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PENAL INSTITUTIONS

Pardons and Paroles: Provide Notice Requirement for Release of Sexual Offenders

CODE SECTION: O.C.G.A. § 42-9-44.1 (new)
BILL NUMBER: HB 1229
ACT NUMBER: 1036
SUMMARY: The Act requires that as a condition of parole a person who has been convicted of certain sexual offenses give notice of his or her release to the superintendent of the public school district and the sheriff of the county where the parolee will reside. The Act also requires the sheriff of each county to maintain a register of the names and addresses of these parolees keep the register open for public inspection.
EFFECTIVE DATE: July 1, 1994

History

Because child molesters are likely to be repeat offenders and their crimes mark children for life, Representative Melanie Harris introduced a bill that would alert authorities, school officials, and the public to a potential danger in their school districts.¹ Previous Georgia law did not provide a way to screen potential softball team coaches, substitute teachers, and people in similar positions dealing with children.² Constituents were concerned about the lack of prescreening of applicants for these types of positions.³

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The Act requires as a condition of parole that people convicted of certain sexual offenses provide certain information to the superintendent of the public school district and the sheriff of the county in which the parolee will reside.⁴ This information should include the parolee's name and address, the crime for which the parolee was

1. Interview with Rep. Melanie Harris, House District No. 17, in Atlanta (Mar. 21, 1994) [hereinafter Harris Interview I].

2. *Id.* For example, Rep. Harris cited an instance in which a parole officer discovered after a girl's softball coach had been hired that the coach was a convicted pedophile. *Id.*

3. *Id.*

4. O.C.G.A. § 42-9-44.1(b) (1994).

convicted, and the date of parole.⁵ The sheriff of each county is required to maintain a register of all names and addresses provided.⁶ The register is open for public inspection and thus furthers the Act's underlying purpose of providing communities with notice.⁷ The Act defines "sexual offense" for the purposes of the new Code section.⁸ This definition includes certain crimes if the victim was under the age of eighteen at the time the crime was committed.⁹ The definition also includes certain crimes if the victim was under the age of fourteen.¹⁰

The Act also requires the offender to provide the required information within ten days of his or her release on parole or within ten days of establishing residency "in the locale where the offender plans to have his or her domicile."¹¹ If any sex offender transfers legal residence to another county within the state, the offender shall provide the required notice within ten days of the move.¹²

The Act further provides that if the paroled sex offender fails to comply with the requirements of this Act or provides false information the offender will be in violation of parole and be guilty of a misdemeanor.¹³ Finally, the Act provides that the requirements of this Act terminate when the offender is no longer on parole.¹⁴

HB 1229, as originally introduced, contained subsections which were later deleted. The original bill required that an offender provide notice of parole to any adult person living within a one-mile radius of the offender's intended residence if the residence was to be in a rural area or to any adult person living within a three-square-block area if the residence was to be in an urban or suburban area.¹⁵ The original bill was modeled after a similar law in Louisiana; however, Louisiana

5. *Id.*

6. *Id.* § 42-9-44.1(e) (1994).

7. Harris Interview I, *supra* note 1.

8. O.C.G.A. § 42-9-44.1(a) (1994).

9. *Id.* These crimes includes rape (16-6-1); sodomy or aggravated sodomy (16-6-2); sexual assault against a person in custody of the law or a person detained or admitted to a hospital (16-6-5.1); sexual assault by a practitioner of psychotherapy against a patient (16-6-5.1); incest (16-6-22); and aggravated sexual battery (16-6-22.2). *Id.*

10. *Id.* § 42-9-44.1(a) (1994). These crimes include statutory rape (16-6-3); child molestation and aggravated child molestation (16-6-4); enticing a child for indecent purposes (16-6-5). *Id.*

11. *Id.* § 42-9-44.1(b)(2) (1994).

12. *Id.* § 42-9-44.1(c) (1994).

13. *Id.* § 42-9-44.1(d) (1994).

14. *Id.* § 42-9-44.1(f) (1994). The Act does not address whether the information is deleted from the register once the offender is no longer on parole. The sheriff has discretion to decide whether the information is removed. The Pardons and Parole Board may, in the future, create a procedure to remove a parolee's information. Telephone Interview with Rep. Melanie Harris, House District No. 17 (Sept. 6, 1994).

15. HB 1229, as introduced, 1994 Ga. Gen. Assem.

experienced problems in administering the neighborhood notification provision.¹⁶ Georgia's notice provision was deleted in the Judiciary Committee's substitute bill because parole officers would have had difficulty supervising the notice requirement and it would have been expensive for parolees.¹⁷

The substitute proposed by the Judiciary Committee also deleted a subsection which required the notice to be published in the official organ of the county where the offender planned to live.¹⁸ This provision was removed because there were concerns about marking the offender for life.¹⁹ The bill's sponsor compromised on this publication requirement because it was intended only as a backup for the neighborhood notification.²⁰

The Judiciary Committee also deleted a provision which required the board to mail notice to the victim if the victim did not attend the offender's parole hearing.²¹ This was deleted because Georgia law already requires such notice.²²

The Judiciary Committee substitute clarified the first section of the original bill by specifying for which crimes the victim had to be under eighteen years of age and for which crimes the victim had to be under fourteen years of age.²³

The bill then went back to the House, and a floor amendment deleted a provision requiring the school superintendent to give notice of a parolee's name, address, and crime to the principal of each public school within that district.²⁴ This floor amendment responded to concerns that such a requirement placed too much of a burden on superintendents.²⁵ The Judiciary Committee's version with the floor amendment passed the House on March 1, 1994.²⁶

The Senate version changed the time within which a parolee was required to give notice of release from thirty days of release on parole or within thirty days of setting up residency to ten days of release on

16. *Id.*; see LA. REV. STAT. ANN. § 15:574.4 (West 1994).

17. Harris Interview I, *supra* note 1; see HB 1229 (HCS), 1994 Ga. Gen. Assem.

18. See HB 1229 (HCS), 1994 Ga. Gen. Assem.

19. Harris Interview I, *supra* note 1.

20. *Id.*

21. HB 1229 (HCS), 1994 Ga. Gen. Assem.

22. O.C.G.A. § 42-9-46 (1991); Harris Interview I, *supra* note 1.

23. HB 1229 (HCS), 1994 Ga. Gen. Assem. The original bill stated: "As used in this Code Section, the term 'sexual offense' means a violation of Code section 16-6-1, 16-6-2, 16-6-3, 16-6-4, 16-6-5, 16-6-5.1, 16-6-22, or 16-6-22.2, when the victim was under 18 years of age at the time of the commission of the offense." HB 1229, as introduced, 1994 Ga. Gen. Assem.; see *supra* notes 8-10 and accompanying text.

24. HB 1229 (HCSFA), 1994 Ga. Gen. Assem. This provision was contained in the original version as introduced. HB 1229, as introduced, 1994 Ga. Gen. Assem.

25. Harris Interview I, *supra* note 1.

26. Final Composite Status Sheet, Mar. 16, 1994.

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parole or setting up residency.²⁷ This change was intended to expedite the notice process.²⁸

The Senate also added a new subsection which provided that the notice requirement would terminate upon satisfaction of an offender's parole terms.²⁹ The Senate version passed on March 8, 1994 and the House approved the Senate version on March 9, 1994.³⁰

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27. HB 1229 (SCSFA), 1994 Ga. Gen. Assem.

28. Harris Interview I, *supra* note 1.

29. HB 1229 (SCSFA), 1994 Ga. Gen. Assem.

30. Final Composite Status Sheet, Mar. 16, 1994.