

The Senate Committee on Judiciary offered the following substitute to SB 201:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 17-10-21 of the Official Code of Georgia Annotated, relating to
2 vacating of sentence for trafficking victim defendants, and Code Section 35-3-37 of the
3 Official Code of Georgia Annotated, relating to review of individual's criminal history
4 record information, definitions, privacy considerations, written application requesting review,
5 and inspection, so as to authorize certain relief for defendants conditionally discharged for
6 possession of controlled substances or sentenced as a first offender; to amend Title 51 of the
7 Official Code of Georgia Annotated, relating to torts, so as to provide for the revival of
8 claims for damages available to victims of human trafficking; to provide for exceptions; to
9 provide for related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Code Section 17-10-21 of the Official Code of Georgia Annotated, relating to vacating of
13 sentence for trafficking victim defendants, is amended by revising paragraphs (1) and (4) and
14 subparagraph (A) of paragraph (5) of subsection (a) as follows:

15 "(a)(1) A defendant convicted of an offense and sentenced, or a defendant sentenced
16 pursuant to Code Section 42-8-60 or 16-13-2, as a direct result of the defendant being the

17 victim of an offense of trafficking under Code Section 16-5-46 may petition the court
18 imposing the sentence to vacate such conviction and sentence or such sentence imposed
19 pursuant to Code Section 42-8-60 or 16-13-2. Such court shall maintain the jurisdiction,
20 power, and authority to vacate such conviction and sentence."

21 "(4) If the prosecuting attorney, to the court, consents in writing to the vacatur of such
22 conviction or fails to respond to such petition within 30 days of service, the court
23 imposing the conviction and sentence or sentence imposed pursuant to Code
24 Section 42-8-60 or 16-13-2 shall, without notice or hearing, issue an order vacating the
25 conviction and sentence and shall also issue an order restricting access to criminal history
26 record information for such offense.

27 (5)(A) If the prosecuting attorney, to the court, objects in writing to the petition, the
28 court shall hold a hearing within 90 days of the filing of the petition. The court shall
29 hear evidence and determine, by a preponderance of the evidence, whether the
30 defendant committed such offense as a direct result of being the victim of an offense
31 of trafficking under Code Section 16-5-46. If the court finds, by a preponderance of the
32 evidence, that the defendant committed such offense as a direct result of being the
33 victim of an offense of trafficking under Code Section 16-5-46, the court may issue an
34 order vacating the conviction and sentence or sentence imposed pursuant to Code
35 Section 42-8-60 or 16-13-2. The vacatur of a sentence under this chapter or a sentence
36 imposed pursuant to Code Section 42-8-60 or 16-13-2 shall result in the discharge and
37 dismissal of the action."

38 **SECTION 2.**

39 Code Section 35-3-37 of the Official Code of Georgia Annotated, relating to review of
40 individual's criminal history record information, definitions, privacy considerations, written
41 application requesting review, and inspection, is amended by revising
42 subparagraphs (A), (C), and (D) of paragraph (6) of subsection (j) as follows:

69 "(d)(1) Notwithstanding any other law to the contrary, an action may be brought under
70 subsection (b) of this Code section within ten years after the:

71 ~~(1)(A)~~ Cause of action arose; or

72 ~~(2)(B)~~ Victim reaches 18 years of age, if the victim was a minor at the time of the
73 alleged violation.

74 (2) For a period of two years following July 1, 2024, any victims who were time barred
75 from filing a civil action for damages resulting from sexual servitude due to the
76 expiration of any statute of limitations in effect on June 30, 2024, shall be permitted to
77 file such actions against any perpetrator, thereby reviving those civil actions which had
78 lapsed or technically expired under the law in effect on June 30, 2024.

79 (3) The revival of claims as provided in paragraph (2) of this subsection shall not apply:

80 (A) To a claim that has been litigated, including all appeals, to a final order on the
81 merits in a court of competent jurisdiction prior to July 1, 2024. Termination of a prior
82 civil action on the basis of the expiration of the statute of limitations shall not constitute
83 a claim that has been so litigated; or

84 (B) Where the Attorney General has reasonable cause to believe that an interest of the
85 citizens of this state has been or is threatened or adversely affected by a perpetrator, in
86 which event the Attorney General shall have a cause of action against such perpetrator
87 on behalf of the state to obtain appropriate relief."

88 **SECTION 4.**

89 Said title is further amended in Code Section 51-12-33, relating to reduction and
90 apportionment of award or bar of recovery according to percentage of fault of parties and
91 nonparties, by adding a new subsection to read as follows:

92 "(h) This Code section shall not apply to Code Section 51-1-56."

93

SECTION 5.

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