult who has knowledge of the  
30 sexual offender's status as a registered sexual offender and who is not an individual  
31 required to register pursuant to Code Section 42-1-12.

32 (b)(1) On and after July 1, 2008, no individual assessed by the Sexual Offender Risk  
33 Review Board as a Level II risk assessment classification or sexually dangerous predator,  
34 or who has not yet been assessed by the Sexual Offender Risk Review Board, shall reside  
35 within 1,000 feet of any child care facility, ~~church,~~ place of worship, school, or area  
36 where minors congregate as defined in Code Section 42-1-12 if the commission of the act  
37 for which such individual is required to register occurred on or after July 1, 2008. Such  
38 distance shall be determined by measuring from the outer boundary of the property on  
39 which the individual resides to the outer boundary of the property of the child care  
40 facility, ~~church,~~ place of worship, school, or area where minors congregate at their closest  
41 points.

42 (2) No individual assessed by the Sexual Offender Risk Review Board as a Level I risk  
43 assessment classification shall reside within 500 feet of a place of worship, except that  
44 in cases where such place of worship also operates as a licensed day care or school, such  
45 individual shall not reside within 1,000 feet of such place of worship. Such distance shall  
46 be determined by measuring from the outer edge of the building in which the individual  
47 resides to the outer edge of the building of the place of worship, unless the place of  
48 worship has an outside playground, in which case such distance shall be determined by  
49 measuring from the outer boundary of the property on which the individual resides to the  
50 outer boundary of the property of the place of worship at their closest points.

51 (3) No individual assessed by the Sexual Offender Risk Review Board as a Level I risk  
52 assessment classification shall reside within 1,000 feet of a child care facility, school, or  
53 area where minors congregate as defined in Code Section 42-1-12. Such distance shall  
54 be determined by measuring from the outer boundary of the property on which the  
55 individual resides to the outer boundary of the property of the child care facility, school,  
56 or area where minors congregate at their closest points.

57 (c)(1) On and after July 1, 2008, no individual assessed by the Sexual Offender Risk  
58 Review Board as a Level II risk assessment classification or sexually dangerous predator  
59 shall be employed by or shall volunteer at any child care facility, place of worship, or  
60 school, or church or by or at any business or entity that is located within 1,000 feet of a  
61 child care facility, a place of worship, or a school, or a church if the commission of the  
62 act for which such individual is required to register occurred on or after July 1, 2008.  
63 Such distance shall be determined by measuring from the outer boundary of the property  
64 of the location at which such individual is employed or volunteers to the outer boundary  
65 edge of the building in which the individual physically works or volunteers to the outer  
66 edge of the building of the child care facility; place of worship, unless the place of  
67 worship has an outside playground, in which case such distance shall be determined by  
68 measuring from the outer boundary of the property at which the individual physically

69 works or volunteers to the outer boundary of the property of the place of worship; or  
70 school, or church at their closest points.

71 (2) On or after July 1, 2008, no individual who is assessed by the Sexual Offender Risk  
72 Review Board as a sexually dangerous predator as provided for in Code Section 42-1-14  
73 shall be employed by or shall volunteer at any business or entity that is located within  
74 1,000 feet of an area where minors congregate as defined in Code Section 42-1-12 if the  
75 commission of the act for which such individual is required to register occurred on or  
76 after July 1, 2008. Such distance shall be determined by measuring from the outer  
77 boundary of the property of the location at which the sexually dangerous predator is  
78 employed or volunteers to the outer boundary of the area where minors congregate at  
79 their closest points.

80 (3) No individual assessed by the Sexual Offender Risk Review Board as a Level I risk  
81 assessment classification shall be employed by or shall volunteer at any child care  
82 facility, school, or a place of worship or at any business or entity that is located within  
83 500 feet of a child care facility, a school, or a place of worship, except that in cases where  
84 such place of worship also operates as a licensed day care or school, such individual shall  
85 not be employed or volunteer within 1,000 feet of such place of worship. Such distance  
86 shall be determined by measuring from the outer edge of the building in which the  
87 individual physically works or volunteers to the outer edge of the building of the child  
88 care facility, school, or place of worship, unless the place of worship has an outside  
89 playground, in which case such distance shall be determined by measuring from the outer  
90 boundary of the property at which the individual physically works or volunteers to the  
91 outer boundary of the property of the place of worship at their closest points.

92 (d) Notwithstanding any ordinance or resolution adopted pursuant to Code Section 16-6-24  
93 or subsection (d) of Code Section 16-11-36, it shall be unlawful for any individual or for  
94 any person who is or should be registered on another state's sexual offender registry to

95 loiter, as prohibited by Code Section 16-11-36, at any child care facility, school, or area  
96 where minors congregate as defined in Code Section 42-1-12.

97 (e)(1) If ~~an individual~~ a sexual offender:

98 (A) Owns ~~owns~~ or leases real property and resides on such property and a child care  
99 facility, ~~church, place of worship,~~ school, or area where minors congregate as defined  
100 in Code Section 42-1-12 thereafter locates itself within 1,000 feet of such property; ~~or~~

101 (B) Has ~~or if an individual has~~ established employment at a location and a child care  
102 facility, ~~church, place of worship,~~ or school thereafter locates itself within 1,000 feet  
103 of such employment, ~~or if a sexual predator has established employment and an area~~  
104 ~~where minors congregate thereafter locates itself within 1,000 feet of such employment,~~  
105 such ~~individual~~ sexual offender shall not be guilty of a violation of subsection (b) or (c)  
106 of this Code section, as applicable, if such ~~individual~~ sexual offender successfully  
107 complies with subsection (f) of this Code section.

108 (2) An individual owning or leasing real property and residing on such property or being  
109 employed within 500 or 1,000 feet of a prohibited location, as specified in subsection (b)  
110 or (c) of this Code section, shall not be guilty of a violation of this Code section if such  
111 individual had established such property ownership, leasehold, or employment prior to  
112 July 1, 2008, and such individual successfully complies with subsection (f) of this Code  
113 section.

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

119 (2) For purposes of providing proof of residence, the individual may provide a driver's  
120 license, government issued identification, or any other documentation evidencing where  
121 the individual's habitation is fixed. For purposes of providing proof of property

122 ownership, the individual shall provide a copy of his or her warranty deed, quitclaim  
123 deed, or voluntary deed, or other documentation evidencing property ownership.

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

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

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

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

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

140 **SECTION 2.**

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

143 "42-1-19.

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

- 147 (1) Has completed all prison, parole, supervised release, and probation for the offense  
148 which required registration pursuant to Code Section 42-1-12; and:
- 149 (A) Is confined to a hospice facility, skilled nursing home, residential care facility for  
150 the elderly, or nursing home;
- 151 (B) Is totally and permanently disabled as such term is defined in Code Section  
152 49-4-80; ~~or~~
- 153 (C) Is otherwise seriously physically incapacitated due to illness or injury; or
- 154 (D) Has reached the age of 80 years;
- 155 (2) Was sentenced for a crime that became punishable as a misdemeanor on or after  
156 July 1, 2006, and meets the criteria set forth in subparagraphs (c)(1)(A) through (c)(1)(F)  
157 of Code Section 17-10-6.2;
- 158 (3) Is required to register solely because he or she was convicted of kidnapping or false  
159 imprisonment involving a minor and such offense did not involve a sexual offense against  
160 such minor or an attempt to commit a sexual offense against such minor. For purposes  
161 of this paragraph, the term 'sexual offense' means any offense listed in division  
162 (a)(10)(B)(i) or (a)(10)(B)(iv) through (a)(10)(B)(xix) of Code Section 42-1-12; ~~or~~
- 163 (4) Has completed all prison, parole, supervised release, and probation for the offense  
164 which required registration pursuant to Code Section 42-1-12 and meets the criteria set  
165 forth in subparagraphs (c)(1)(A) through (c)(1)(F) of Code Section 17-10-6.2; or
- 166 (5) Was convicted and required to register under the laws of another state or territory,  
167 under the laws of the United States, under the Uniform Code of Military Justice, or in a  
168 tribal court of a sexual offense and:
- 169 (A) Has completed all prison, parole, supervised release, and probation for the offense  
170 which required registration pursuant to Code Section 42-1-12, and meets the criteria set  
171 forth in divisions (c)(1)(A) through (c)(1)(F) of Code Section 17-10-6.2; and
- 172 (B) Has been removed from the registry in the other state or territory and can provide  
173 the court with documentation supporting the same.

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

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

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

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

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

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

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

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



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

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

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

208 (1) Any evidence introduced by the petitioner;

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

210 (3) Any other relevant evidence.

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

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

221 **SECTION 3.**

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