

Senate Bill 37

By: Senators Jones of the 10th, Weber of the 40th, Reed of the 35th, Brown of the 26th, Tate of the 38th and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Code Section 17-10-1 of the Official Code of Georgia Annotated, relating to
 2 fixing and changing of sentence, suspension or probation of sentence, eligibility for parole,
 3 and prohibited modifications and exceptions, so as to allow a change of sentence under
 4 certain circumstances; to provide for an effective date; to provide for related matters; to
 5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 SECTION 1.

8 Code Section 17-10-1 of the Official Code of Georgia Annotated, relating to fixing and
 9 changing of sentence, suspension or probation of sentence, eligibility for parole, and
 10 prohibited modifications and exceptions, is amended by revising subsection (f) as follows:

11 "(f)(1) Except as provided in paragraph (2) of this subsection, within ~~Within~~ one year of
 12 the date upon which the sentence is imposed, or within 120 days after receipt by the
 13 sentencing court of the remittitur upon affirmance of the judgment after direct appeal,
 14 whichever is later, the court imposing the sentence has the jurisdiction, power, and
 15 authority to correct or reduce the sentence and to suspend or probate all or any part of the
 16 sentence imposed. Prior to entering any order correcting, reducing, or modifying any
 17 sentence, the court shall afford notice and an opportunity for a hearing to the prosecuting
 18 attorney. Any order modifying a sentence which is entered without notice and an
 19 opportunity for a hearing as provided in this subsection shall be void.

20 (2) If a person was convicted prior to July 1, 2006, of the offense of:

21 (A) Sodomy and such person and the victim meet the criteria of subsection (d) of Code
 22 Section 16-6-2;

23 (B) Child molestation and such person and the victim meet the criteria of paragraph (2)
 24 of subsection (b) of Code Section 16-6-4;

25 (C) Aggravated child molestation and such person and the victim meet the criteria of
 26 paragraph (2) of subsection (d) of Code Section 16-6-4; or

1 (D) Enticing a child for indecent purposes and such person and the victim meet the
2 criteria of subsection (c) of Code Section 16-6-5,

3 at any date after which sentence was imposed, the court imposing the sentence has the
4 jurisdiction, power, and authority to correct or reduce the sentence and to suspend or
5 probate all or any part of the sentence imposed. Prior to entering any order correcting,
6 reducing, or modifying any sentence, the court shall afford notice and an opportunity for
7 a hearing to the prosecuting attorney. Any order modifying a sentence which is entered
8 without notice and an opportunity for a hearing as provided in this subsection shall be
9 void.

10 (3) This subsection shall not limit any other jurisdiction granted to the court in this Code
11 section or as provided for in subsection (g) of Code Section 42-8-34."

12 **SECTION 2.**

13 This Act shall become effective upon its approval by the Governor or upon its becoming law
14 without such approval.

15 **SECTION 3.**

16 All laws and parts of laws in conflict with this Act are repealed.