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

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

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

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

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

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

SECTION 2.

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

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

(6) It is unlawful for any person knowingly to advertise, sell, purchase, barter, or exchange any medium which provides information as to where any visual medium
which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct can be found or purchased.

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

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

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

SECTION 3.

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

"16-12-100.4.

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

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

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

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

(C) Provides users or visitors a mechanism by which to communicate with others, such as a message board, chat room, or instant messenger.
Such term shall not include a website that is either owned or operated by a local, state, or federal governmental entity or that has as its primary purpose the facilitation of commercial transactions, the dissemination of news, the discussion of political or social issues, or professional networking.

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

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

(1) Communicate with a person who the offender believes is under 16 years of age;
(2) Contact a person who the offender believes is under 16 years of age;
(3) Pose falsely as a person under 16 years of age; or
(4) Gather information about a person who the offender believes is under 16 years of age.

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

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

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

SECTION 4.

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