

House Bill 583

By: Representatives Greene-Johnson of the 60th, Post 3, Reece of the 11th, Mangham of the 62nd, Thomas of the 43rd, Post 1 and Stephens of the 124th, Post 2

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 20-2-751.6 of the Official Code of Georgia Annotated, relating to
2 the disciplinary policy for students committing acts of physical violence against a teacher,
3 school bus driver, or other school official or employee, so as to change provisions relating
4 to the authority of the disciplinary tribunal; to provide for an appeals process; to provide for
5 other matters relative thereto; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 20-2-751.6 of the Official Code of Georgia Annotated, relating to the
9 disciplinary policy for students committing acts of physical violence against a teacher, school
10 bus driver, or other school official or employee, is amended by striking said Code section in
11 its entirety and inserting in lieu thereof a new Code Section 20-2-751.6 to read as follows:

12 "20-2-751.6.

13 ~~(a) As used in this Code section, the term 'physical violence' means:~~

14 ~~(1) Intentionally making physical contact of an insulting or provoking nature with the~~
15 ~~person of another; or~~

16 ~~(2) Intentionally making physical contact which causes physical harm to another unless~~
17 ~~such physical contacts or physical harms were in defense of himself or herself, as~~
18 ~~provided in Code Section 16-3-21.~~

19 ~~(b)~~(a) Local board of education policies and student codes of conduct shall provide for the
20 penalties to be assessed against a student found by a tribunal, disciplinary officer, or panel
21 to have committed any act of physical violence against a teacher, school bus driver, or
22 other school official or employee. The local board shall appoint a tribunal, disciplinary
23 officer, or panel to hold a disciplinary hearing pursuant to Code Section ~~20-2-754~~ 20-2-753
24 regarding the alleged act of physical violence and penalty. Any student alleged to have
25 committed an act of physical violence shall be suspended pending the hearing by the
26 tribunal, disciplinary officer, or panel. The tribunal or panel shall be composed of at least

1 three teachers, ~~or certificated education personnel, appointed by the local school board.~~
 2 ~~The tribunal shall determine all issues of fact and intent and shall submit its findings and~~
 3 ~~recommendations to the local school board for imposition of punishment in accordance~~
 4 ~~with this Code section. If appropriate under paragraph (1) of subsection (c) of this Code~~
 5 ~~section, the tribunal's recommendations shall include a recommendation as to whether a~~
 6 ~~student may return to public school and, if return is recommended, a recommended time~~
 7 ~~for the student's return to public school. The local school board may follow the~~
 8 ~~recommendations of the tribunal or impose penalties not recommended by the tribunal.~~

9 ~~(c)(1)(b)~~ A student found by a tribunal, disciplinary officer, or panel to have committed
 10 an act of physical violence as defined in paragraph (2) of subsection (a) of this Code
 11 section against a teacher, school bus driver, school official, or school employee shall be
 12 expelled from the public school system. The expulsion shall be for the remainder of the
 13 student's eligibility to attend public school pursuant to Code Section 20-2-150 a minimum
 14 of one year from the date of the tribunal, disciplinary officer, or panel's decision or a
 15 parental decision to waive a hearing, and the student may be allowed to attend an
 16 alternative education program for the term of expulsion. ~~The local school board at its~~
 17 ~~discretion may permit the student to attend an alternative education program for the period~~
 18 ~~of the student's expulsion. If the student who commits an act of physical violence is in~~
 19 ~~kindergarten through grade eight, then the local school board at its discretion and on the~~
 20 ~~recommendation of the tribunal may permit such a student to reenroll in the regular public~~
 21 ~~school program for grades nine through 12. If the local school board does not operate an~~
 22 ~~alternative education program for students in kindergarten through grade six, the local~~
 23 ~~school board at its discretion may permit a student in kindergarten through grade six who~~
 24 ~~has committed an act of physical violence as defined in paragraph (2) of subsection (a) of~~
 25 ~~this Code section to reenroll in the public school system;~~

26 ~~(2) Any student who is found by a tribunal to have committed an act of physical violence~~
 27 ~~against a teacher, school bus driver, school official, or school employee as defined in~~
 28 ~~paragraph (2) of subsection (a) of this Code section shall be referred to juvenile court~~
 29 ~~with a request for a petition alleging delinquent behavior; and~~

30 ~~(3) Any student who is found by a tribunal to have committed an act of physical violence~~
 31 ~~as defined in paragraph (1) of subsection (a) of this Code section against a teacher, school~~
 32 ~~bus driver, school official, or school employee may be disciplined by expulsion, long-~~
 33 ~~term suspension, or short-term suspension.~~

34 (c) The tribunal, disciplinary officer, or panel shall ensure that:

35 (1) All parties are afforded an opportunity for a hearing after reasonable notice served
 36 personally or by mail. This notice shall be given to all parties and to the parent or
 37 guardian of the student or students involved and shall include a statement of the time,

1 place, and nature of the hearing; a short and plain statement of the matters asserted; and
 2 a statement as to the right of all parties to present evidence and to be represented by legal
 3 counsel;

4 (2) All parties are afforded an opportunity to present and respond to evidence and to
 5 examine and cross-examine witnesses on all unresolved issues; and

6 (3) A verbatim electronic or written record of the hearing is made and is available to all
 7 parties.

8 (d) The tribunal, disciplinary officer, or panel shall conduct the hearing and, after receiving
 9 all evidence, render its decision, which decision shall be based solely on the evidence
 10 received at the hearing. The decision shall be in writing and shall be given to all parties
 11 within ten days of the close of the record. Any decision by such tribunal, disciplinary
 12 officer, or panel may be appealed to the local board of education by filing a written notice
 13 of appeal within 20 days from the date the decision is rendered. Any disciplinary action
 14 imposed by such tribunal, disciplinary officer, or panel may be suspended by the local
 15 school superintendent pending the outcome of the appeal.

16 (e) The local board of education shall review the record and shall render a decision of the
 17 matter on appeal in writing. The decision shall be based solely on the record and shall be
 18 given to all parties within ten days, excluding weekends and public and legal holidays
 19 provided for in Code Section 1-4-1, from the date the local board of education receives the
 20 notice of appeal. The board may take any action it determines appropriate, and any decision
 21 of the board shall be final. All parties shall have the right to be represented by legal counsel
 22 for any such appeal and during all subsequent proceedings.

23 (f) Either or both parents or guardians or legal counsel of the student involved may obtain
 24 a copy of any documents relating to a disciplinary proceeding conducted pursuant to this
 25 Code section.

26 ~~(d)~~(g) The provisions of this Code section shall apply with respect to any local school
 27 system which receives state funding pursuant to Code Sections 20-2-161 and 20-2-260.

28 ~~(e)~~(h) Nothing in this Code section shall be construed to infringe on any right provided to
 29 students with Individualized Education Programs pursuant to the federal Individuals with
 30 Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the
 31 federal Americans with Disabilities Act of 1990."

32 SECTION 2.

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