

House Bill 1188 (AS PASSED HOUSE AND SENATE)

By: Representatives Lott of the 122nd, Gravley of the 67th, Bazemore of the 63rd, Smith of the 18th, Momtahan of the 17th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 16-6-4 of the Official Code of Georgia Annotated, relating to child
2 molestation and aggravated child molestation, so as to provide that each act of child
3 molestation shall be charged as a separate offense; to amend Code Section 16-12-100 of the
4 Official Code of Georgia Annotated, relating to sexual exploitation of children, reporting
5 violation, civil forfeiture, and penalties, so as to specify that an offender can be charged and
6 convicted for each separate image or depiction; to amend Article 3 of Chapter 12 of Title 16
7 of the Official Code of Georgia annotated, relating to obscenity and related offenses, so as
8 to provide definitions, regulations, and penalties involving use of commercial social
9 networking websites to commit sexual misconduct; to provide for severability; to provide for
10 related matters; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Code Section 16-6-4 of the Official Code of Georgia Annotated, relating to child molestation
14 and aggravated child molestation, is amended by revising subsection (a) and by adding a new
15 subsection to read as follows:

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16 "(a) A person commits the offense of child molestation when such person:

17 (1) Does ~~any~~ an immoral or indecent act to or in the presence of or with any child under
18 the age of 16 years with the intent to arouse or satisfy the sexual desires of either the child
19 or the person; or

20 (2) By means of an electronic device, transmits images of a person engaging in,
21 inducing, or otherwise participating in ~~any~~ an immoral or indecent act to a child under the
22 age of 16 years with the intent to arouse or satisfy the sexual desires of either the child
23 or the person.

24 (a.1) For purposes of this Code section, when a person does an immoral or indecent act
25 involving touching of any child under the age of 16 years with the intent to arouse or
26 satisfy the sexual desires of the child or the person, and such person touches such child in
27 multiple areas of such child's body, the touching of each area shall constitute a separate
28 offense of child molestation."

29 **SECTION 2.**

30 Code Section 16-12-100 of the Official Code of Georgia Annotated, relating to sexual
31 exploitation of children, reporting violation, civil forfeiture, and penalties, is amended by
32 revising paragraphs (5), (6), (7), and (8) of subsection (b) and by adding a new subsection
33 to read as follows:

34 "(5) It is unlawful for any person knowingly to create, reproduce, publish, promote, sell,
35 distribute, give, exhibit, or possess with intent to sell or distribute ~~any~~ a visual medium
36 which depicts a minor or a portion of a minor's body engaged in any sexually explicit
37 conduct.

38 (6) It is unlawful for any person knowingly to advertise, sell, purchase, barter, or
39 exchange ~~any~~ a medium which provides information as to where any visual medium

40 which depicts a minor or a portion of a minor's body engaged in any sexually explicit
41 conduct can be found or purchased.

42 (7) It is unlawful for any person knowingly to bring or cause to be brought into this state
43 ~~any a~~ material which depicts a minor or a portion of a minor's body engaged in any
44 sexually explicit conduct.

45 (8) It is unlawful for any person knowingly to possess or control ~~any a~~ material which
46 depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct."

47 "(b.1) For any violation of paragraph (5), (6), (7), or (8) of subsection (b) of this Code
48 section involving multiple visual mediums, mediums, or materials, each visual medium,
49 medium, or material connected to such violation shall constitute a separate offense."

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SECTION 3.

51 Article 3 of Chapter 12 of Title 16 of the Official Code of Georgia Annotated, relating to
52 obscenity and related offenses, is amended by adding a new Code section to read as follows:

53 "16-12-100.4.

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

55 (1) 'Commercial social networking website' includes any website, application, portal,
56 or other means of accessing the internet that:

57 (A) Is operated by a person that derives revenue from membership fees, advertising,
58 or other sources related to the operation of the website, application, portal, or other
59 means of accessing the internet;

60 (B) Allows users to create personal web pages or profiles that contain the user's name
61 or nickname, photographs of the user, and other personal information; and

62 (C) Provides users or visitors a mechanism by which to communicate with others, such
63 as a message board, chat room, or instant messenger.

64 Such term shall not include a website that is either owned or operated by a local, state,
65 or federal governmental entity or that has as its primary purpose the facilitation of
66 commercial transactions, the dissemination of news, the discussion of political or social
67 issues, or professional networking.

68 (2) 'High-risk sex offender' means any individual who is registered with the State Sexual
69 Offender Registry and who has been classified as a sexually dangerous predator pursuant
70 to Code Section 42-1-14.

71 (b) It shall be unlawful for any high-risk sex offender to access or use any commercial
72 social networking website to:

73 (1) Communicate with a person who the offender believes is under 16 years of age;

74 (2) Contact a person who the offender believes is under 16 years of age;

75 (3) Pose falsely as a person under 16 years of age; or

76 (4) Gather information about a person who the offender believes is under 16 years of
77 age.

78 (c) For purposes of determining jurisdiction, an offense shall be deemed to be committed
79 in this state if the transmission that constitutes the offense either originates in this state or
80 is received in this state.

81 (d) Any person that violates this Code section shall be guilty of a felony and, upon
82 conviction thereof, shall be punished by imprisonment for not less than one nor more than
83 ten years and by a fine of not more than \$10,000.00.

84 (e) This Code section shall be severable in accordance with Code Section 1-1-3, relating
85 to severability."

86 **SECTION 4.**

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