

**ADOPTED**

Senators Esteves of the 6th, Still of the 48th and Strickland of the 17th offered the following amendment:

1 *Amend the Senate Committee on Public Safety substitute to SB 512 (LC 39 4287S) by*  
2 *replacing line 17 with the following:*

3 above a certain age; to amend Code Sections 17-10-21 and 35-3-37 of the Official Code of  
4 Georgia Annotated, relating to vacating of sentence for trafficking victim defendants and  
5 review of individual's criminal history record information, definitions, privacy  
6 considerations, written application requesting review, and inspection, respectively, so as to  
7 authorize certain relief for defendants conditionally discharged for possession of controlled  
8 substances or sentenced as a first offender; to provide for related matters; to provide for a  
9 contingent effective date

10 *By inserting between lines 201 and 202 the following:*

11 Code Section 17-10-21 of the Official Code of Georgia Annotated, relating to vacating of  
12 sentence for trafficking victim defendants, is amended by revising paragraphs (1) and (4) and  
13 subparagraph (A) of paragraph (5) of subsection (a) as follows:

14 "(a)(1) A defendant convicted of an offense and sentenced, or a defendant sentenced  
15 pursuant to Code Section 42-8-60 or 16-13-2, as a direct result of the defendant being the  
16 victim of an offense of trafficking under Code Section 16-5-46 may petition the court  
17 imposing the sentence to vacate such conviction and sentence or such sentence imposed  
18 pursuant to Code Section 42-8-60 or 16-13-2. Such court shall maintain the jurisdiction,  
19 power, and authority to vacate such conviction and sentence."

20 "(4) If the prosecuting attorney, to the court, consents in writing to the vacatur of such  
21 conviction or fails to respond to such petition within 30 days of service, the court  
22 imposing the conviction and sentence or sentence imposed pursuant to Code

23 Section 42-8-60 or 16-13-2 shall, without notice or hearing, issue an order vacating the  
24 conviction and sentence and shall also issue an order restricting access to criminal history  
25 record information for such offense.

26 (5)(A) If the prosecuting attorney, to the court, objects in writing to the petition, the  
27 court shall hold a hearing within 90 days of the filing of the petition. The court shall  
28 hear evidence and determine, by a preponderance of the evidence, whether the  
29 defendant committed such offense as a direct result of being the victim of an offense  
30 of trafficking under Code Section 16-5-46. If the court finds, by a preponderance of the  
31 evidence, that the defendant committed such offense as a direct result of being the  
32 victim of an offense of trafficking under Code Section 16-5-46, the court may issue an  
33 order vacating the conviction and sentence or sentence imposed pursuant to Code  
34 Section 42-8-60 or 16-13-2. The vacatur of a sentence under this chapter or a sentence  
35 imposed pursuant to Code Section 42-8-60 or 16-13-2 shall result in the discharge and  
36 dismissal of the action."

### 37 SECTION 3-2.

38 Code Section 35-3-37 of the Official Code of Georgia Annotated, relating to review of  
39 individual's criminal history record information, definitions, privacy considerations, written  
40 application requesting review, and inspection, is amended by revising  
41 subparagraphs (A), (C), and (D) of paragraph (6) of subsection (j) as follows:

42 "(6)(A) A defendant convicted of an offense and sentenced, or a defendant sentenced  
43 pursuant to Code Section 42-8-60 or 16-13-2, while such individual was a victim of an  
44 offense of trafficking under Code Section 16-5-46 may petition the court imposing the  
45 sentence to restrict such conviction and sentence or such sentence imposed pursuant to  
46 Code Section 42-8-60 or 16-13-2. Such court shall maintain the jurisdiction, power,  
47 and authority to restrict such conviction and sentence."

48 "(C) If the prosecuting attorney, to the court, consents in writing to the restriction of  
49 such conviction and sentence or fails to respond to such petition within 30 days of  
50 service, the court imposing the conviction and sentence or sentence imposed pursuant  
51 to Code Section 42-8-60 or 16-13-2 shall, without notice or hearing, issue an order  
52 restricting ~~the conviction and sentence~~ access to the criminal history record of such  
53 offense.

54 (D) If the prosecuting attorney, to the court, objects in writing to the petition, the court  
55 shall determine, by a preponderance of the evidence, whether the defendant committed  
56 such offense while such individual was a victim of an offense of trafficking under Code  
57 Section 16-5-46. If the court finds, by a preponderance of the evidence, that the  
58 defendant committed such offense while such individual was a victim of an offense of  
59 trafficking under Code Section 16-5-46, the court may issue an order restricting ~~the~~  
60 ~~conviction and sentence~~ access to the criminal history record of such offense. The court  
61 shall hold a hearing within 90 days of the filing of the petition to hear evidence for  
62 purposes of making a determination under this subparagraph or make a determination  
63 upon the pleadings or record."

64

**PART IV**

65

**SECTION 4-1.**

66 *By replacing "SECTION 3-2." on line 210 with "SECTION 4-2."*