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CRIMES AND OFFENSES

Sexual Offenses: Prohibit Sexual Predators from Residing Within Proximity of Schools or Areas Where Minors Congregate

CODE SECTIONS:	O.C.G.A. §§ 16-6-3 (amended), 42-1-13 (new)
BILL NUMBER:	SB 101
ACT NUMBER:	382
GEORGIA LAWS:	2003 Ga. Laws 878
SUMMARY:	The Act enhances Georgia's version of "Megan's Law" by forbidding any person required to register under the state's sex offender registry from living within 1000 feet of a childcare facility, a school, or an area where minors congregate. The Act also expands the offense of prostitution of persons under the age of 18 to include "keeping a place of prostitution."
EFFECTIVE DATE:	June 4, 2003

History

1000-Foot Buffer Zone

Having "work[ed] on children's issues for some time," Senator David Adelman of the 42nd district acknowledged that no simple solution exists to prevent sexual predators from "strik[ing] again."¹ However, studies show that sexual predators tend to strategically place themselves near potential victims.² Concerned about children's vulnerability to sexual predators, Senator Adelman authored and sponsored a bill that would provide a "buffer zone" between areas where children congregate and areas where registered sex offenders

1. See David Adelman, *Common Sense: Convicted Sexual Predators and Children Don't Mix*, DECATUR-DEKALB NEWS/ERA, Sept. 18, 1997.

2. See *id.*

may live.³ He modeled SB 101 after similar legislation adopted in 11 other states.⁴

Although lobbyists and legislators did not openly oppose the Act,⁵ this enhancement to Megan's Law⁶ does entail serious considerations of basic individual liberties.⁷ However, the new law is based on the principle that the public's interest in protecting children outweighs the right of an individual who has been convicted of a sex crime to choose where he lives without any limitations.⁸ Because these convicted sexual offenders are "virtually impossible to rehabilitate and these crimes are so difficult to detect and control, those persons who are convicted of sexual offenses against children and thus, are apt to be repeat offenders, must have at least some restrictions on the location of their residence."⁹

Prostitution

"Between 100,000 and 300,000 U.S. children are exploited [as prostitutes] each year," and this is "the most extreme form of child abuse."¹⁰ "Kids are bought, sold and told that no one will ever love them."¹¹ In light of these staggering numbers, and the evident problem shadowing Georgia's vulnerable and innocent, the Georgia General Assembly passed Act 19 in 2001 to increase the penalties for pimping child prostitutes.¹² However, a loophole existed: Act 19 did not specifically provide a penalty for keeping places of prostitution

3. See Electronic Mail Interview with Sen. David Adelman, Senate District No. 42 (Apr. 10, 2003).

4. *Id.*; Telephone Interview with Sen. David Adelman, Senate District No. 42 (May 27, 2003) [hereinafter Adelman Interview Two]; see, e.g., FLA. STAT. ch. 948.03 (2002) (prohibiting sexual offenders from living within 1000 feet of places where children regularly congregate); see Adelman, *supra* note 1.

5. See Telephone Interview with Terry Ann Edwards, Press Assistant, Georgia Senate Information (May 9, 2003).

6. Congress enacted Megan's Law in 1996 after seven-year-old Megan Kanka was raped and murdered. Klaas Kids Foundation, *Megan's Law by State*, at <http://www.klaaskids.org/pg-legneg.htm> (last visited May 27, 2003). The law (1) requires sex offenders to register with the state and (2) requires states to reveal to the public certain "private and personal information [about] registered sex offenders." *Id.*

7. See Adelman, *supra* note 1.

8. See *id.*; Electronic Mail Interview with Sen. David Adelman, Senate District No. 42 (Oct. 16, 2003).

9. See Adelman, *supra* note 1.

10. Daniella Aird, *Child Prostitution Focus of Two-Day Justice Conference; Officials Seek Ways to Stop Exploitation*, ATLANTA J. CONST., Dec. 14, 2002, at A13.

11. *Id.* (quoting Kelly Hill, a former child prostitute).

12. See Paul Menair, *Review of Selected 2001 Georgia Legislation*, 18 GA. ST. U. L. REV. 32 (2001).

where pimping and pandering of children occur.¹³ Thus, while the penalty for pimping a child was more severe than the penalty for pimping an adult, courts could not impose the more severe punishment on offenders keeping a place of prostitution for a child.¹⁴ For example, Senator Vincent Fort of the 39th district reported that there was a case in Atlanta involving underage children in a sex show.¹⁵ In that case, while the State charged the individuals responsible for conducting the show under the harsher pimping children law, the State could not punish the property owners and the organizers more severely for keeping a house of prostitution featuring children than it could charge them for keeping a house of prostitution featuring adults.¹⁶ Act 382 closes this loophole.¹⁷

SB 101

Introduction

Senators David Adelman of the 42nd district, Charlie Tanksley of the 32nd district, Kasim Reed of the 35th district, Bill Hamrick of the 30th district, and Rene D. Kemp of the 3rd district sponsored SB 101, which was introduced to the Senate on February 10, 2003.¹⁸ The bill was assigned to the Senate Judiciary Committee, which favorably reported a Committee substitute on February 27, 2003.¹⁹ On March 26, 2003, the Senate unanimously passed SB 101 after adopting the Committee substitute and a floor amendment.²⁰

The Speaker referred the bill to the House Judiciary Committee, which favorably reported the bill on April 9, 2003.²¹ The House voted unanimously to pass SB 101 on April 14, 2003.²² The General

13. See Audio Recording of Senate Proceedings, Mar. 26, 2003 (remarks by Sen. Vincent Fort), at <http://www.ganet.org/services/leg/audio/2003archive.html> [hereinafter Senate Audio].

14. Telephone Interview with Sen. Vincent Fort, Senate District No. 39 (May 27, 2003) [hereinafter Fort Interview].

15. *Id.*

16. *Id.*

17. *Id.*

18. See SB 101, as introduced, 2003 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, SB 101, Apr. 25, 2003.

19. See State of Georgia Final Composite Status Sheet, SB 101, Apr. 25, 2003.

20. See *id.*; Georgia Senate Voting Record, SB 101 (Mar. 26, 2003).

21. See State of Georgia Final Composite Status Sheet, SB 101, Apr. 25, 2003.

22. See *id.*; Georgia House of Representatives Voting Record, SB 101 (Apr. 9, 2003).

Assembly forwarded the bill to Governor Sonny Perdue, who signed the bill into law.²³

Senate Consideration

As introduced, SB 101 contained three basic parts: (1) definitions; (2) provisions forbidding those required to register under Code section 42-1-12 from living “within 1,000 [sic] feet of any child care facility, school, or area where minors congregate”; and (3) a penalty provision for knowing violations.²⁴ The Senate Committee favorably reported a substitute to SB 101.²⁵ The Committee substitute would have added subsection (d) to new Code section 42-1-13, which provided that the Code section created no civil or criminal cause of action against entities not required to register as sex offenders.²⁶ The Senate Committee intended the new subsection to “reassure the real estate industry that landlords would not be held civilly liable if they rented to those on the registry.”²⁷ Senator Adelman’s intention was to burden offenders, not landlords.²⁸

Senate Passage

The Senate adopted the Committee substitute as well as a floor amendment.²⁹ The amendment was a rider, originally found in SB 77.³⁰ The floor amendment’s added language closed the loophole created in 2001 when the General Assembly amended Code section 16-6-13.³¹ The bill’s language in section 1.1 adds persons who keep a

23. See 2003 Ga. Laws 879.

24. See SB 101, as introduced, 2003 Ga. Gen. Assem. A violator is guilty of a felony punishable by one to three years imprisonment. *Id.*

25. See State of Georgia Final Composite Status Sheet, SB 101, Apr. 25, 2003.

26. Compare SB 101, as introduced, 2003 Ga. Gen. Assem., with SB 101 (SCS), 2003 Ga. Gen. Assem.

27. Adelman Interview Two, *supra* note 4.

28. *Id.*

29. See State of Georgia Final Composite Status Sheet, SB 101, Apr. 25, 2003.

30. SB 77 was part of the Lieutenant Governor’s package. Republican Senators in the Rules Committee suppressed it. See Fort Interview, *supra* note 14. Senator Fort had the opportunity to add the language from SB 77 as section 1.1 of SB 101. See *id.* Compare SB 77, as introduced, 2003 Ga. Gen. Assem., with SB 101 (SFA), 2003 Ga. Gen. Assem.

31. See Senate Audio, *supra* note 13 (remarks by Sen. Vincent Fort).

place of prostitution for the pimping and pandering of minors to the felony statutes for child prostitution.³²

The Act

The Act adds Code section 42-1-13 to provide: (1) applicable definitions; (2) provisions forbidding those who have to register under Code section 42-1-12 from living “within 1,000 [sic] feet of any child care facility, school, or area where minors congregate”; and (3) consequences, in the form of a felony punishable by one to three years imprisonment, for anyone who knowingly violates this Code section.³³ However, the Act creates no civil or criminal cause of action against those not required to register as sex offenders.³⁴

The Act also amends Code section 16-6-13, making the punishment of those who keep a place of prostitution the same as those convicted of pimping or pandering children under the age of 18.³⁵

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32. See SB 101 (SFA), 2003 Ga. Gen. Assem.

33. See O.C.G.A. § 42-1-13 (Supp. 2003).

34. See *id.*

35. Compare 1968 Ga. Laws 1249, § 1 (formerly found at O.C.G.A. § 16-6-13(b) (Supp. 2002)), with O.C.G.A. § 16-6-13(b) (Supp. 2003).