



83 Poplar St, NW
Atlanta, GA 30303
P. (404)688-1202
F. (404)688-9440
www.schr.org

Lisa Kung
Director

Stephen B. Bright
President and Senior Counsel

Charles J. Ogletree
Harvard Law School
Chair, Board of Trustees

Whitaker v. Perdue,
Civil Action No. 4:06-cv-140-CC (N.D. Ga. 2006)

Frequently Asked Questions

1. Where was this lawsuit filed?
2. Who is the lawsuit against?
3. Who is the Judge that is hearing this case?
4. How can I be part of the lawsuit?
5. Does the Whitaker case challenge all parts of HB 1059?
6. Will the Whitaker lawsuit affect people on the registry who are currently in prison?
7. Can SCHR help me with my criminal case?
8. If I have an individual lawsuit, will the *Whitaker v. Perdue* lawsuit affect it?
9. How can I get help obtaining unemployment benefits?
10. How will I stay updated on the case?
11. What changes did SB 1 make to the residency and employment restrictions?
12. If I live with a family member (wife, mother, father, sister, son, daughter, etc.) who owns his or her home, do the exemptions for homeowners in SB 1 apply to me?
13. Is the bus stop provision currently being enforced?
14. Does SB 1 prevent me from volunteering at my church?
15. How can I be removed from the Registry?

1. Where was this lawsuit filed?

This lawsuit was filed in the US District Court for the Northern District of Georgia in Rome.

2. Who is the lawsuit against?

The named Defendants include Governor Sonny Perdue, Attorney General Thurbert Baker, and Georgia Sheriffs.

3. Who is the Judge that is hearing this case?

U.S. District Judge Clarence Cooper is hearing this case.

4. How can I be part of the lawsuit?

This lawsuit is a class action. Everyone on the registry is already a part of this lawsuit.

5. Does the *Whitaker* case challenge all parts of HB 1059/SB1?

No. HB 1059 and SB 1 are poorly drafted laws with many unfair and unreasonable provisions. The *Whitaker* lawsuit addresses only some of the problems with the law, including the residency and work restrictions. The lawsuit does not challenge the provision that requires some people to be on the sex offender registry for life. It does not challenge the special

restrictions imposed upon the very small number of people classified as “sexually dangerous predators.” Neither does the lawsuit challenge the mandatory minimum terms of imprisonment that will apply to people convicted of certain crimes after July 1, 2006.

6. Will the *Whitaker* lawsuit affect people on the registry who are currently in prison?

We hope it will. We know that Georgia’s sex offender residency restrictions make it very difficult for people in prison to find a parole residence. This law is keeping people in prison, in some cases for a year or more after they have been paroled. We do not think this is fair. We hope that this lawsuit will help this problem.

7. Can SCHR help me with my criminal case?

Many people on the registry have contacted us about their criminal cases. Others have asked for assistance in getting off the registry. We wish we could provide assistance with these very important matters, but because of the size of the plaintiff class (nearly 15,000 people) we simply do not have the resources to provide individualized advice to people regarding their criminal cases. If you have specific questions regarding your criminal case or whether you are eligible to be removed from the registry, you may wish to hire an attorney to assist you.

8. How can I get help obtaining unemployment benefits?

We encourage anyone who has lost his/her job due to HB 1059 and been denied unemployment benefits to contact Georgia Legal Services for help with an unemployment appeal. Their website is www.glsps.org. Here is a list of their regional offices:

Albany Area:	(229) 430-4261/1-800-735-4271
Augusta Area:	(706) 721-2327/1-800-248-6697
Columbus Area:	(706) 649-7493/1-800-533-3140
Dalton Area:	(706) 272-2924/1-888-408-1004
Gainesville Area:	(770) 535-5717/1-800-745-5717
Macon Area:	(478) 751-6261/1-800-560-2855
Metro Atlanta Area:	(404) 206-5175/1-800-498-9469
Piedmont Area:	(404) 894-7707/1-800-822-5391
Savannah Area:	(912) 651-2180/1-888-220-8399
Valdosta Area:	(229) 333-5232/1-800-546-5232
Waycross/Brunswick Area:	(912) 264-7301/1-877-808-0553

9. If I have an individual lawsuit pending, will the *Whitaker v. Perdue* lawsuit affect it?

It is possible that the outcome of the *Whitaker v. Perdue* lawsuit could impact the outcome of an individual case regarding the residence and work restrictions of the sex offender law. The *Whitaker v. Perdue* lawsuit does not, however, preclude people from filing individual lawsuits.

10. How will I stay updated on the case?

This is a high profile case and there will continue to be coverage in your local news. Additionally, if you have access to email, you may subscribe to our listserv for updates. To subscribe, send an email to: hb1059litigation-subscribe@yahooogroups.com.

11. What changes did SB 1 make to the residency and employment restrictions?

In 2008, the Georgia General Assembly re-passed a modified version of the sex offender residence restrictions. The bill will become law immediately upon signature by the Governor. That can happen anytime between now and May 14, 2008. SB 1 does the following things:

- Reinstates all of the same residence restrictions as were in effect under HB 1059, with the following exceptions for some homeowners.
 - A homeowner who established ownership of his residence before July 1, 2006 will not be required to move.
 - A homeowner will not be required to move if a day care center, church, park, etc. moves in within 1,000 feet of his residence.
- Adds “public libraries” to the list of “areas where minors congregate,” meaning that people on the registry cannot live within 1,000 feet of a public library.
- Forbids anyone on the registry from volunteering at or within 1,000 feet of a school, church, or child care center
- Prohibits people on the registry from intentionally photographing a minor without the consent of the minor's parent or guardian.

In other words, with the exception of the homeowners described above, people on the sex offender registry will have to comply with all of the same residence restrictions as in HB 1059 as soon as the Governor signs the bill into law. (This does not, however, include the school bus stop restriction, which is not being enforced at this time).

12. If I live with a relative or friend who owns his or her home, do the exemptions for homeowners in SB 1 apply to me?

Unfortunately, no. You yourself have to have owned the home prior to July 1, 2006 in order to remain there if it was within 1,000 feet of one of the restricted areas. Similarly, you yourself have to currently own your home in order to stay there if a restricted area moves within 1,000 feet of it. We have asked the court to consider the issue of renters' property rights in regards to the takings clause; we are awaiting a response.

13. Is the bus stop provision currently being enforced?

To our knowledge, the bus stop provision of OCGA § 42-1-15 is not being enforced anywhere in the state at this time.

14. Does SB 1 prevent me from volunteering at or attending my church?

Unfortunately, SB 1 does not define what it means to volunteer at a church. That is one of the problems with this provision, and we will certainly be challenging it in court. In the meantime, if you have concerns about your activities at church or whether you can attend services, you should consult with your probation officer and/or local law enforcement officials. If they order you to stop volunteering or attending your church, please: (a) comply with the order; and (b) contact our office for further consultation.

15. Can I be removed from the registry?

Georgia's sex offender law requires many people to register as sex offenders for the remainder of their lives. Only certain people are eligible for release from registration requirements. You may petition to be released from the registry only if you meet ALL of the following criteria AND ten years have elapsed since your release from prison, parole, supervised release, or probation:

- you do not have a previous conviction of certain sexual crimes;
- you did not use a deadly weapon, or any object, device, or instrument which when used offensively against a person would be likely to or actually did result in serious bodily injury during the commission of the offense;
- the court has not found evidence of a relevant similar transaction;

- the victim did not suffer any intentional physical harm during the commission of the offense;
- the offense did not involve the transportation of the victim;
- the victim was not physically restrained during the commission of the offense. did not use a weapon;
- the judge considering your application for release from the registry finds that you do not pose a substantial risk of perpetrating any future dangerous sexual offense.

See O.C.G.A. § 42-1-12(g); 17-10-6.2(c).

If you meet these criteria, you can file a petition in the superior court of the county where you live asking the court to release you from registration requirements. We apologize, but SCHR cannot represent you in this matter.