

House Bill 495 (AS PASSED HOUSE AND SENATE)

By: Representatives Crowe of the 110th, Wiedower of the 119th, Williams of the 145th, and Hitchens of the 161st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 3 of Title 35 and Article 2 of Chapter 1 of Title 42 of the
2 Official Code of Georgia Annotated, relating to general provisions regarding the Georgia
3 Bureau of Investigation and the Sexual Offender Registration Review Board, respectively,
4 so as to revise the duties of the Georgia Bureau of Investigation and the Sexual Offender
5 Registration Review Board relative to the board's determination of a sexual offender's risk
6 assessment classification; to provide for definitions; to provide for certain investigators; to
7 provide for related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 1 of Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the
11 general provisions regarding the Georgia Bureau of Investigation, is amended by revising
12 paragraph (15) of subsection (a) of Code Section 35-3-4, relating to powers and duties of
13 bureau generally, as follows:

14 "(15)(A) Upon request, provide to the board an analysis of criminal history record
15 information to ~~Acquire, collect, analyze, and provide to the board any information~~
16 ~~which will~~ assist the board in determining a sexual offender's risk assessment

17 classification in accordance with the board's duties as specified in Code Section
 18 42-1-14; ~~including, but not limited to, obtaining:~~

19 ~~(i) Incident, investigative, supplemental, and arrest reports from law enforcement~~
 20 ~~agencies;~~

21 ~~(ii) Records from clerks of court;~~

22 ~~(iii) Records and information maintained by prosecuting attorneys;~~

23 ~~(iv) Records maintained by state agencies, provided that any records provided by the~~
 24 ~~State Board of Pardons and Paroles that are classified as confidential state secrets~~
 25 ~~pursuant to Code Section 42-9-53 shall remain confidential and shall not be made~~
 26 ~~available to any other person or entity or be subject to subpoena unless declassified~~
 27 ~~by the State Board of Pardons and Paroles; and~~

28 ~~(v) Other documents or information as requested by the board.~~

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

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

31 (ii) 'Criminal history record information' has the same meaning as set forth in Code
 32 Section 35-3-30.

33 (iii) 'Risk assessment classification' means the level into which a sexual offender is
 34 placed based on the board's assessment.

35 ~~(iii)~~(iv) 'Sexual offender' has the same meaning as set forth in Code Section 42-1-12;
 36 and"

37 **SECTION 2.**

38 Article 2 of Chapter 1 of Title 42 of the Official Code of Georgia Annotated, relating to the
 39 Sexual Offender Registration Review Board, is amended by adding a new paragraph to
 40 subsection (a) of Code Section 42-1-12, relating to the State Sexual Offender Registry, to
 41 read as follows:

42 "(9.1) 'Criminal history record information' shall have the same meaning as set forth in
43 Code Section 35-3-30."

44 **SECTION 3.**

45 Said article shall further be amended by revising subsections (b) and (c) of Code Section
46 42-1-13, relating to Sexual Offender Registration Review Board, composition, appointment,
47 administration and duties, and immunity from liability, as follows:

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

51 (1) Exercise its quasi-judicial, rule-making, or policy-making functions independently
52 of the department and without approval or control of the department;

53 (2) Prepare its budget, if any, and submit its budgetary requests, if any, through the
54 department; and

55 (3) Hire its own personnel, including, but not limited to, administrative personnel and
56 clinical evaluators.

57 (c)(1) The board shall acquire, collect, and analyze information, including, but not
58 limited to, criminal history record information, in determining a sexual offender's risk
59 assessment as provided for under Code Section 42-1-14.

60 (2) The board may employ investigators under the board's administration and supervision
61 to complete the duties provided for under paragraph (1) of this subsection. The Georgia
62 Bureau of Investigation shall maintain at least one position under the bureau's
63 administration and supervision which shall facilitate the provision of summarized
64 criminal history record information to the board from the Georgia Crime Information
65 Center and the National Crime Information Center ~~Any investigator who, as of June 30,~~
66 ~~2012, was employed by the board shall be transferred to the Georgia Bureau of~~
67 ~~Investigation on July 1, 2012, and shall no longer be under the administration or~~

68 ~~supervision of the board, except as required to provide the board with information as set~~
69 ~~forth in paragraph (15) of subsection (a) of Code Section 35-3-4. The executive director~~
70 ~~of the board shall arrange administratively for the transfer of any equipment relating to~~
71 ~~the transfer of such personnel."~~

72 **SECTION 4.**

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