

House Bill 489

By: Representative Taylor of the 173<sup>rd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, relating to crimes and  
2 offenses, so as to revise the offenses of cruelty to children in the second and third degrees;  
3 to establish the offense of traveling to meet a minor for indecent purposes; to provide  
4 sentencing guidelines; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
8 amended by revising subsections (c), (d), and (e) of Code Section 16-5-70, relating to cruelty  
9 to children, as follows:

10 "(c) Any person commits the offense of cruelty to children in the second degree when such  
11 person:

12 (1) With criminal negligence causes a child under the age of 18 cruel or excessive  
13 physical or mental pain;

14 (2) Causes or allows, whether intentionally or unintentionally, a child under the age of  
15 18 to witness or be present for any unlawful manufacture, distribution, delivery,  
16 possession, sale, or use of any controlled substance, excluding marijuana; or

17 (3) Causes or allows, whether intentionally or unintentionally, a child under the age of  
18 18 to witness or be present for the commission of any forcible felony as defined in Code  
19 Section 16-1-3.

20 (d) Any person commits the offense of cruelty to children in the third degree when:

21 (1) Such person, who is the primary aggressor, intentionally allows a child under the age  
22 of 18 to witness the commission of a felony other than a forcible felony; or to witness the  
23 commission of battery, family violence battery, or family violence simple battery; or

24 (2) Such person, who is the primary aggressor, having knowledge that a child under the  
25 age of 18 is present and sees or hears the act, commits a felony other than a forcible  
26 felony; or commits battery, family violence battery, or family violence simple battery.

27 (e)(1) A person convicted of the offense of cruelty to children in the first degree as  
 28 provided in this Code section shall be punished by imprisonment for not less than five nor  
 29 more than 20 years.

30 (2) A person convicted of the offense of cruelty to children in the second degree shall be  
 31 punished by imprisonment for not less than one year nor more than ten years; provided,  
 32 however, that if the offense includes a victim who is under the age of 18 showing positive  
 33 laboratory blood or other bodily substance results concerning the presence of controlled  
 34 substances, such person convicted shall be punished by imprisonment for not less than  
 35 one year nor more than 15 years.

36 (3) A person convicted of the offense of cruelty to children in the third degree shall be  
 37 punished as for a misdemeanor upon the first or second conviction. Upon conviction of  
 38 a third or subsequent offense of cruelty to children in the third degree, the defendant shall  
 39 be guilty of a felony and shall be sentenced to a fine not less than \$1,000.00 nor more  
 40 than \$5,000.00 or imprisonment for not less than one year nor more than three years or  
 41 shall be sentenced to both fine and imprisonment."

42 **SECTION 2.**

43 Said title is further amended by adding a new Code section to read as follows:

44 "16-6-4.1.

45 (a) Any person commits the offense of traveling to meet a child for indecent purposes  
 46 when such person travels any distance within this state, when such person attempts to do  
 47 so or causes another person to do so for the purpose of contacting any child under the age  
 48 of 16, or with a person believed to be a child under the age of 16, to:

49 (1) Solicit, entice, commit, or attempt to commit any act of child molestation or other  
 50 indecent act; or

51 (2) Solicit, entice, or attempt to solicit or entice any parent, guardian, or other lawful  
 52 custodian of any child, or to solicit, entice, or attempt to solicit or entice any person  
 53 believed to be a parent, guardian, or other lawful custodian of any child, to consent to or  
 54 otherwise allow the participation of any child in any act of child molestation or other  
 55 indecent act.

56 (b)(1) Any person convicted of violating paragraph (1) of subsection (a) of this Code  
 57 section shall be punished as if for violations of subsection (b) of Code Section 16-6-4.

58 (2) Any person convicted of violating paragraph (2) of subsection (a) of this Code  
 59 section shall be punished by imprisonment for not less than one year nor more than ten  
 60 years and shall be subject to the sentencing provisions provided in Code Section  
 61 42-1-12."

62

**SECTION 3.**

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