

Georgia Women for a Change 2010 General Assembly Final Report – June 8, 2010

The Georgia General Assembly adjourned on April 29, 2010, ending the longest session in recent memory. Concerns about the budget deficit dominated the session; consequently, very few substantive bills passed this year. Unless otherwise noted, bills that have been signed by Governor Perdue will be effective as of July 1, 2010. All bills that did not pass this session will need to be reintroduced in 2011 under a new bill number. The 2011 General Assembly will convene on January 10, 2011.

Commercial Sexual Exploitation of Children (CSEC) & Human Trafficking

HB 582: Rep. Wendell Willard introduced HB 582 at the request of GWC in the 2009 session. This bill would ensure that children under the age of 18 who are commercially sexually exploited would not be prosecuted for the offense of prostitution. Because these children are victims of child abuse, they should be provided with rehabilitative services rather than treated as offenders.

Status: Did not pass.

SB 304: This bill is very similar to HB 582 and was introduced by Sen. Renee Unterman this session. As introduced, this bill sets the minimum age for prostitution at the age of 16 years and clarifies that those who are involved in pimping or pandering of a minor under 16 can still be prosecuted. In light of some of the objections to the bill, Sen. Unterman offered a committee substitute with a very different approach. Rather than changing the minimum age for prostitution, the substitute changes the definition of “unruly” children to include those children who have been sexually exploited. The juvenile court has jurisdiction over unruly children and can refer them to appropriate services. Advocates from the religious right continued to object to this version of the bill, so it did not pass out of committee.

Status: Did not pass.

HB 889: Rep. Len Walker introduced this bill to ensure that those charged with serious criminal offenses will not be released on their own recognizance (known as “ROR” bonds) so that they can enter a pretrial diversion program. Pimping, child molestation, and enticing a child for indecent purposes are among the felonies for which ROR bonds will not be available.

Status: Passed and signed by Governor.

HB 884: Rep. Kevin Levitas introduced this bill to revise the definition of aggravated child molestation. The current definition includes child molestation that either physically injures the child or involves an act of sodomy. HB 884 would add an act of child molestation that is committed with force to this definition.

Status: Did not pass.

HB 1256: Rep. Judy Manning's bill also seeks to change the way we respond to children who have been sexually exploited. This bill would set the minimum age for prostitution at the age of 16 years and would direct law enforcement to take anyone under 16 years who is suspected of being involved in prostitution to the local DFCS office. DFCS would be responsible for notifying the child's parent, but if DFCS determines that the parent is unable to care for the child, DFCS would place the child in foster care.

Status: Did not pass.

SB 364: Rep. Cecil Staton introduced this bill to increase the penalties for massage parlors that offer sexual services, a significant problem in his district in Macon. SB 364 expands the abilities of the GA Board of Massage Therapy to investigate illegal massage services and take enforcement action. SB 364 expands current law to make it illegal for the business, not just the massage therapist, to advertise or offer massage services that involve sex. The bill also allows local governments to regulate the operation of such establishments. Violators may be subject to regulatory action by the Board as well as enhanced criminal penalties.

Status: Passed and signed by Governor.

Funding: Funding for the System of Care which provides services to CSEC victims was not changed in either the FY 2010 Amended Budget or the FY 2011 Budget.

Domestic Violence & Sexual Assault

Shelter & Rape Crisis Center Funding: In the FY 2010 Amended Budget and the FY 2011 Budget, state funding for domestic violence and sexual assault programs was reduced by \$300,000. However, legislators added \$300,000 in Temporary Assistance to Needy Families (TANF) funds to fill this gap in the FY 2010 Amended Budget. Although TANF funds have more restrictions than state funds, any reduction in the cuts is helpful in the current budget climate. The cut in state funding for FY 2011 was not filled by TANF funds.

Legislators added \$1.6M in TANF Emergency Funds for shelters available through federal stimulus funding. Shelters will need to provide 20% of the funds to draw down 80% in matching federal funds which can provide short-term non-recurring benefits to TANF-eligible domestic violence victims. Currently, the stimulus funds will expire on September 30, 2010, although Congress is considering an amendment that would extend the time to spend down these funds.

An effort to move all of the domestic violence and sexual assault funding out of DHS and into the Governor's Office on Children & Families (GOCF) did not succeed. The \$10.2M in state and federal funding for domestic violence programs and \$2.5M in state and federal funding for sexual assault programs was left in DHS for FY 2011.

GA Commission on Family Violence Funding: The Governor's budget proposed to eliminate 2 of the Commission's 6 staff positions and transfer the remaining 4 positions to the Governor's Office on Children & Families. The scope of the Commission's work

would have been dramatically impacted by the loss of 1/3 of its staff and the transfer to an agency that has not worked on domestic violence issues. The House rejected this change and moved the Commission to the Administrative Office of the Court (AOC). Although the Senate adopted the Governor's original proposal to move the Commission to GOCF, the final version of the budget transferred the Commission to the AOC and imposed a cut of about 10%. The Commission hopes that it will have the ability to continue its important work in the judicial branch.

HB 429: Rep. Sharon Cooper introduced this bill to allow pets to be protected in temporary protective orders (TPO's). HB 429 would create a new specific form of relief in a TPO and allow a court to award custody of a pet to a party and prohibit the other party from having contact with the pet.
Status: Did not pass.

HB 897/SB 300: These bills would remove consent as a defense to the offense of sexual assault by a teacher against a student. In a recent Georgia Supreme Court case, the Court noted that under current law, where a teacher is charged with having had sexual contact with a student, the student's consent to such contact is a complete defense. These bills would clarify that sexual contact between a teacher and a student constitutes sexual assault even where the student consents.
Status: Although neither bill passed, the language was added into HB 571 which did pass.

HB 1018: This bill would require the State Board of Education to adopt the Love is Not Abuse program in its teen dating violence prevention program.
Status: Did not pass.

HB 1181: Rep. Bobby Franklin introduced this bill to require that all references to "victim" be changed to "accuser" in several criminal statutes, including stalking, rape, and obscene telephone contact with a child.
Status: Did not pass.

HB 1183/SB 439: These bills would make the offense of incest gender-neutral. Currently, incest can only be committed between family members of the opposite sex (e.g. a father against a daughter but not a father against a son). These bills would expand the definition so that any sexual contact between family members, regardless of gender, could be prosecuted.
Status: Although neither bill passed, the language was added into HB 571 which did pass.

HB 1201: This bill would make the offense of rape gender-neutral. Currently, rape is defined as carnal knowledge of a female against her will. HB 1201 would redefine rape as carnal knowledge of a person against his or her will.
Status: Did not pass.

HB 1164: This bill would have significantly changed the requirements for verifying the status of immigrants who seek public benefits and who are arrested. It would have required verification of those seeking prenatal benefits and several other benefits important to women and children. It also would have required law enforcement to check the immigration status of all who are arrested which could have adversely affected victims of domestic violence who are improperly arrested when they call the police for help. GWC worked with Rep. Mike Jacobs, the subcommittee chair, to revise the bill and strike these portions of the bill.
Status: Did not pass.

HR 1751/SR 1369: These resolutions were sponsored by members of the Women's Caucus to commend the work of the Georgia Commission on Family Violence.
Status: Adopted.

SB 142: Sen. Seth Harp introduced this bill to create a Family Violence Offender Registry which would be maintained by the GBI, similar to the sex offender registry.
Status: Did not pass.

SB 291: Sen. David Shafer introduced this bill to allow firearms to be carried in airports in any area not regulated by the federal government. The bill also changes the procedures used by the Probate Court in issuing concealed carry permits, expands the list of those eligible for such a permit, and removes the Governor's ability to regulate firearms during a state of emergency.
Status: Passed but vetoed by the Governor.

SB 308: Sen. Mitch Seabaugh introduced this bill to dramatically expand the locations in which a firearm may be carried by a concealed-carry permit holder. Permit holders can now carry into bars where the owner allows firearms to be carried, in parks, and in parking lots of churches, schools, college campuses, airports, and government buildings, including courthouses and jails. SB 308 specifically excludes guns from the state Capitol. The bill also eliminates the ban on possessing weapons within 1,000 feet of a school.
Status: Passed and signed by Governor.

Sex Offenders

HB 571: Rep. David Ralston introduced this bill to clean up several portions of the sex offender statutes in response to legal challenges. It clarifies the registration requirements for homeless sex offenders and eliminates the requirement that offenders provide their email addresses and passwords. It also allows an offender to petition the court to be released from the residency and employment restrictions and changes the penalties for failing to register to 1-30 years for the first offense and 5-30 years for the second offense. The bill was amended to include the language from HB 897 and SB 439 (described above).
Status: Passed and signed by Governor.

HB 651: Rep. Amy Carter introduced this bill as a cost-savings measure to allow the Dept. of Education to notify schools of registered sex offenders electronically, rather than by mail as currently required.

Status: Passed and signed by Governor.

HB 1290: This bill would allow social networking sites to prohibit registered sex offenders from accessing these sites.

Status: Did not pass.

SB 145: This bill would allow a custody modification action to be filed if a custodial parent resides with or marries a sex offender.

Status: Did not pass.

Family Law

HB 954: This bill was introduced by Rep. Jay Powell and would prohibit the court from considering previous marriages or other relationships in determining the amount of alimony awarded in a divorce. Rep. Mary Margaret Oliver led the effort to defeat the bill on the floor of the House by a vote of 57-102.

Status: Did not pass.

HB 1046: This bill allows the Fulton County Superior Court judges to control the life of the Fulton Family Division. All family law matters are heard by three judges in the Family Division in Fulton County. This arrangement is currently a pilot project governed by the General Assembly. Under HB 1046, the duration of the project will be determined by a majority of the Fulton Superior Court judges.

Status: Did not pass.

SB 471: Sen. Seth Harp introduced this legislation to require a home study prior to placing a child with a non-relative for adoption. Adoption lawyers have expressed concerns that such a change would unnecessarily slow the placement process.

Status: Did not pass.

SB 491: Sen. Bill Cowser introduced this bill at the request of the Family Law Section of the State Bar of Georgia. It would clarify that Georgia courts could continue to exercise jurisdiction over individuals who move out of state to enforce divorce, child support, and child custody orders by contempt. The bill was amended to include the language from HB 545 which establishes a process to certify process-servers, allows service in gated and secured communities, and tolls the time to answer until after proof of service has been filed with the court.

Status: Passed and signed by Governor.