



# GEORGIA STATE SENATE

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## THE SENATE STUDY COMMITTEE ON THE SEXUAL OFFENDER REGISTRY- SUMMARY OF MEETINGS

### COMMITTEE MEMBERS

Senator Jeff Mullis – Chair  
District 53

Senator Gloria Butler  
District 55

Senator Jesse Stone  
District 23

Senator Harold Jones  
District 22

Senator Renee Unterman  
District 45

Prepared by the Senate Research Office  
2016

## **COMMITTEE FOCUS, CREATION, AND DUTIES**

The Senate Sexual Offender Registry Study Committee was created by Senate Resolution 1032 to examine ways in which Georgia's approach to monitoring the activities of registered sexual offenders can be enhanced and strengthened.

Senator Jeff Mullis of the 53<sup>rd</sup> chaired the Committee. Senator Gloria Butler of the 55<sup>th</sup>, Senator Harold Jones of the 22<sup>nd</sup>, Senator Jesse Stone of the 23<sup>rd</sup>, and Senator Renee Unterman of the 45<sup>th</sup> also served on the Committee. The Committee met on November 3, 2016 at the Dade County Court House and on November 28, 2016 at the State Capitol.

The Committee heard official testimony from Ms. Dawn Diedrich, Director of Office Privacy and Compliance for the Georgia Bureau of Investigation (GBI); Ms. Jessica Castillo, a Dade County constituent; Mr. Vernon Keenan, Director, GBI; Lt. Hailey Geddie, Assistant Jail Administrator for the Dade County Sheriff's Office; Mr. Anre' Washington, Outreach Manager for Voices for Georgia's Children; Ms. Nelly Miles, Public Affairs Director, GBI; John Smith, Director of Legislative Affairs for the Georgia Department of Juvenile Justice (DJJ); Ashley Fielding, Director of Legislative Affairs and Communications for the Department of Human Services (DHS); Mitzie Smith, Policy and Regulations Director for the Division of Family and Children Services (DFCS); Captain Stryde Jones, Lowndes County Sheriff's Office; and Joseph Drolet, Esq., Senior Assistant Attorney General of the Attorney General's Office.

## **BACKGROUND**

Pursuant to O.C.G.A. §42-1-12, the Georgia Bureau of Investigation (GBI) is the central repository for Georgia's Violent Sexual Offender Registry. The statute was enacted in 1996 and has undergone two revisions; one in 2006 and one in 2010.

Pursuant to statute, sexual offenders released from prison, placed on supervised release, or placed on probation on or after July 1, 1996 must register as a sex offender in Georgia. Prior to release, the appropriate prison official must provide the GBI and the local sheriff's office with where the offender will reside, the required registration information, and the offender's risk assessment classification level. Pursuant to Georgia statute, sex offenders can either be classified as a Level I, Level II, or sexually dangerous predator. Risk classifications are based on the offender's likelihood of reoffending. Furthermore, the offender's full name must be added to the Sexual Offender Registry maintained by the GBI and the offender's local sheriff's office registry prior to release.

## **MEETING TESTIMONY**

All testimony reflected in this report is limited to the information that was provided to the Committee at its public meetings. This section provides a summary of each meeting, including the names and affiliations of the individuals who were asked to provide testimony to the Committee. Although the testimony has been condensed for the purpose of this report, a copy of all presentations and materials submitted to the Committee are kept on file in the Senate Research Office.

## A. Meeting 1: November 3, 2016

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The Committee's first meeting consisted of an overview of how the Georgia Sexual Offender Registry ("Registry") operates and flushed out some of its potential problems in application relating to out-of-state sexual offenders. Testimony and presentations were provided by the following individuals and entities:

- Jessica Castillo, constituent, Dade County.
- Dawn Diedrich, Esq., Director of Privacy and Compliance, Georgia Bureau of Investigation (GBI).
- Vernon Keenan, Director, GBI.
- Lieutenant Hailey Geddie, Assistant Jail Administrator, Dade County Sheriff's Office.
- Nelly Miles, Public Affairs Director, GBI.
- Anne' Washington, Outreach Manager, Voices of Georgia's Children.

### The Public's Concern

Ms. Castillo, a Dade County resident, opened the meeting. Ms. Castillo testified that her son is currently enrolled in a Dade County elementary school. She stated that while on her Facebook page, she noticed that the Dade County Sheriff's Office had posted updated information concerning their Sexual Offender Registry. Ms. Castillo clicked on the link provided by the Sheriff's Office, to familiarize herself with any potentially new offenders in her area. While scrolling through the registry, she recognized the face of a man who she identified as being present at her son's school and at the neighborhood park. Studying the registry more closely, Ms. Castillo learned that the identified man had been convicted of child molestation and child assault in the neighboring state of Alabama.

Ms. Castillo promptly contacted local law enforcement and her legislator, Senator Jeff Mullis, knowing that convicted sex offenders are prohibited from frequenting schools and other areas where minors congregate. Ms. Castillo testified that she was erroneously told that there were no laws preventing the convicted sex offender from being where he was. Ms. Castillo's testimony prompted legislators to take a closer look at the laws surrounding Georgia's Sexual Offender Registry and how both in-state and out-of-state sex offenders are being monitored.

### Out-of-state Sexual Offenders

Serving as the meeting's only presenter, Dawn Diedrich, Esq. provided an overview of the Registry and discussed some of its potential problems. Because the Dade County constituent mentioned above reported an incident with an out-of-state sex offender, Ms. Diedrich drew the Committee's attention to sections of the statute that specifically provide for out-of-state sex offenders. As of November 2016, the Georgia Crime Information Center reported that out of Georgia's 28,868 total registered sex offenders, 7,940 of them are out-of-state offenders.

O.C.G.A. §42-1-12(e) details who must register as a sex offender in Georgia. Specific language contained within two subsections of the statute was the topic of discussion amongst the Committee as those subsections leave substantial room for interpretation. Subsection (e)(5) of the statute provides that residents of Georgia who are convicted of a sexual crime against a minor, *under the laws of another state or the United States, under Uniform Code of Military Justice, or in a tribunal court* must register as a sex offender in Georgia. Subsection (e)(6) of the statute provides similar language but provides that non-residents of Georgia who change their residence from another state or place to Georgia, and who

are convicted of a sex crime against a minor, *under the laws of another state or the United States, under Uniform Code of Military Justice, or in a tribunal court* must also register as a sex offender in Georgia.

Neither subsection listed above, provides for those sex offenders convicted of a sexual crime against a minor in another country. Ms. Diedrich testified that several years ago, a man convicted of a sexual crime against a minor from Japan moved to Georgia. The issue became whether the Japanese man was required under Georgia's registry statute to register as a convicted sex offender. Amending the statute to include immigration law was a suggested remedy by the Committee.

#### Out-of-State Offender Compliance

Another source of the Committee's concern dealt with out-of-state offender compliance. Senator Unterman mentioned that larger counties in Georgia may find it more difficult to monitor the registration of sex offenders. Ms. Diedrich agreed. Moreover, Lieutenant Geddie of the Dade County Sheriff's Office added that challenges arise when working with out-of-state agencies to receive offender's records. However, testimony suggests that interstate relations appear to be improving.

#### Registration Fee

Lastly, the Registry statute mandates that convicted sex offenders must pay \$250.00 to register in Georgia. Ms. Diedrich testified that such a fee is too high in that sex offenders attempting to register have just been released from prison and often have no money. Thus, the fee largely remains uncollected.

### **B. Meeting 2: November 28, 2016**

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The Committee's second and final meeting primarily consisted of testimony on four topics: (1) registration of juvenile sexual offenders; (2) county disparities; (3) sexual offender residency requirements; and (4) *Sexual Offender Registration Review Board v. Berzett*, a case currently before the Georgia Supreme Court. Testimony and presentations were provided by the following individuals and entities:

- John Smith, Director of Legislative Affairs, Georgia Department of Juvenile Justice (DJJ);
- Ashley Fielding, Director of Legislative Affairs and Communications, Department of Human Services (DHS);
- Mitzie Smith, Policy and Regulations Director, Division of Family and Children Services (DFCS);
- Captain Stryde Jones, Lowndes County Sheriff's Office;
- Dawn Diedrich, Esq., Director of Privacy and Compliance, GBI; and
- Joseph Drolet, Esq., Senior Assistant Attorney General, Attorney General's Office.

#### Juvenile Sexual Offenders

Testifying on behalf of the DJJ, John Smith noted that the Georgia Sexual Offender Registry does not include juveniles. Rather, juvenile offenders who have engaged in sexually deviant behavior are under the custody of the DJJ. However, pursuant to Senate Bill 440 which was enacted in 1994, those juvenile offenders who have committed various violent felonies, adjudicated as adults, and sentenced to prison ("SB 440 youth"), are housed in a youth facility under the custody of the Department of Corrections (DOC) rather than the DJJ.

Although juveniles do not appear on the Georgia Sexual Offender Registry, pursuant to House Bill 905 which was enacted in 2016, juvenile sex offenders can be listed on the Division of Family and Children Services (DFCS) registry. HB 905 provides that the DFCS must establish and maintain a central child abuse registry. Included within the registry are youth who are alleged child abusers. Alleged child abusers included within the registry must be at least 13 years of age at the time the act was committed. Juveniles are removed from the registry upon reaching 18 years of age. Noteworthy, the DFCS registry is restricted from public view as it is only used for internal use. However, individuals can request to see if their own name appears on the registry. Mr. Smith testified that there are currently 38 states that have youth registries. Each state varies as to how their youth registry functions.

Furthermore, appearing jointly before the Committee, Ashley Fielding and Mitzie Smith testified that the Georgia Sexual Offender Registry serves as an important tool for DFCS and DHS. DFCS interacts with the Georgia Sexual Offender Registry in two ways. First, every alleged abuser contained within a report of abuse or neglect is checked to see whether the individual appears on the Registry. Second, DFCS uses the Registry during the process of approving potential foster parents to adopt.

#### County disparities

Captain Stryde Jones testified and provided the Committee with an understanding of how the Registry is implemented by local law enforcement. Captain Jones explained that each county's law enforcement agency varies as to how important they view sexual offender monitoring. Some counties, such as Lowndes, assign a high level of importance to monitoring and employ a full-time staff member devoted to ensuring that sex offenders are complying with state and local law. It was also noted that counties vary in the amount of resources available to monitor sex offenders. For example, some counties lack the resources to fund a full-time employee dedicated purely to monitoring.

#### Sexual Offender Residency Requirements

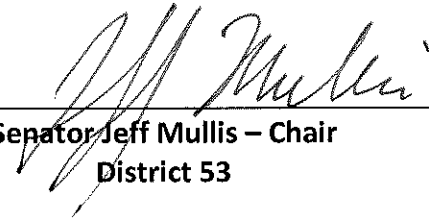
O.C.G.A. §42-1-15 provides the residency requirements for registered sex offenders. Of particular interest to the Committee was the "1,000 foot Rule." Embedded within the residency statute, the 1,000 foot Rule provides that registered sex offenders are prohibited from residing within 1,000 feet of any child care facility, school, or church, or area where minors congregate. When asked about the potential problems of the 1,000 foot Rule, Captain Stryde testified that complying with the rule can leave offenders with little to no choices when looking for a place to live.

#### Sexual Offender Registration Review Board v. Berzett

Lastly, Mr. Drolet closed the meeting with discussion of *Sexual Offender Registration Review Board v. Berzett*, a case he is trying before the Georgia Supreme Court. *Berzett* primarily deals with the requisite statutory classifications of sex offenders and raises several constitutional challenges. Defendant Berzett, a convicted sex offender, argues that the risk classification procedure was not in place when he was arrested or convicted, and thus, his classification violates the Ex Post Facto Clause of the U.S. Constitution. Berzett also argues that having to wear an ankle bracelet as a form of monitoring is cruel and unusual punishment in violation of the Eight Amendment. Senator Mullis indicated that the Committee would be following the *Berzett* case in an effort to help guide them in making future decisions about the Registry. The Georgia Supreme Court heard Oral Argument in the *Berzett* case on December 12, 2016.

Respectfully Submitted,

**THE SENATE STUDY COMMITTEE ON THE SEXUAL OFFENDER REGISTRY**



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**Senator Jeff Mullis – Chair  
District 53**