

House Bill 1809

By: Representatives Mobley of the 69<sup>th</sup> and Watson of the 70<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to  
2 general provisions relative to torts, so as to provide for a right of action for sexual harassment  
3 against a student; to provide for a right of action for retaliation for complaining about or  
4 participation in an investigation of sexual harassment against a student; to provide for  
5 definitions; to provide for affirmative defenses; to provide for a period of limitation; to  
6 provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 style="text-align:center">**SECTION 1.**

9 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general  
10 provisions relative to torts, is amended by inserting the following new Code section:

11 "51-1-50.

12 (a) As used in this Code section, the term:

13 (1) 'Governing body' means the local board of education for a public school subject to  
14 a local board of education; the corporation for an incorporated state chartered special  
15 school, incorporated private school, incorporated private college, or incorporated private  
16 university; the policy-making body for an unincorporated state chartered special school,  
17 unincorporated private school, unincorporated private college, or unincorporated private  
18 university; or the policy-making body for a public college or public university.

19 (2) 'Local board of education' means the county board of education or the independent  
20 board of education which governs a public school.

21 (3) 'Sexual harassment' is a form of sex discrimination and means unwelcome and  
22 nonconsensual sexual advances, requests for sexual favors, and other verbal or physical  
23 conduct of a sexual nature when:

24 (A) Submission to that conduct is made either explicitly or implicitly a term or  
25 condition of participation in a program or course of study offered by the school,  
26 college, or university;

1 (B) Submission to or rejection of such conduct by a student is used as a component of  
2 the basis for evaluation of the student's work or participation at the school, college, or  
3 university;

4 (C) The conduct has the purpose or effect of interfering with a student's performance  
5 or participation in programs or courses of study at the school, college, or university; or

6 (D) The conduct has the purpose or effect of creating a sexually intimidating, hostile,  
7 or sexually offensive environment at the school, college, or university.

8 (b) A student shall have a right of action against the governing body of a school, college,  
9 or university for sexual harassment if:

10 (1) The student has experienced sexual harassment as defined in subsection (a) of this  
11 Code section from another student or an employee of the school, college, or university;  
12 or

13 (2) The school, college, or university retaliates against or takes punitive action against  
14 a student because such student has reported sexual harassment, brought an action for  
15 sexual harassment, or participated in any investigation or proceeding relating to a  
16 complaint or practice of sexual harassment.

17 (c) It shall be an affirmative defense to an action for sexual harassment that the plaintiff  
18 did not report the conduct which is the basis for the action to any official of the school,  
19 college, or university.

20 (d) It shall be an affirmative defense to an action for sexual harassment that the defendant  
21 acted promptly and effectively to end the sexual harassment when an official of the  
22 defendant learned about the sexual harassment.

23 (e) Any action for sexual harassment pursuant to the provisions of this Code section shall  
24 be commenced within one year from the date of the conduct."

## 25 SECTION 2.

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