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# CRIMES AND OFFENSES Crimes and Offenses: Amend Article 2 of Chapter 1 of Title 42 of The Official Code of Georgia Annotated, Relating to Sexual Offender Registration Review Board, so as to Repeal Certain Provisions Relating to Residency and Employment Restrictions for Certain Sexual Offenders; Change a Definition; Provide for Restrictions on Where Sexual Offenders and Sexually Dangerous Predators May Reside, Work, Volunteer, or Loiter; Provide for Restrictions on Photographing a Minor Under Certain Circumstances; Provide for Definitions; Provide for Punishment; Provide for Exemptions from Certain

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## CRIME AND OFFENSES

***Crimes and Offenses: Amend Article 2 of Chapter 1 of Title 42 of The Official Code of Georgia Annotated, Relating to Sexual Offender Registration Review Board, so as to Repeal Certain Provisions Relating to Residency and Employment Restrictions for Certain Sexual Offenders; Change a Definition; Provide for Restrictions on Where Sexual Offenders and Sexually Dangerous Predators May Reside, Work, Volunteer, or Loiter; Provide for Restrictions on Photographing a Minor Under Certain Circumstances; Provide for Definitions; Provide for Punishment; Provide for Exemptions from Certain Residency and Employment Restrictions; Provide for Civil Causes of Action; Provide for Applicability; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes***

CODE SECTIONS: O.C.G.A. §§ 42-1-2 (amended), 42-1-12 (amended), 42-1-15 (repealed); 42-1-15 (new)

BILL NUMBER: SB 1

ACT NUMBER: 582

GEORGIA LAWS: 2008 Ga. Laws 680

SUMMARY: The purpose of this Act is to protect the public from recidivist sexual offenders and sexual offenders who prey on children. The Act prohibits sexual offenders, defined as those persons required to register pursuant to Code section 42-1-12, from residing within 1000 feet of any child care facility, church, school, or area where minors congregate. The Act prohibits sexual offenders from being employed or volunteering at any child care facility, church, or school or by or at any business or entity that is located within 1000 feet of a child care facility, a school, or a church. The Act prohibits

sexually dangerous predators from being employed or volunteering at any business or entity located within a 1000 feet of where minors congregate. The Act exempts sexual offenders from the employment and residency restrictions if such employment or residency was established prior to July 1, 2006 if the sexual offender provides sufficient proof on the employment or residency prior to July 1, 2006. The Act also prohibits registered sex offenders from intentionally photographing a minor without the consent of the minor's parent or guardian.

EFFECTIVE DATE:

July 1, 2008

### *History:*

The purpose of SB 1 is to keep Georgia's children safe from sexual offenders and sexually dangerous predators.<sup>1</sup> Before this Act passed and became effective, there were no residency restrictions for sexual offenders in Georgia.<sup>2</sup> In 2006, the Georgia Legislature passed HB 1059, which provided for, among other things, residency restrictions for sexual offenders.<sup>3</sup> At that time the critics of the bill urged that the residency restrictions would destabilize sexual offenders increasing the chances of recidivism.<sup>4</sup>

On November 21, 2007, a little over a year after the enactment of HB 1059, the Georgia Supreme Court held that Code section 42-1-15(a) "is unconstitutional to the extent that it permits the regulatory taking of appellant's property without just and adequate compensation."<sup>5</sup> In *Mann v. Georgia Department of Corrections*, the

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1. HOUSE JUDICIARY (NON-CIVIL) COMMITTEE, MINORITY REPORT ON HOUSE BILL 908, at 1 (2008) [hereinafter MINORITY REPORT].

2. See *Mann v. Ga. Dep't of Corr.*, 282 Ga. 754, 760-61 (2007).

3. See 2006 Ga. Laws 379, §24, at 397; see also Debra Hunter & Paul Sharman, HB 1059, *Crimes and Offenses*, 23 GA. ST. U. L. REV. 11, 11 (2006).

4. *Id.* at 13.

5. *Mann*, 282 Ga. at 760-61.

appellant purchased a home in August of 2003, at which time it was not within 1000 feet of any child care facility, church, school, or area where minors congregate.<sup>6</sup> Subsequently, however, a child care facility opened within 1000 feet from appellant's home.<sup>7</sup> The appellant's probation officer then demanded that the appellant leave his residence immediately upon penalty of arrest and revocation of probation.<sup>8</sup> The Supreme Court was concerned that "under the terms of that statute, it is apparent that there is no place in Georgia where a registered sex offender can live without being continually at risk of being ejected."<sup>9</sup> In other states such as Alabama and Iowa there are exceptions to residency requirements if changes to property occur after the sex offender establishes residency.<sup>10</sup>

The work and residency restrictions in SB 1 first originated in the 2008 session as HB 908.<sup>11</sup> Representatives David Ralston (R-7th), Jerry Keen (R-179th), Steve Davis (R-109th), Timothy Bearden (R-68th), Melvin Everson (R-106th), and Kevin Levitas (D-82nd) sponsored HB 908.<sup>12</sup> Representative David Ralston (R-7th) stated that HB 908 was introduced to "reinstate the 1000 foot living and working restrictions that were struck down by the Georgia Supreme Court in November 2007."<sup>13</sup> He "worked closely with Majority Leader Jerry Keen . . . to ensure that HB 908 continued the progress [the General Assembly] made in 2006 with HB 1059 to strengthen our sex offender laws."<sup>14</sup>

SB 1 was originally introduced in the 2007 legislative session.<sup>15</sup> The original purpose of SB 1 was to prevent photography of a minor by a registered sex offender.<sup>16</sup> Senate President Pro Tempore Eric Johnson (R-1st) introduced the bill after receiving a call from a

6. *Id.* at 755.

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.* at 755–56 (citing and discussing "move-to-the-offender" exceptions to residency requirements in Alabama and Iowa laws).

11. See HB 908, as introduced, 2008 Ga. Gen. Assem. (2008).

12. *Id.*

13. See Electronic Mail Interview with Rep. David Ralston (R-7th) (April 16, 2008) (on file with the Georgia State University Law Review) [hereinafter Ralston Interview].

14. *Id.*

15. See Georgia General Assembly, SB 1, Bill Tracking, [http://www.legis.state.ga.us/legis/2007\\_08/sum/sb1.htm](http://www.legis.state.ga.us/legis/2007_08/sum/sb1.htm) [hereinafter SB 1, Bill Tracking].

16. SB 1, as introduced, 2007 Ga. Gen. Assem. (2007).

constituent.<sup>17</sup> The constituent told Senator Johnson that her high-school-age daughter had recently been photographed while working in a coffee shop by a man making suggestive comments.<sup>18</sup> When she complained to the police, they investigated and determined that the man was a registered sex offender.<sup>19</sup> At the time, however, there were no laws against a registered sex offender taking photographs of a clothed minor, and thus no arrests were made.<sup>20</sup> The constituent then called Senator Johnson requesting that legislation be introduced that would prohibit sex offenders from taking pictures of minors without the consent of the parent or guardian.<sup>21</sup> At the time the Senate Republican Caucus was promoting a program called Georgia Speaks that encouraged citizens to contact their legislators to propose changes in the law, and Senator Johnson describes the photography provision of SB 1 as an example of that program in action.<sup>22</sup>

On January 22, 2007, the Senate first read SB 1 and Senator Johnson, assigned it the Senate Committee on Judiciary.<sup>23</sup> By a vote of 54 to 0, the Senate passed SB 1 on February 12, 2007.<sup>24</sup> It went to the House Judiciary Non-Civil Committee, which changed the language to prohibit a sex offender to “intentionally photograph a minor for indecent purposes.”<sup>25</sup> The bill was withdrawn from consideration on April 20, 2007.<sup>26</sup> Senator Johnson stated that the suggested changes to the bill at that time were unacceptable to him.<sup>27</sup> He recalled that “they basically said [the offender would] need to have . . . had an evil intent and they watered it down so much that we didn’t want it last year.”<sup>28</sup> Senator Johnson stated that the reason the offender took the photograph should not be a factor: “our perception

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17. See Telephone Interview with Sen. Eric Johnson (R-1st) (April 22, 2008) (on file with the Georgia State University Law Review) [hereinafter Johnson Interview].

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.*

22. Johnson Interview, *supra* note 17.

23. See SB 1, Bill Tracking, *supra* note 15.

24. *Id.*

25. SB 1 (HCS) (LC 29 2920S), 2007 Ga. Gen. Assem.

26. See SB1, Bill Tracking, *supra* note 15.

27. Johnson Interview, *supra* note 17.

28. *Id.* (alteration in the original).

was, you're on a sex offender list, and you're taking pictures of a minor without permission, then we should be able to assume that you're up to no good."<sup>29</sup>

### *Bill Tracking of HB 908*

Many of the provisions of HB 908 were later incorporated into SB 1.<sup>30</sup> HB 908 was first read in the House on January 15, 2008.<sup>31</sup> After a committee hearing on HB 908 and testimony from numerous interested parties, the House Committee on Judiciary Non-Civil favorably reported the bill to the House floor on January 16, 2008.<sup>32</sup> By a vote of 141 to 29, the House passed HB 908 on January 29, 2008.<sup>33</sup> When the Senate Judiciary Committee received HB 908 it was suggested that the HB 908 be combined with SB 1, as they both proposed restrictions on the activities of registered sex offenders.<sup>34</sup>

### *Bill Tracking of SB 1*

SB 1, which was withdrawn by the House in the 2007 session, was revised and presented by the House Judiciary Sub-Committee on March 18, 2008.<sup>35</sup> The proposed legislation was revised to include components of both HB 908 and the original SB 1.<sup>36</sup> The new version included the photography provision of SB 1 originally passed by the House in 2007, stating that no registered sex offender "shall intentionally photograph a minor without the consent of the minor's parent or guardian," and defined "photograph" and "minor."<sup>37</sup> This

29. *Id.*

30. Compare SB 1 (HCS) (LC 29 3366S), 2008 Ga. Gen. Assem., with HB 908, as introduced, 2008 Ga. Gen. Assem.

31. See Georgia General Assembly, HB 908, Bill Tracking, [http://www.legis.ga.gov/legis/2007\\_08/sum/hb908.htm](http://www.legis.ga.gov/legis/2007_08/sum/hb908.htm) [hereinafter HB 908, Bill Tracking].

32. *Id.*; Video Recording of House Judiciary Non-Civil Committee Proceedings, Mar. 15, 2008, <http://media.legis.ga.gov/hav/08/comm/judynon/judynon011608.wmv>.

33. See HB 908, Bill Tracking, *supra* note 31.

34. See Interview with Sen. Seth Harp (R-29th) (Apr. 1, 2008) (available on file with the Georgia State University Law Review) [hereinafter Harp Interview].

35. See SB 1, Bill Tracking, *supra* note 15.

36. Compare SB 1 (HCS) (LC 29 2920S), 2007 Ga. Gen. Assem., with SB 1 (HCS) (LC 29 3366S), 2008 Ga. Gen. Assem.

37. Compare SB 1 (HCS) (LC 29 2920S), 2007 Ga. Gen. Assem., with SB 1 (HCS) (LC 29 3366S), 2008 Ga. Gen. Assem.

new version of SB 1 incorporated provisions from the original HB 908, including residency and employment restrictions.<sup>38</sup> Senator Seth Harp (R-29th), who was assigned the bill in the Senate Judiciary Committee, stated on April 1, 2008 that the bills were being combined.<sup>39</sup> He stated that the purpose of the combined bill was to “get a bill that the law enforcement community can work with and make the provisions of the sexual predator law really work.”<sup>40</sup>

The House Committee on Rules offered a substitute to SB 1 that added “public libraries” as a prohibited “area where minors congregate.”<sup>41</sup> According to Representative David Ralston, who sits on the Rules Committee, this language was included because libraries are “frequented by children and families.”<sup>42</sup> Additionally, a paragraph was added defining “day-care center.”<sup>43</sup> Ralston stated that this language was added “by request of the Georgia Sheriffs Association; they wanted a more concise definition of day care centers to aid them in enforcing the 1000 foot restrictions.”<sup>44</sup> By a vote of 133 to 32, the House passed SB 1 on April 2, 2008.<sup>45</sup>

The bill then went to the Senate, where a floor amendment was introduced by Senator Johnson, the original sponsor of SB 1, on April 4, 2008.<sup>46</sup> The amendment modified the penalty provision of the bill. The residency and employment violations remained a felony punishable by no less than ten, but no more than thirty years; however, the penalty for photographing a minor without the parent or guardian’s consent was reduced to a misdemeanor of a high and aggravated nature.<sup>47</sup> While the House version penalized such photography as a felony, SB 1 as originally introduced included the lesser penalty of misdemeanor of high and aggravated nature, and

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38. Compare SB 1 (HCS) (LC 29 3366S), 2008 Ga. Gen. Assem., with HB 908, as introduced, 2008 Ga. Gen. Assem.

39. See Harp Interview, *supra* note 34.

40. *Id.*

41. Compare SB 1 (HCS) (LC 29 3366S), 2008 Ga. Gen. Assem., with SB 1 (HCS) (LC 29 3450S), 2008 Ga. Gen. Assem.

42. Ralston Interview, *supra* note 13.

43. SB 1 (HCS) (08 LC 29 3450S), p. 2, ln. 1–2, 2008 Ga. Gen. Assem.

44. Ralston Interview, *supra* note 13.

45. See SB 1, Bill Tracking, *supra* note 15.

46. SB 1 (SFA) (AM 29 0735), 2008 Ga. Gen. Assem. (introduced by Sen. Eric Johnson (R-1) on Apr. 4, 2008).

47. *Id.*



this amendment restored that penalty.<sup>48</sup> By a vote of 41 to 8, the Senate agreed to House substitute as Amended on April 4, 2008.<sup>49</sup> The same day, the House, by a vote of 131 to 22, agreed to the Senate amendment.<sup>50</sup>

### *The Act*

The Act amends Article 2 of Chapter 1 of Title 42 of the Georgia Code Annotated, relating to the Sexual Registration Review Board, by repealing in its entirety Code section 42-1-15.<sup>51</sup> This Act attempts to reconcile the constitutionality of residency restrictions for sexual offenders with the Georgia Supreme Court's decision in *Mann*.<sup>52</sup>

The Act also amends Code Section 42-1-12.<sup>53</sup> The revision broadens the definition of "where minors congregate" to include "public libraries."<sup>54</sup> Subsection (a) of Code section 42-1-12 is revised by adding a new paragraph stating that "day care" shall have the same meaning as paragraph 4 of Code section 20-1A-2.<sup>55</sup>

The Act includes a residency restriction, employment restriction, and loitering restriction for sexual offenders. The Act implements a new Code section 42-1-15(b) barring sexual offenders from residing within 1,000 feet of any child care facility, church, school, or area where minors congregate.<sup>56</sup> The new Code section also bars sexual offenders from being employed or volunteering at any child care facility, school, or church or at any business or entity that is located within 1,000 feet of a child care facility, school, or church.<sup>57</sup> The new Code section also bars sexually dangerous predators from being employed or volunteering at any business or entity located within 1,000 feet of where minors congregate.<sup>58</sup> Sexual offenders are also

48. Compare SB 1 (HCS) (LC 29 3366S), 2008 Ga. Gen. Assem., with SB 1, as introduced, 2008 Ga. Gen. Assem.

49. See SB 1, Bill Tracking, *supra* note 15.

50. *Id.*

51. 2008 Ga. Laws 680.

52. *Id.* See generally *Mann v. Ga. Dep't of Corr.*, 282 Ga. 754 (2007).

53. 2008 Ga. Laws 680, §§ 2-3, at 681.

54. O.C.G.A. § 42-1-12(3) (Supp. 2008).

55. *Id.* § 42-1-12(10.1).

56. *Id.* § 42-1-15(b).

57. *Id.* § 42-1-15(c).

58. *Id.* § 42-1-15(c).

prohibited from loitering at any child care facility, school, or area where minors congregate.<sup>59</sup>

The new sections create an exemption from the residency restriction, such that a sexual offender would not be in violation of Code section 42-1-15 if that individual owns real property and resides on such property prior to a child care facility, church, school, or area where minors congregate locating itself within 1,000 feet of the sex offender's property.<sup>60</sup> Additionally, there is an exception for the employment restriction for sexual offenders who have established employment at a location and a child care facility, church, or school, subsequently locates itself within 1,000 feet of the place of employment.<sup>61</sup> Sexually dangerous predators are also exempt from the employment restriction if an area where minors congregate locates within 1,000 feet after the offender establishes employment.<sup>62</sup> Further, a sexual offender owning real property or working within 1,000 feet of a prohibited location does not violate this Code section if such residency or employment had been established prior to July 1, 2006 and such individual presents sufficient proof for the exemption.<sup>63</sup>

### *Analysis*

This Act changes current Georgia law in two main ways: (1) it implements residency and employment restrictions for sexual offenders and sexually dangerous predators; and (2) creates exemptions from the residency and employment restrictions if the sex offender or sexually dangerous predator established property ownership or employment prior to July 1, 2006, and then the child care facility, church, school, or area where minors congregate moved to within 1,000 feet of the offender.<sup>64</sup>

A major concern is that SB 1 will be found unconstitutional. The residency restriction has been the biggest source of tension over the

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59. *Id.* § 42-1-15(d).

60. O.C.G.A. § 42-1-15(f)(1) (Supp. 2008).

61. *Id.*

62. *Id.*

63. *Id.* § 42-1-15(f)(2).

64. O.C.G.A. §§ 42-1-15(f)(1)–(2) (Supp. 2008).

bill.<sup>65</sup> The exemption from the residency and employment restrictions for those sex offenders or sexually dangerous predators who established property ownership or employment prior to the child care facility, church, school, or areas where minors congregate is an attempt to address the Supreme Court of Georgia's finding that O.C.G.A. § 42-1-15(a) is unconstitutional to the extent that it permits a regulatory taking without just and adequate compensation.<sup>66</sup> The Court in *Mann* was very concerned about the ability of third parties to "move to the offender" and thus the offender continually being displaced;<sup>67</sup> Code section 42-1-15(f)(1) addresses this concern.<sup>68</sup>

Another major concern is that, while the critics want to reduce the rate of recidivism by sexual offenders, there is strong data to suggest that residency restrictions are ineffective and increase the chance of recidivism by destabilizing the offender.<sup>69</sup> Psychological stressors leading to recidivism include isolation from family and community, inability to secure affordable housing, and emotional distress.<sup>70</sup> Likewise, law enforcement officials have expressed concerns that they will not be able to effectively keep tabs on a nomadic population of sexual offenders.<sup>71</sup> Law enforcement officials have been voicing their concerns over the residency restrictions since the passage of HB 1059 in 2006.<sup>72</sup> In 2006, law enforcement warned that these restrictions would not force sex offenders out of Georgia, but rather would just force them underground.<sup>73</sup> Law enforcement still expresses those same concerns.<sup>74</sup>

65. MINORITY REPORT, *supra* note 1.

66. *Mann v. Ga. Dep't of Corr.*, 282 Ga. 754, 761 (2007).

67. *Mann*, 282 Ga. at 755–56.

68. O.C.G.A. § 42-1-15(f)(1) (Supp. 2008)

69. Joseph L. Lester, *Off to Elba! The Legitimacy of Sex Offender Residence and Employment Restrictions*, 40 AKRON L. REV. 339, 359 (2007); Caleb Durling, *Comment: Never Going Home: Does It Make Us Safer? Does It Make Sense? Sex Offenders, Residency Restrictions, and Reforming Risk Management Law*, 97 J. CRIM. L. & CRIMINOLOGY 317, 317 (concluding that residency restrictions do not make sense, nor make us safer from sex offenders).

70. Jill S. Levenson & Andrea L. Hern, *Sex Offender Residency Restrictions: Unintended Consequences and Community Reentry*, 9 JUST. RES. & POL'Y 59, 63 (2007).

71. Scott Henry, *Life in the Shadows*, CREATIVE LOAFING, July 19, 2006, available at [http://atlanta.creative loafing.com/gyrobase/life\\_in\\_the\\_shadows/Content?oid=98753](http://atlanta.creative loafing.com/gyrobase/life_in_the_shadows/Content?oid=98753).

72. *Id.*

73. *Id.*

74. See Sarah Fay Campbell, *Sex Law Change No Major Concern*, NEWNAN TIMES-HERALD, Nov. 25, 2007, available at [http://archives.times-herald.com/archive\\_index.php](http://archives.times-herald.com/archive_index.php) (search "Sex Law Change No Major Concern"); Wendy Koch, *Sex-Offender Residency Laws Get Second Look: States Consider*

Critics of the residency restrictions urge that these restrictions are instinctive, blindly emotional reactions of anger at the victimization of innocent children that actually increase the likelihood of recidivism.<sup>75</sup> There is still no data to show that residency restrictions are effective.<sup>76</sup> Likewise, critics of the bill are appalled at the “fundamental unfairness of a law that would subject someone convicted of consensual sex as a teenager to the same restriction applied to a 35-year-old who preyed on 11-year-olds.”<sup>77</sup> Some of these same concerns are voiced in the Minority Report on the House Judiciary Non-Civil Committee’s consideration of HB 908. There are strong concerns that SB 1 will likely be struck down as unconstitutional, potentially under the takings clause of the Georgia Constitution, for the following reasons: there is no provision for renters, all offenders are treated the same regardless of their offense, and there is no exemption for nursing home residents and others who do not pose a threat.<sup>78</sup>

Approximately ninety percent of sexual offenses against children are committed by someone they know, and residency restrictions perpetuate the myth that children face the greatest danger from strangers.<sup>79</sup> There have been numerous law enforcement, community corrections, sexual offender assessment and treatment professionals, and victims’ advocates pointing out the undesirable and unintended consequences of residency restrictions.<sup>80</sup>

Representative David Ralston (R-7th) responded to the criticism of the Act: “I encouraged opponents of the bill to bring their own legislation to the table and would have gladly put any legislation through the same rigorous committee process that HB 908 went

*Easing Restrictions That Critics Say Provide a False Sense of Security and Often Make Felons Tougher to Monitor*, USA TODAY, Feb. 26, 2007, at 1A; J. Tom Morgan, *Sex Offender Registry: Law Weakens Rights, Offers Little Security*, ATLANTA J.-CONST., Aug. 22, 2006, at 11A; Bill Rankin, *Sex Offender Law in Doubt: Opinion on Ruling: Residency Restrictions May Be Invalid, but Sheriffs Want Clarification*, ATLANTA J.-CONST., Nov. 27, 2007, at 1B.

75. Downey, Maureen, Editorial, *Instinctive, Ill-advised: Reinstating Draconian Work, Residency Rules on Sex Offenders Will Force Predators Underground*, ATLANTA J.-CONST., Jan. 18, 2008, at A14.

76. *Id.*

77. *Id.*

78. MINORITY REPORT, *supra* note 1.

79. Howard N. Snyder, National Center for Juvenile Justice, *Sexual Assault of Young Children as Reported to Law Enforcement: Victim, Incident, and Offender Characteristics*, July 2000, at 10, <http://www.ojp.usdoj.gov/bjs/pub/pdf/saycrle.pdf>.

80. See sources cited *supra* note 73.

through; none of the bill's opponents chose to drop legislation dealing with the thousand foot restrictions."<sup>81</sup> He went on to say that: "we wrote what we believed was the best law to...protect Georgia's children from sexual criminals and comport with the state Supreme Court's understanding of the constitutional limitations of the thousand foot restrictions."<sup>82</sup>

Senator Eric Johnson argued that the underlying acts requiring any sexual predator to register with the state are severe enough that "society has a right to assume that you're a danger, particularly to children. So I have no objections to limiting where they can live and stay and who they can photograph and what you can do."<sup>83</sup> Johnson acknowledged that failing to distinguish between the underlying crimes resulting in registration with the state posed potential problems; however, "at some point you've got to decide whether you've got to take more concern about the criminal than you are about the potential victims."<sup>84</sup> He stated that it is the responsibility of legislators to give law enforcement "a system of tools" to apply appropriately, and "if you don't give them that flexibility, then potentially you're going to have some kid caught up, and be made a victim."<sup>85</sup>

There are also concerns about passing a law that may not pass constitutional muster.<sup>86</sup> While the exemption for property owners attempts to address the decision by the Georgia Supreme Court in *Mann v. Georgia Department of Corrections*<sup>87</sup> that residency restrictions permit a regulatory taking without just compensation, more constitutional challenges remain.<sup>88</sup>

### *Post-Script*

On October 27, 2008, the Georgia Supreme Court struck another blow to sex-offender residency restrictions when it issued *Santos v.*

81. Ralston Interview, *supra* note 13.

82. *Id.*

83. Johnson Interview, *supra* note 17.

84. *Id.*

85. *Id.*

86. Minority Report, *supra* note 1.

87. *Mann v. Ga. Dep't of Corr.*, 282 Ga. 754, 760 (2007).

88. See MINORITY REPORT, *supra* note 1.

*State*.<sup>89</sup> Santos was a homeless registered sex offender who was asked to leave the shelter where he had been living.<sup>90</sup> He then did not have an “address that complied with the requirements of OCGA § 42-1-12(a)(1),” and was arrested.<sup>91</sup> The Georgia Supreme Court held the statute was unconstitutionally vague as applied, in that it did not give fair notice of how Santos could comply with the requirements.<sup>92</sup> It seems that court challenges to sex offender residency restrictions will likely continue.

*Madison Burnett & Ashley Fuller*

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89. Santos v. State, 284 Ga. 514, 514 (2008).

90. *Id.* at 514.

91. *Id.*

92. *Id.* at 514–16.