Preliminary Materials

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After every session of the Georgia General Assembly, the Georgia State University Law Review publishes a volume on selected pieces of legislation. This volume, known as the “Peach Sheets,” documents the legislative history of bills believed to be especially significant to the citizens of Georgia and its legal community. It is our hope that the Peach Sheets will assist legal practitioners, courts, and Georgia citizens with understanding the effects of newly enacted legislation. This year in particular we delayed the selection of the legislation we would cover to maximize our chances of covering legislation that a) would pass, and b) be litigated, because we believe serving as a guide to legislative intent is where the core value of the Peach Sheets lies. The Law Review also strives to cover legislation that will impact the practice of law throughout the state.

Each Peach Sheet includes the title of the bill, a brief summary of the legislation, a history section, a tracking section that explains changes made during the bill’s passage, and a section explaining the final legislation. At the end of the Peach Sheet, an analysis section explores issues such as the legislation’s constitutionality, its impact on other laws, and possible unintended consequences. Every edition of the Peach Sheets includes both a Table of Code Sections Affected, listing all Code sections affected by the covered legislation, and a House and Senate Bill Index, listing all House and Senate bill numbers addressed in the Peach Sheets.

We salute the hard work our student writers invested in this edition of the Peach Sheets. Finally, we extend our thanks to the numerous legislators, lobbyists, and Capitol staff who contributed to this edition. We greatly appreciate their insight, patience, and assistance.

Russell Dunlap & Danielle Hildebrand
Legislation Editors
NOTE ON ABBREVIATIONS

The following abbreviations, taken from those used by the General Assembly, are used in each Peach Sheet when reference is made to a particular version of a bill:

<table>
<thead>
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<th>Term</th>
<th>Abbreviation</th>
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<tr>
<td>House</td>
<td>H</td>
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<tr>
<td>Senate</td>
<td>S</td>
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<tr>
<td>Bill</td>
<td>B</td>
</tr>
<tr>
<td>Failed</td>
<td>F</td>
</tr>
<tr>
<td>Committee Substitute</td>
<td>CS</td>
</tr>
<tr>
<td>Committee Amendment</td>
<td>CA</td>
</tr>
<tr>
<td>Floor Substitute</td>
<td>FS</td>
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<tr>
<td>Floor Amendment</td>
<td>FA</td>
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<tr>
<td>Conference Committee Substitute</td>
<td>CCS</td>
</tr>
<tr>
<td>Conference Committee Amendment</td>
<td>CCA</td>
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</tbody>
</table>

In many instances, these terms are combined when describing a particular version of a bill. Thus, a bill that was amended by a House committee might be abbreviated as “HCA,” while the version of the same bill that was further amended on the floor of the House might be abbreviated as “HCAFA,” or a failed Senate floor amendment would appear as “FSFA.”
GEORGIA STATE UNIVERSITY
LAW REVIEW

VOLUME 27       NUMBER 1       FALL 2010

CONTENTS

EVIDENCE
Evidence

Code Section: O.C.G.A. §§ 4-11-17; 7-1-63, -94, -95; 8-3-6, -104; 9-10-6, -9; 9-11-44; 10-1-157, -188, -208, -444; 10-4-15; 10-6-64; 10-14-27; 14-9A-117; 15-1-14; 15-11-79.1, -84; 15-18-14.1, -15; 16-5-27; 16-12-55; 17-4-30, -40; 17-7-25, -28, -93; 17-9-20, -41; 17-16-4; 20-2-940, -991; 22-1-14; 24-1-1 et seq.; 26-4-80; 28-1-16; 29-9-13.1; 31-5-5; 31-10-26; 31-21-3; 33-2-2; 33-20A-37; 34-9-60, -102; 108; 35-3-160, -161, -162, -163, -164, -165; 36-74-25, -45; 37-3-166; 37-4-125; 37-7-166; 40-2-74; 40-5-2, -58; 40-6-10, -11; 42-5-52.2; 42-6-4, -5; 43-3-24; 43-6-6; 43-9-12; 43-11-12; 43-18-8; 43-23-3; 43-28-6; 43-29-4; 43-33-9, -18; 43-34-8; 43-40-6; 44-2-5, -20, -23, -101; 44-4-3, -6; 44-5-45; 44-13-11; 44-14-38; 45-9-1, -20; 45-14-5; 45-16-43; 46-2-53; 46-3-175; 48-2-14; 48-5-138; 49-5-183.1; 50-5A-4; 50-18-96; 52-6-8; 53-5-33, -35, -43; 53-11-11

Bill Number: HB 24
Georgia Laws: N/A
Effective Date: N/A
Summary: The bill would have adopted the Federal Rules of Evidence, reorganized Georgia evidentiary rules where not displaced by the Federal Rules, and made other necessary corrections to the Code to incorporate the new structure of the evidence Code. ........................................ 1

CRIMINAL PROCEDURE
Crime Victims’ Bill of Rights

Code Sections: O.C.G.A. §§ 15-11-64.2, -78, -155 (amended); 17-10-1.2 (amended); 17-14-3 (amended); 17-17-1, -3, -5 (amended); 17-17-5.1 (new); 17-17-8 (amended); 17-17-8.1 (new); 17-17-9 (amended); 17-17-9.1 (new); 17-17-12 (amended); 17-17-12.1 (new); 24-9-61.1 (amended); 42-5-50 (amended)

Bill Number: HB 567
Georgia Laws: 2010 Ga. Laws 214
Effective Date: July 1, 2010
Summary: The Act provides for crime victims’ rights in Georgia and creates substantive mechanisms for directing agencies to carry out these
rights. It establishes comprehensive reform providing nine basic victim’s rights. These include the right to be present and heard in the sentencing phase of a criminal proceeding against the accused, including proceedings in juvenile court. The Act also provides that victims must be notified regarding the disposition of criminal proceedings or the status of the accused, such as release or escape, and requires the prosecuting attorney or the corrections department to provide such notice. Judges are also required to make a finding in every case as to whether restitution to the victim from the accused is appropriate. Further, it provides that the victim may refuse an interview from an agent (such as an attorney) of the accused and that such an agent must clearly identify that he represents the accused. Victims and families are also protected against contact from the accused. Finally, the Act provides for changes relating to the transportation of convicted persons to correctional institutions..................................................29

CRIMES AND OFFENSES

Sexual Offenses

Code Sections:  O.C.G.A §§ 5-6-35 (amended); 16-6-5.1, -22 (amended); 16-7-29 (amended); 42-1-12, -14, -15 (amended); 42-1-16, -17, -18, -19 (new)

Bill Number: HB 571


Effective Date: May 20, 2010

Summary: The purpose of this Act is to revise Georgia sex offender laws to promote the isolation of dangerous sexual predators from the public and ensure that they are adequately monitored in a manner that is constitutional. The key focus of the Act is to ensure the law properly directs resources towards protecting society from the sex offenders who pose the greatest threat to others by truly isolating the dangerous sexual predator. The Act narrows some of the previous statutory reporting requirements for sex offenders and aims to lessen some of these requirements by providing for certain exceptions. Additionally, the Act gives superior courts the power to release an individual from the residency requirements if the court finds that the individual does not pose a substantial risk of recidivism, and the offender either resides in a nursing home, is totally or permanently disabled, or is seriously physically incapacitated due to illness or injury. The Act also gives homeless offenders who can provide no residence address specific direction as to how to comply with the statutory requirements. Finally, the Act revises various punishment requirements under the affected sections. Specifically, it amends Code section 42-1-12(n) by eliminating a mandatory punishment of imprisonment for life upon a conviction of a second offense for failing to comply with the registration requirements..................................................57
FOOD, DRUGS, AND COSMETICS
Standards, Labeling, and Adulteration of Food
Bill Number: HB 883
Effective Date: May 25, 2010
Summary: The Act requires food processors to maintain food safety plans and conduct tests on their food products before sending them into commerce and allows the Commissioner of Agriculture to define what standards the food safety plans need to comply with. The Act provides for civil and criminal penalties for violating the Act. Specifically, if the company does not file a food processing plan, the company will be exposed to a $5,000 fine. If the company intentionally fails to report a written food safety plan to the Department of Agriculture, the company will be exposed to a $7,500 fine. The Act provides for both misdemeanors and felonies. A person is guilty of a misdemeanor if they fail to report a positive test for adulterated food or if they fail to keep records of their tests in their food processing plant. If a person knowingly introduces adulterated food into the stream of commerce, they are guilty of a felony. .................................................. 73

LABOR AND INDUSTRIAL RELATIONS
Employment Security
Code Sections: O.C.G.A. §§ 34-8-156 (amended); 48-7-21, -27 (amended); 48-7-40.29 (new); 48-13-70 (amended)
Bill Number: HB 1023
Georgia Laws: N/A
Effective Date: N/A
Summary: The primary goal of this bill was to provide tax relief and create jobs while also encouraging investors to support local business development. The bill sought to accomplish this goal by giving employers a credit against contributions if they hired persons who were receiving unemployment benefits and by providing income tax credits to investors. .......................................................... 85

INSURANCE
Individual Health Insurance Coverage
Bill Number: HB 1184
Georgia Laws: N/A
Effective Date: N/A
Summary: The bill would have allowed insurers authorized to transact business in Georgia to offer Georgians individual accident and sickness policies that are approved for issuance in other states. The bill would have required that the out-of-state policies contain disclosures notifying consumers that the policies may be governed by the laws of other states
and that the benefits may be different from other policies the consumer could have purchased. The sale of the out-of-state policies would have first been approved by the Georgia Commissioner of Insurance, and the Commissioner would also have had to adopt rules and regulations to implement the bill. .......................................................... 103

LABOR AND INDUSTRIAL RELATIONS
Georgia Workforce Investment Board

*Code Sections:* O.C.G.A. §§ 34-14-1 (new), -2 (new)
*Bill Number:* HB 1195
*Georgia Laws:* 2010 Ga. Laws 84
*Effective Date:* May 20, 2010
*Summary:* The Act creates the Georgia Workforce Investment Board. The Act provides for the members who will compose the Board, the allocation of funding for the Board, and the powers and duties of the Board. The Act also provides that the Board is established to implement the state workforce development policy, as directed by the Governor. .......................................................... 117

CRIMES AND OFFENSES
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*Code Sections:* O.C.G.A. §§ 10-1-393.5 (amended); 12-3-10 (amended); 15-9-60 (amended); 16-10-51 (amended); 16-11-34.1, -101.1 (amended); 16-11-125.1 (new); 16-11-126, -127, -127.1, -127.2, -128, -129, -132, -135 (amended); 16-12-123, -127 (amended); 17-5-51 (amended); 17-7-23 (amended); 20-2-1184 (amended); 27-3-1.1, -6 (amended); 27-4-11.1 (amended); 40-6-228 (amended); 43-1-5 (amended); 43-34-6 (amended); 43-38-10 (amended); 49-4a-8 (amended); 50-18-72 (amended)
*Bill Number:* SB 308
*Georgia Laws:* 2010 Ga. Laws 963
*Effective Date:* June 8, 2010
*Summary:* The Act clarifies current law relating to where weapons may be carried or possessed. It defines the offense of carrying a weapon without a valid license. The Act changes provisions relating to the carrying of weapons onto private property, public property, and campus grounds. It also provides for uniform security features of weapons carry licenses issued on or after January 1, 2012. .......................................................... 131

MOTOR VEHICLES AND TRAFFIC
Uniform Rules of the Road

*Code Section:* O.C.G.A. §§ 40-5-57 (amended), 40-6-241 (amended), 40-6-241.1 (new), 40-6-250 (amended)
*Bill Number:* SB 360
*Georgia Laws:* 2010 Ga. Laws 1158
*Effective Date:* July 1, 2010
Summary: The Act prohibits all drivers from using text-based communications while operating a motor vehicle on any public highway in the state. The Act provides for acceptable text-based communications for public safety workers and similarly situated individuals, as well as for all drivers in certain circumstances. A violator of the Act’s provisions is subject to a fine of $150 and an assessment of one point on the violator’s driver’s license.

MOTOR VEHICLES AND TRAFFIC
Uniform Rules of the Road

Code Section: O.C.G.A. §§ 40-5-57 (amended), 40-6-241 (amended), 40-6-241.1 (new)

Bill Number: HB 23

Georgia Laws: 2010 Ga. Laws 1156

Effective Date: July 1, 2010

Summary: The Act prohibits any driver under the age of eighteen who has an instruction permit or Class D license from using a cellular phone while operating a motor vehicle. It provides certain exceptions for safety reasons. The Act imposes a $150 fine and one point assessment on the violator’s license for each offense. If the minor driver is involved in an accident at the time of a violation of this Act, the fine is doubled.

CONSERVATION AND NATURAL RESOURCES
Water Resources


Bill Number: SB 370


Effective Date: June 10, 2010

Summary: The Act encourages state departments to examine their water conservation practices; standardizes leak reporting by public water utilities; requires submetering of multifamily, commercial, and industrial construction beginning July 1, 2012; requires high efficiency toilets, urinals, and fixtures in new construction beginning July 1, 2012; provides for the tracking of unused water withdrawal permits for agriculture purposes and establishes a process for those permits to revert back to the state; and restricts outdoor watering to between the hours of 4 p.m. and 10 p.m. so as to avoid evaporative loss and waste during the hottest hours of the day.

CRIMES AND OFFENSES
Offenses Against Public Health and Morals

Code Sections: O.C.G.A. §§ 16-12-140, -141 (amended), 16-14-3 (amended)

Bill Number: SB 529
Summary: The bill would have prohibited an abortion provider from performing an abortion: with the intent to prevent a child from being born based on the color, race, or gender of the unborn child; when the abortion provider knows that the mother is seeking the abortion based on the color, race, or gender of the unborn child; or when the abortion provider knows that the mother was unlawfully coerced into having the abortion. A violator of the bill’s provisions would have been subject to criminal and civil penalties.

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