

Senate Bill 428

By: Senators Lee of the 29th, Shafer of the 48th, Smith of the 52nd and Brush of the 24th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
2 elementary and secondary education, so as to change penalties for failure to comply with
3 compulsory attendance requirements; to provide for written summaries of penalties and
4 consequences of failure to comply with compulsory attendance requirements; to provide for
5 student attendance protocols and their contents, purpose, and dissemination; to provide for
6 student attendance protocol committees and their membership and duties; to provide for
7 designation of school employees as attendance officers; to change the authority of attendance
8 officers; to require school principals to support the authority of teachers to remove certain
9 students from a classroom; to revise the definition of "disciplinary orders" to include those
10 from private schools and out-of-state schools; to provide for additional requirements for
11 student codes of conduct; to provide that prohibited activities apply to school buses; to
12 provide for provisions in student codes of conduct for off-campus behavior by a student; to
13 eliminate the requirement that local boards of education submit a copy of their student codes
14 of conduct to the State Board of Education; to provide that local board policies require local
15 school superintendents to support the authority of principals and teachers to remove certain
16 students from a classroom; to change certain provisions relating to suspending students for
17 committing acts of physical violence to conform to other Code sections; to revise certain
18 provisions relating to disciplinary hearings by a disciplinary hearing officer, panel, or
19 tribunal; to require that all disciplinary hearings be held within a certain time after the
20 beginning of a student's suspension; to provide for notice to any teacher who is called as a
21 witness for a disciplinary hearing; to delete certain provisions relating to disciplinary actions
22 for children in kindergarten through grade five; to amend Code Section 40-5-22, relating to
23 persons not to be issued a driver's license, school attendance requirements, and driving
24 training requirements, so as to eliminate permission of a student's parent or guardian as
25 exceptions to the school attendance requirements to obtain a driver's license; to provide for
26 an additional exception for a minor pursuing a general educational development diploma; to
27 provide for additional offenses to prohibit a suspended student from maintaining a driver's
28 license; to provide conditions for reinstatement of drivers' licenses and permits for suspended
29 students; to provide for an effective date; to repeal conflicting laws; and for other purposes.

1 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

2 **SECTION 1.**

3 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
4 secondary education, is amended by striking subsection (b) of Code Section 20-2-690.1,
5 relating to mandatory education for children, and inserting in lieu thereof the following:

6 "(b) Any parent, guardian, or other person residing in this state who has control or charge
7 of a child or children and who shall violate this Code section shall be guilty of a
8 misdemeanor and, upon conviction thereof, shall be subject to a fine ~~not to exceed~~ not less
9 than \$25.00 and not greater than \$100.00, ~~or~~ imprisonment not to exceed 30 days,
10 community service, or both any combination of such penalties, at the discretion of the court
11 having jurisdiction. Each day's absence from school in violation of this part after the
12 child's school system notifies the parent, guardian, or other person who has control or
13 charge of a child of five unexcused days of absence for a child shall constitute a separate
14 offense. Public schools shall provide to the parent, guardian, or other person having control
15 or charge of each child enrolled in public school a written summary of possible
16 consequences and penalties for failing to comply with compulsory attendance under this
17 Code section for children and their parents, guardians, or other persons having control or
18 charge of children, as provided in Code Section 20-2-690.2. The parent, guardian, or other
19 person who has control or charge of a child or children shall sign a statement indicating
20 receipt of such written statement of possible consequences and penalties; children who are
21 age ten years or older by September 1 shall sign a statement indicating receipt of such
22 written statement of possible consequences and penalties. After two reasonable attempts
23 by the school to secure such signature or signatures, the school shall be considered to be
24 in compliance with this subsection if it sends a copy of the statement, via certified mail,
25 return receipt requested, to such parent, guardian, other person who has control or charge
26 of a child, or child. Public schools shall retain signed copies of statements through the end
27 of the school year."

28 **SECTION 2.**

29 Said chapter is further amended by inserting a new Code section to be designated Code
30 Section 20-2-690.2 to read as follows:

31 "20-2-690.2.

32 (a) The chief judge of the superior court of each county shall establish a student attendance
33 protocol committee for its county. The purpose of the committee shall be to ensure
34 coordination and cooperation among officials, agencies, and programs involved in

1 compulsory attendance issues, to reduce the number of unexcused absences from school, and
2 to increase the percentage of students present to take tests which are required to be
3 administered under the laws of this state. The chief judge is responsible for ensuring that all
4 members of the committee are notified of their responsibility to the committee and shall call
5 the first meeting of the committee in each county. The committee shall elect a chairperson
6 and may elect other officers.

7 (b) Each local board of education shall participate in and implement the recommendations
8 of the committee as provided in this Code section. Independent school systems may
9 participate in the committee in the county in which its system resides. Independent school
10 systems whose geographic area resides in more than one county may select one of the
11 counties in which it resides in which to participate. An independent school system that
12 elects not to participate in the committee of the county in which it resides shall request that
13 the chief judge of the superior court of a county in which it resides establish an independent
14 student attendance protocol committee in the same manner as then established for such
15 county.

16 (c) Each of the following agencies, officials, or programs shall designate a representative
17 to serve on the committee:

- 18 (1) The chief judge of the superior court;
- 19 (2) The juvenile court judge or judges of the county;
- 20 (3) The district attorney for the county;
- 21 (4) The solicitor-general of state court, if the county has a state court;
- 22 (5) The Department of Juvenile Justice, which may include representatives from area
23 youth detention centers or regional youth detention centers;
- 24 (6) The superintendent and at least one certificated personnel of each public school
25 system in the county and one school board member;
- 26 (7) The sheriff of the county;
- 27 (8) The chief of police of the county police department;
- 28 (9) The chief of police of each municipal police department in the county;
- 29 (10) The county department of family and children services;
- 30 (11) The county board of health;
- 31 (12) The county mental health organization;
- 32 (13) The county Family Connection commission, board, or authority, or other county
33 agency, board, authority, or commission having the duty and authority to study problems
34 of families, children, and youth and provide services to families, children, and youth; and
- 35 (14) The court approved community based risk reduction program established by the
36 juvenile court in accordance with Code Section 15-11-10, if such a program has been
37 established.

1 (d) The committee thus established may appoint such additional members as necessary and
2 proper to accomplish the purposes of the committee.

3 (e) Each committee shall, by June 1, 2005, adopt a written student attendance protocol for
4 its county school system and for each independent school system within its geographic
5 boundaries which shall be filed with the Department of Education. The protocol shall
6 outline in detail the procedures to be used in identifying, reporting, investigating, and
7 prosecuting cases of alleged violations of Code Section 20-2-690.1, relating to mandatory
8 school attendance. The protocol shall outline in detail methods for determining the causes
9 of failing to comply with compulsory attendance and appropriately addressing the issue
10 with children and their parents or guardians. The protocol shall also include
11 recommendations for policies relating to tardiness. The Department of Education shall
12 provide model school attendance protocols, if requested by the committee.

13 (f) A copy of the protocol shall be furnished to each agency, official, or program within
14 the county that has any responsibility in assisting children and their parents or guardians
15 in complying with Code Section 20-2-690.1.

16 (g) The committee shall write the summary of possible consequences and penalties for
17 failing to comply with compulsory attendance under Code Section 20-2-690.1 for children
18 and their parents, guardians, or other persons who have control or charge of children for
19 distribution by schools in accordance with Code Section 20-2-690.1. The summary of
20 possible consequences for children shall include possible dispositions for unruly children
21 and possible denial or suspension of a driver's license for a child in accordance with Code
22 Section 40-5-22.

23 (h) The committee shall continue in existence after writing the student attendance protocol.
24 The chief judge of the superior court of each county shall ensure that the committee meets
25 at least quarterly during the first year, and twice annually thereafter, to evaluate compliance
26 with the protocol, effectiveness of the protocol, and appropriate modifications.

27 (i) Each local board of education shall report student attendance rates to the committee and
28 the State Board of Education at the end of each school year, according to a schedule
29 established by the State Board of Education."

30 SECTION 3.

31 Said chapter is further amended by striking Code Section 20-2-695, relating to attendance
32 officers, and inserting in lieu thereof the following:

33 "20-2-695.

34 (a) A local board of education may employ an attendance officer or attendance officers in
35 addition to a visiting teacher or visiting teachers. Such an attendance officer must be paid
36 wholly from local funds of the local board unless state funds are specifically appropriated

1 for purposes of employment of attendance officers, in which case state funds may be used
 2 to the extent so appropriated. Attendance officers shall not be required to qualify under
 3 rules and regulations promulgated by the Professional Standards Commission for the
 4 certification of visiting teachers.

5 (a.1) A local board of education may designate one or more school employees as an
 6 attendance officer or attendance officers, however, no certified personnel may be
 7 designated as an attendance officer or attendance officers unless by agreement of the
 8 designated individual. Such school employees designated as attendance officers shall have
 9 the duties and authority of attendance officers defined in this subpart.

10 (b) The authority and duties of any attendance officer so appointed by a local board of
 11 education shall include:

12 (1) The duty to cooperate with state agencies, make monthly reports to that officer's
 13 school superintendent, and comply with state and local rules as provided in Code Section
 14 20-2-696;

15 (2) The authority to receive cooperation and attendance reports from that officer's school
 16 system as provided for in Code Section 20-2-697;

17 (3) ~~When specifically authorized by the appointing local board of education, the~~ The
 18 authority to assume temporary custody of children absent from school for the purpose of
 19 delivering the child to school or to the parent, guardian, or other person who has control
 20 or charge of the child, or if the child has been adjudged delinquent or unruly, to the
 21 probation officer of the county having jurisdiction over the child in the same manner as
 22 authorized for peace officers under Code Sections 20-2-698 through 20-2-700; and any
 23 attendance officer ~~so authorized by the appointing local board of education~~ shall, when
 24 engaged in such function, have the same duties, authority, rights, privileges, and
 25 immunities as applicable to a peace officer engaged in such function, provided that the
 26 same shall not extend to the carrying of a weapon unless the attendance officer holds a
 27 valid certification as a peace officer from the Georgia Peace Officer Standards and
 28 Training Council;

29 (4) The duty to report children absent from school to the juvenile court or other court
 30 having jurisdiction as provided for in Code Section 20-2-701; and

31 (5) Such other authority and duties as may be provided by law or as may be provided by
 32 the appointing local board of education in conformity with law.

33 Attendance officers and school employees designated as attendance officers pursuant to
 34 subsection (a.1) of this Code section, when acting in their official capacity pursuant to this
 35 subsection, shall be immune from criminal or civil liability for, or arising out of, any act
 36 or omission concerning, relating to, or resulting from their performance of duties under this
 37 subsection."

1 other school system or school was an offense for which suspension or expulsion could be
 2 imposed in the enrolling school.

3 (c) A local school system or school may request of another school system or school
 4 whether any disciplinary order has been imposed by the other school system or school upon
 5 a student who is seeking to enroll or is enrolled in the requesting system or school. If such
 6 an order has been imposed and is still in effect for such student, the requested school
 7 system or private school in this state shall so inform the requesting system or school and
 8 shall provide a certified copy of the order to the requesting system or school.

9 (d) If any school administrator determines from the information obtained pursuant to this
 10 Code section or from Code Section 15-11-28 or 15-11-80 that a student has been convicted
 11 of or has been adjudicated to have committed an offense which is a designated felony act
 12 under Code Section 15-11-63, such administrator shall so inform all teachers to whom the
 13 student is assigned. Such teachers and other certificated professional personnel as the
 14 administrator deems appropriate may review the information in the student's file provided
 15 pursuant to this Code section that has been received from other schools or from the juvenile
 16 courts or superior courts. Such information shall be kept confidential."

17 SECTION 6.

18 Said chapter is further amended by striking Code Section 20-2-751.5, relating to student
 19 codes of conduct, and inserting in lieu thereof the following:

20 "20-2-751.5.

21 (a) Each student code of conduct shall contain provisions that address the following
 22 conduct of students during school hours, ~~and~~ at school related functions, and on the school
 23 bus, in a manner that is appropriate to the age of the student:

24 (1) Verbal assault, including threatened violence, of teachers, administrators, and other
 25 school personnel;

26 (2) Physical assault or battery of teachers, administrators, and other school personnel;

27 (3) Disrespectful conduct toward teachers, administrators, and other school personnel,
 28 including use of vulgar or profane language;

29 (4) Verbal assault of other students, including threatened violence or sexual harassment
 30 as defined pursuant to Title IX of the Education Amendments of 1972;

31 (5) Physical assault or battery of other students, including sexual harassment as defined
 32 pursuant to Title IX of the Education Amendments of 1972;

33 (6) Disrespectful conduct toward other students, including use of vulgar or profane
 34 language; ~~and~~

35 (7) Verbal assault of, physical assault or battery of, and disrespectful conduct, including
 36 use of vulgar or profane language, toward persons attending school related functions;:

1 (8) Failure to comply with compulsory attendance as required under Code Section
 2 20-2-690.1;

3 (9) Willful or malicious damage to real or personal property of the school or to personal
 4 property of any person legitimately at the school;

5 (10) Inciting, advising, or counseling of others to engage in prohibited acts;

6 (11) Marking, defacing, or destroying school property;

7 (12) Possession of a weapon, as provided for in Code Section 16-11-127.1;

8 (13) Unlawful use or possession of illegal drugs or alcohol;

9 (14) Willful and persistent violation of the student code of conduct;

10 (15) Bullying as defined Code Section 20-2-751.4; and

11 (16) Marking, defacing, or destroying the property of another student.

12 With regard to paragraphs (9) and (11) of this subsection, each student code of conduct
 13 shall also contain provisions that address conduct of students during off-school hours.

14 (b)(1) In addition to the requirements contained in subsection (a) of this Code section,
 15 each Each student code of conduct shall include comprehensive and specific provisions
 16 prescribing and governing student conduct and safety rules on all public school buses.

17 The specific provisions shall include but not be limited to:

18 (A) Students shall be prohibited from acts of physical violence as defined by Code
 19 Section 20-2-751.6, bullying as defined by subsection (a) of Code Section 20-2-751.4,
 20 physical assault or battery of other persons on the school bus, verbal assault of other
 21 persons on the school bus, disrespectful conduct toward the school bus driver or other
 22 persons on the school bus, and other unruly behavior;

23 (B) Students shall be prohibited from using any electronic devices during the operation
 24 of a school bus, including but not limited to cell phones; pagers; audible radios, tape or
 25 compact disc players without headphones; or any other electronic device in a manner
 26 that might interfere with the school bus communications equipment or the school bus
 27 driver's operation of the school bus; and

28 (C) Students shall be prohibited from using mirrors, lasers, flash cameras, or any other
 29 lights or reflective devices in a manner that might interfere with the school bus driver's
 30 operation of the school bus.

31 (2) If a student is found to have engaged in physical acts of violence as defined by Code
 32 Section 20-2-751.6, the student shall be subject to the penalties set forth in such Code
 33 section. If a student is found to have engaged in bullying as defined by subsection (a) of
 34 Code Section 20-2-751.4 or in physical assault or battery of another person on the school
 35 bus, the local school board policy shall require a meeting of the parent or guardian of the
 36 student and appropriate school district officials to form a school bus behavior contract for
 37 the student. Such contract shall provide for progressive age-appropriate discipline,

1 penalties, and restrictions for student misconduct on the bus. Contract provisions may
 2 include but shall not be not limited to assigned seating, ongoing parental involvement,
 3 and suspension from riding the bus. This subsection is not to be construed to limit the
 4 instances when a school code of conduct or local board of education may require use of
 5 a student bus behavior contract.

6 ~~(3) No later than August 15, 2002, each local board of education shall send to the State~~
 7 ~~Board of Education a copy of the provisions of its student code of conduct that address~~
 8 ~~the items identified in paragraphs (1) and (2) of this subsection. The state board shall~~
 9 ~~review such provisions to ensure that each of the items identified in paragraphs (1) and~~
 10 ~~(2) of this subsection is addressed and shall notify a local board of education, no later~~
 11 ~~than October 15, 2002, of any items which are not addressed in its submission to the state~~
 12 ~~board. Nothing in this subsection shall be construed as authorizing or requiring the state~~
 13 ~~board to review or approve the substance of the student code of conduct.~~

14 (c) Each student code of conduct shall also contain provisions that address any off-campus
 15 behavior of a student which could result in the student being criminally charged with a
 16 felony and which makes the student's continued presence at school a potential danger to
 17 persons or property at the school or which disrupts the educational process.

18 (d) Local board policies relating to student codes of conduct shall provide that each local
 19 school superintendent shall fully support, including establishing and disseminating
 20 procedures, the authority of principals and teachers in the school system to remove a
 21 student from the classroom pursuant to Code Section 20-2-738. It is the policy of this state
 22 that it is preferable to reassign disruptive students to alternative educational settings rather
 23 than to suspend or expel such students from school.

24 ~~(c)~~(e) Any student handbook which is prepared by a local board or school shall include a
 25 copy or summary of the student code of conduct for that school or be accompanied by a
 26 copy of the student code of conduct for that school. If a student handbook contains a
 27 summary of the student code of conduct, then a full copy of the student code of conduct
 28 shall be made available for review at the school. When distributing a student code of
 29 conduct, a local school shall include a form on which the student's parent or guardian may
 30 acknowledge his or her receipt of the code, and the local school shall request that the form
 31 be signed and returned to the school."

32 SECTION 7.

33 Said chapter is further amended by striking Code Section 20-2-751.6, relating to suspension
 34 policy for students committing acts of physical violence resulting in injury to teachers, and
 35 inserting in lieu thereof the following:

36 "20-2-751.6.

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

2 (1) Intentionally making physical contact of an insulting or provoking nature with the
3 person of another; or

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

7 (b) Local board of education policies and student codes of conduct shall provide for the
8 penalties to be assessed against a student found by a disciplinary hearing officer, panel, or
9 tribunal pursuant to Code Section 20-2-752 to have committed any act of physical violence
10 against a teacher, school bus driver, or other school official or employee. ~~The local board~~
11 ~~shall appoint a~~ Such disciplinary hearing officer, panel, or tribunal to shall hold a any
12 disciplinary hearing pursuant to in accordance with the provisions of Code Section
13 20-2-754 ~~regarding the alleged act of physical violence and penalty.~~ Any student alleged
14 to have committed an act of physical violence shall be suspended pending the hearing by
15 the disciplinary hearing officer, panel, or tribunal. ~~The tribunal shall be composed of three~~
16 ~~teachers or certificated education personnel, appointed by the local school board. The~~
17 decision of the disciplinary hearing officer, panel, or tribunal shall determine all issues of
18 fact and intent and shall submit its findings and recommendations may be appealed to the
19 local school board pursuant to Code Section 20-2-754 ~~for imposition of punishment in~~
20 ~~accordance with this Code section.~~ If appropriate under paragraph (1) of subsection (c) of
21 this Code section, the ~~tribunal's recommendations~~ decision of the disciplinary hearing
22 officer, panel, or tribunal shall include a recommendation as to whether a student may
23 return to public school and, if return is recommended, a recommended time for the
24 student's return to public school. The local school board may ~~follow the recommendations~~
25 ~~of the tribunal or~~ impose penalties not recommended by the disciplinary hearing officer,
26 panel, or tribunal.

27 (c)(1) A student found by a disciplinary hearing officer, panel, or tribunal to have
28 committed an act of physical violence as defined in paragraph (2) of subsection (a) of this
29 Code section against a teacher, school bus driver, school official, or school employee
30 shall be expelled from the public school system. The expulsion shall be for the remainder
31 of the student's eligibility to attend public school pursuant to Code Section 20-2-150.
32 The local school board at its discretion may permit the student to attend an alternative
33 education program for the period of the student's expulsion. If the student who commits
34 an act of physical violence is in kindergarten through grade eight, then the local school
35 board at its discretion and on the recommendation of the disciplinary hearing officer,
36 panel, or tribunal may permit such a student to reenroll in the regular public school
37 program for grades nine through 12. If the local school board does not operate an

1 alternative education program for students in kindergarten through grade six, the local
 2 school board at its discretion may permit a student in kindergarten through grade six who
 3 has committed an act of physical violence as defined in paragraph (2) of subsection (a)
 4 of this Code section to reenroll in the public school system;

5 (2) Any student who is found by a disciplinary hearing officer, panel, or tribunal to have
 6 committed an act of physical violence against a teacher, school bus driver, school official,
 7 or school employee as defined in paragraph (2) of subsection (a) of this Code section
 8 shall be referred to juvenile court with a request for a petition alleging delinquent
 9 behavior; and

10 (3) Any student who is found by a disciplinary hearing officer, panel, or tribunal to have
 11 committed an act of physical violence as defined in paragraph (1) of subsection (a) of this
 12 Code section against a teacher, school bus driver, school official, or school employee may
 13 be disciplined by expulsion, long-term suspension, or short-term suspension.

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

16 (e) Nothing in this Code section shall be construed to infringe on any right provided to
 17 students with Individualized Education Programs pursuant to the federal Individuals with
 18 Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the
 19 federal Americans with Disabilities Act of 1990."

20 SECTION 8.

21 Said chapter is further amended by striking Code Section 20-2-753, relating to disciplinary
 22 hearings held by a disciplinary hearing officer, panel, or tribunal, and inserting in lieu thereof
 23 the following:

24 "20-2-753.

25 (a) In addition to any proceedings which are authorized in Code Section 20-2-752, local
 26 boards of education shall appoint a disciplinary hearing officer, panel, or tribunal of school
 27 officials to hold a disciplinary hearing following any instance of an alleged violation of the
 28 student code of conduct where the principal recommends a suspension or expulsion of
 29 longer than ten school days or an alleged assault or battery by a student upon any teacher
 30 or other school official or employee, if such teacher or other school official or employee
 31 so requests.:

32 ~~(1) An alleged assault or battery by a student upon any teacher, other school official, or~~
 33 ~~employee;~~

34 ~~(2) An alleged assault or battery by a student upon another student, if, in the discretion~~
 35 ~~of the school principal, the alleged assault or battery could justify the expulsion or~~
 36 ~~long-term suspension of the student; or~~

~~(3) Substantial damage alleged to be intentionally caused by a student on school premises to personal property belonging to a teacher, other school official, employee, or student, if, in the discretion of the school principal, the alleged damage could justify the expulsion or long-term suspension of the student.~~

~~(b) The board of education shall by appropriate rule, regulation, or resolution require that when any instance specified in subsection (a) of this Code section occurs, the teacher, other school official, employee, or student who is subjected to the assault, battery, or damage shall file a complaint with the school administration and with the local board of education.~~

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

SECTION 9.

Said chapter is further amended by striking subsections (b) and (c) of Code Section 20-2-754, relating to procedures to be followed by disciplinary hearing officers, panels, or tribunals, and inserting in lieu thereof the following:

"(b) A disciplinary officer, panel, or tribunal of school officials appointed as required by Code Section 20-2-753 shall, in addition to any other requirements imposed by rules and regulations which may have been promulgated pursuant to Code Section 20-2-752, ensure that:

(1) All parties are afforded an opportunity for a hearing after reasonable notice served personally or by mail. This notice shall be given to all parties and to the parent or guardian of the student or students involved and shall include a statement of the time, place, and nature of the hearing; a short and plain statement of the matters asserted; and a statement as to the right of all parties to present evidence and to be represented by legal counsel;

(2) The hearing is held no later than ten school days after the beginning of the suspension;

~~(2)(3)~~ All parties are afforded an opportunity to present and respond to evidence and to examine and cross-examine witnesses on all issues unresolved; ~~and~~

(4) Any teacher who is called as a witness shall be given notice no later than three days prior to the hearing; and

~~(3)(5)~~ A verbatim electronic or written record of the hearing shall be made and shall be available to all parties.

(c) If appointed to review an instance specified in pursuant to Code Section 20-2-753, the disciplinary officer, panel, or tribunal shall conduct the hearing and, after receiving all

1 evidence, render its decision, which decision shall be based solely on the evidence received
 2 at the hearing. The decision shall be in writing and shall be given to all parties within ten
 3 days of the close of the record. Any decision by such disciplinary officer, panel, or tribunal
 4 may be appealed to the local board of education by filing a written notice of appeal within
 5 20 days from the date the decision is rendered. Any disciplinary action imposed by such
 6 officer, panel, or tribunal may be suspended by the school superintendent pending the
 7 outcome of the appeal."

8 **SECTION 10.**

9 Said chapter is further amended by striking Code Section 20-2-759, relating to children in
 10 kindergarten through grade five, and inserting in lieu thereof the following:

11 "20-2-759.

12 ~~(a) Except as otherwise expressly provided in this subpart, this subpart shall not apply to~~
 13 ~~children in kindergarten through elementary grade five.~~

14 ~~(b) The local school superintendent shall determine the disciplinary actions or proceedings~~
 15 ~~for children exempt from this subpart under subsection (a) of this Code section Reserved.~~"

16 **SECTION 11.**

17 Code Section 40-5-22 of the Official Code of Georgia Annotated, relating to persons not to
 18 be issued a driver's license, school attendance requirements, and driving training
 19 requirements, is amended by striking subsection (a.1) and inserting in lieu thereof the
 20 following:

21 "(a.1)(1) The department shall not issue an instruction permit or driver's license to a
 22 person who is younger than 18 years of age unless at the time such minor submits an
 23 application for an instruction permit or driver's license, the applicant presents acceptable
 24 proof that he or she has received a high school diploma, a general educational
 25 development (GED) ~~equivalency~~ diploma, a special diploma, or a certificate of high
 26 school completion, ~~has permission of his or her parent or guardian to withdraw from~~
 27 ~~school~~, or has terminated his or her secondary education and is enrolled in a
 28 postsecondary school, pursuing a general educational development (GED) diploma, or
 29 the records of the department indicate that said applicant:

30 (A) Is enrolled in and not under suspension from a public or private school and
 31 satisfies relevant attendance requirements as set forth in paragraph (2) of this
 32 subsection; or

33 (B) Is enrolled in a home education program that satisfies the requirements of all state
 34 laws governing such courses.

1 (2) The department shall forthwith notify by certified mail or statutory overnight
 2 delivery, return receipt requested, any minor issued an instruction permit or driver's
 3 license in accordance with this subsection other than a minor who has terminated his or
 4 her secondary education and is enrolled in a postsecondary school ~~or who has permission~~
 5 ~~of his or her parent or guardian to withdraw from school or who is pursuing a general~~
 6 educational development (GED) diploma that such minor's instruction permit or driver's
 7 license is suspended subject to review as provided for in this subsection if the records of
 8 the department indicate that such minor:

9 (A) Has dropped out of school without graduating and has remained out of school for
 10 ten consecutive school days;

11 (B) Has more than ten ~~consecutive~~ school days of unexcused absences in any semester
 12 or combination of two consecutive quarters; ~~or~~

13 (C) Has been suspended from school for:

14 (i) Threatening, striking, or causing bodily harm to a teacher or other school
 15 personnel;

16 (ii) Possession or sale of drugs or alcohol on school property; ~~or~~

17 (iii) Possession or use of a weapon on school property. For purposes of this
 18 subparagraph, the term 'weapon' shall be defined in accordance with Code Section
 19 16-11-127.1 but shall not include any part of an archeological or cultural exhibit
 20 brought to school in connection with a school project;

21 (iv) Any sexual offense prohibited under Chapter 6 of Title 16; or

22 (v) Causing substantial physical or visible bodily harm to or seriously disfiguring
 23 another person, including another student; or

24 (D) Has been suspended from school, for any reason, for more than ten cumulative
 25 days.

26 Notice given by certified mail or statutory overnight delivery with return receipt
 27 requested mailed to the person's last known address shall be prima-facie evidence that
 28 such person received the required notice. The minor so notified may request in writing
 29 a hearing within ten business days from the date of receipt of notice. Within 30 days after
 30 receiving a written request for a hearing, the department shall hold a hearing as provided
 31 for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such
 32 hearing, the department shall sustain its order of suspension or rescind such order. Appeal
 33 from such hearing shall be in accordance with said chapter. If no hearing is requested
 34 within the ten business days specified above, the right to a hearing shall have been
 35 waived and the instruction permit or driver's license of the minor shall remain suspended.
 36 The suspension provided for in this paragraph shall be for a period to end upon the date
 37 of such minor's eighteenth birthday, but such minor's instruction permit or driver's

1 license shall be reinstated if the minor submits evidence satisfactory to the department
2 that he or she has resumed regular studies as determined by the State Board of Education
3 or is pursuing a general educational development (GED) diploma and qualifies for an
4 instruction permit or driver's license under the provisions of this subsection, upon
5 payment of a restoration fee of \$50.00; provided, however, that any instruction permit or
6 driver's license suspended pursuant to subparagraph (C) or (D) of this paragraph shall not
7 be reinstated until ~~90 days~~ six months after the effective date of the suspension of such
8 permit or license by the department or for the duration of the minor's suspension from
9 school, whichever is longer.

10 (3) The State Board of Education and the commissioner of motor vehicle safety are
11 authorized to promulgate rules and regulations to implement the provisions of this
12 subsection."

13 SECTION 12.

14 This Act shall become effective upon its approval by the Governor or upon its becoming law
15 without such approval.

16 SECTION 13.

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