

House Bill 122 (AS PASSED HOUSE AND SENATE)

By: Representatives Tanner of the 9th, Harrell of the 106th, Powell of the 171st, Hamilton of the 24th, Golick of the 40th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 42-1-14 of the Official Code of Georgia Annotated, relating to risk
2 assessment classification, classification as "sexually dangerous predator," and electronic
3 monitoring of sexual offenders; Code Section 42-9-53, relating to preservation of documents,
4 classification of information and documents, divulgence of confidential state secrets, and
5 conduct of hearings; and Code Section 35-3-4, relating to powers and duties of the Georgia
6 Bureau of Investigation, so as to authorize the Sexual Offender Registration Review Board
7 to review and utilize records of the Board of Pardons and Paroles in making its assessments;
8 to maintain confidentiality of records of the Board of Pardons and Paroles; to amend Code
9 Section 42-5-36 of the Official Code of Georgia Annotated, relating to confidentiality of
10 information supplied by inmates and custodians of records of the department, so as to
11 provide for confidentiality of records of the State Board of Pardons and Paroles; to provide
12 for confidentiality of information relating to the execution of a death sentence; to provide for
13 related matters; to repeal conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 Code Section 42-1-14 of the Official Code of Georgia Annotated, relating to risk assessment
17 classification, classification as "sexually dangerous predator," and electronic monitoring of
18 sexual offenders, is amended by revising paragraph (2) of subsection (a) as follows:

19 "(2) A sexual offender shall be placed into Level I risk assessment classification, Level II
20 risk assessment classification, or sexually dangerous predator classification based upon
21 the board's assessment criteria and information obtained and reviewed by the board. The
22 sexual offender may provide the board with information, including, but not limited to,
23 psychological evaluations, sexual history polygraph information, treatment history, and
24 personal, social, educational, and work history and may agree to submit to a psychosexual
25 evaluation or sexual history polygraph conducted by the board. If the sexual offender has

26 undergone treatment through the Department of Corrections, such treatment records shall
 27 also be submitted to the board for evaluation. The prosecuting attorney shall provide the
 28 board with any information available to assist the board in rendering an opinion,
 29 including, but not limited to, criminal history and records related to previous criminal
 30 history. The board shall utilize the Georgia Bureau of Investigation to assist it in
 31 obtaining information relative to its evaluation of sexual offenders and the Georgia
 32 Bureau of Investigation shall provide the board with information as requested by the
 33 board. The board shall be authorized to obtain information from supervision records of
 34 the Board of Pardons and Paroles regarding such sexual offender, but such records shall
 35 remain confidential state secrets in accordance with Code Section 42-9-53 and shall not
 36 be made available to any other person or entity or be subject to subpoena unless
 37 declassified by the State Board of Pardons and Paroles. The clerk of court shall send a
 38 copy of the sexual offender's conviction to the board and notify the board that a sexual
 39 offender's evaluation will need to be performed. The board shall render its
 40 recommendation for risk assessment classification within:

- 41 (A) Sixty days of receipt of a request for an evaluation if the sexual offender is being
 42 sentenced pursuant to subsection (c) of Code Section 17-10-6.2;
 43 (B) Six months prior to the sexual offender's proposed release from confinement if the
 44 offender is incarcerated;
 45 (C) Sixty days of receipt of the required registration information from the sheriff when
 46 the sexual offender changes residence from another state or territory of the United
 47 States or any other place to this state and is not already classified;
 48 (D) Sixty days if the sexual offender is sentenced to a probated or suspended sentence;
 49 and
 50 (E) Ninety days if such classification is requested by the court pursuant to a petition
 51 filed under Code Section 42-1-19."

52 SECTION 1A.

53 Code Section 42-5-36, relating to confidentiality of information supplied by inmates and
 54 custodians of records of the department, is amended by designating subsection (d) as
 55 subsection (e) and by adding a new subsection (d) to read as follows:

- 56 "(d)(1) As used in this subsection, the term 'identifying information' means any records
 57 or information that reveals a name, residential or business address, residential or business
 58 telephone number, day and month of birth, social security number, or professional
 59 qualifications.
 60 (2) The identifying information of any person or entity who participates in or administers
 61 the execution of a death sentence and the identifying information of any person or entity

62 that manufactures, supplies, compounds, or prescribes the drugs, medical supplies, or
 63 medical equipment utilized in the execution of a death sentence shall be confidential and
 64 shall not be subject to disclosure under Article 4 of Chapter 18 of Title 50 or under
 65 judicial process. Such information shall be classified as a confidential state secret."

66 **SECTION 2.**

67 Code Section 42-9-53, relating to preservation of documents, classification of information
 68 and documents, divulgence of confidential state secrets, and conduct of hearings, is amended
 69 by revising subsection (b) as follows:

70 "(b) All information, both oral and written, received by the members of the board in the
 71 performance of their duties under this chapter and all records, papers, and documents
 72 coming into their possession by reason of the performance of their duties under this chapter
 73 shall be classified as confidential state secrets until declassified by the board; provided,
 74 however, that the board shall be authorized to disclose to an alleged violator of parole or
 75 conditional release the evidence introduced against him or her at a final hearing on the
 76 matter of revocation of parole or conditional release; provided, further, that the board may
 77 make supervision records of the board available to probation officials employed with the
 78 Department of Corrections and the Sexual Offender Registration Review Board, provided
 79 that the same shall remain confidential and not available to any other person or subject to
 80 subpoena unless declassified by the board."

81 **SECTION 3.**

82 Code Section 35-3-4, relating to powers and duties of the Georgia Bureau of Investigation,
 83 is amended by revising paragraph (15) of subsection (a) as follows:

84 "(15)(A) Acquire, collect, analyze, and provide to the board any information which will
 85 assist the board in determining a sexual offender's risk assessment classification in
 86 accordance with the board's duties as specified in Code Section 42-1-14, including, but
 87 not limited to, obtaining:

- 88 (i) Incident, investigative, supplemental, and arrest reports from law enforcement
 89 agencies;
 90 (ii) Records from clerks of court;
 91 (iii) Records and information maintained by prosecuting attorneys;
 92 (iv) Records maintained by state agencies, provided that any records provided by the
 93 State Board of Pardons and Paroles that are classified as confidential state secrets
 94 pursuant to Code Section 42-9-53 shall remain confidential and shall not be made
 95 available to any other person or entity or be subject to subpoena unless declassified
 96 by the State Board of Pardons and Paroles; and
 97 (v) Other documents or information as requested by the board.

98 (B) As used in this paragraph, the term:

99 (i) 'Board' means the Sexual Offender Registration Review Board.

100 (ii) 'Risk assessment classification' means the level into which a sexual offender is
101 placed based on the board's assessment.

102 (iii) 'Sexual offender' has the same meaning as set forth in Code Section 42-1-12."

103 **SECTION 4.**

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