

Senate Bill 392

By: Senators Smith of the 52nd, Shafer of the 48th, Collins of the 6th, Clay of the 37th,  
Lamutt of the 21st and others

**AS PASSED SENATE**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 20-2-1184 of the Official Code of Georgia Annotated, relating to  
2 the reporting of students committing prohibited acts, so as to provide that the parents of a  
3 student reported to have committed a certain prohibited act on school property shall be given  
4 immediate notice by the school principal; to amend Chapter 2 of Title 20 of the Official Code  
5 of Georgia Annotated, relating to elementary and secondary education, so as to enact the  
6 "Truancy Enforcement Act"; to provide a short title; to provide any student the right to a  
7 letter from his or her school administrator relating to attendance; to provide notice to a  
8 student prior to reaching the maximum number of allowable absences for purposes of  
9 obtaining and maintaining an instruction permit or driver's license; to provide for reporting  
10 by schools to the Department of Motor Vehicle Safety of students who have violated the  
11 attendance requirements for purposes of obtaining and maintaining an instruction permit or  
12 driver's license; to provide for a delayed effective date for such notice and reporting; to  
13 provide that attendance reports and records are included in the meaning of "education  
14 records"; to amend Chapter 2 of Title 39 of the Official Code of Georgia Annotated, relating  
15 to regulation of employment of minors, so as to require that a minor provide an employer  
16 with a letter from his or her school administrator indicating an attendance record in good  
17 standing; to require such employer to maintain such letter in minor's employment file; to  
18 provide that violation by an employer in obtaining and maintaining such attendance letter  
19 constitutes a misdemeanor; to amend Chapter 5 of Title 40 of the Official Code of Georgia  
20 Annotated, relating to drivers' licenses for motor vehicles, so as to require minors to comply  
21 with attendance requirements for one academic year prior to applying for an instruction  
22 permit or driver's license; to provide that the Department of Motor Vehicles notify a minor  
23 who is ineligible to obtain an instruction permit or driver's license due to noncompliance  
24 with attendance requirements; to provide that the instruction permit or driver's license is  
25 immediately returned to the Department of Motor Vehicle Safety in the event of suspension;  
26 to provide for notice regarding application for exemption; to provide for an exemption to the  
27 attendance requirements for purposes of undue hardship, detriment to health or welfare, or  
28 otherwise not in the best interests of the minor; to provide that any suspension shall be for

1 a period of one year or until the minor reaches his or her eighteenth birthday; to provide for  
2 an effective date; to repeal conflicting laws; and for other purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

4 **SECTION 1-A.**

5 Code Section 20-2-1184 of the Official Code of Georgia Annotated, relating to the reporting  
6 of students committing prohibited acts, is amended by striking said Code section in its  
7 entirety and inserting in lieu thereof the following:

8 “20-2-1184.

9 (a) Any teacher or other person employed at any public or private elementary or secondary  
10 school or any dean or public safety officer employed by a college or university who has  
11 reasonable cause to believe that a student at that school has committed any act upon school  
12 property or at any school function, which act is prohibited by any of the following:

13 (1) Code Section 16-5-21, relating to aggravated assault if a firearm is involved;

14 (2) Code Section 16-5-24, relating to aggravated battery;

15 (3) Chapter 6 of Title 16, relating to sexual offenses;

16 (4) Code Section 16-11-127, relating to carrying deadly weapons at public gatherings;

17 (5) Code Section 16-11-127.1, relating to carrying weapons at school functions or on  
18 school property or within school safety zones;

19 (6) Code Section 16-11-132, relating to the illegal possession of a pistol or revolver by  
20 a person under 18 years of age; or

21 (7) Code Section 16-13-30, relating to possession and other activities regarding  
22 marijuana and controlled substances,

23 shall immediately report the act and the name of the student to the principal or president  
24 of that school or the principal’s or president’s designee.

25 (b) The principal or designee who receives a report made pursuant to subsection (a) of this  
26 Code section who has reasonable cause to believe that the report is valid shall make an oral  
27 report thereof immediately by telephone or otherwise to the ; the appropriate school  
28 system superintendent, and to the appropriate police authority and district attorney. The  
29 principal or designee shall make a good faith effort as soon as possible to contact the parent  
30 or guardian.

31 (c) Any person participating in the making of a report or causing a report to be made as  
32 authorized or required pursuant to this Code section or participating in any judicial  
33 proceeding or any other proceeding resulting therefrom shall in so doing be immune from  
34 any civil or criminal liability that might otherwise be incurred or imposed, providing such  
35 participation pursuant to this Code section is made in good faith.

1 (d) Any person required to make a report pursuant to this Code section who knowingly and  
2 willfully fails to do so shall be guilty of a misdemeanor.”

3 **SECTION 1.**

4 This Act shall be known and may be cited as the "Truancy Enforcement Act."

5 **SECTION 2.**

6 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
7 secondary education, is amended in Code Section 20-2-697, relating to cooperation of  
8 principals and teachers in public schools with visiting teachers and attendance officers and  
9 attendance reports and records kept by public schools, by inserting a new subsection (a.1) to  
10 read as follows:

11 "(a.1) Any student shall have the right to request and receive, within three business days  
12 from the date of such request, a letter from his or her school administrator indicating that  
13 the student is enrolled full-time and has an attendance record in good standing for the  
14 current academic year."

15 **SECTION 3.**

16 Said chapter is further amended by striking Code Section 20-2-701, relating to local school  
17 superintendents or visiting teachers and attendance officers reporting truants to juvenile or  
18 other courts, and inserting in lieu thereof the following:

19 "20-2-701.

20 (a) Local school superintendents as applied to private schools and home study programs  
21 or visiting teachers and attendance officers as applied to public schools, after written notice  
22 to the parent or guardian of a child, shall report to the juvenile or other court having  
23 jurisdiction under Chapter 11 of Title 15 any child who is absent from a public or private  
24 school or a home study program in violation of this subpart. If the judge of the court places  
25 such child in a home or in a public or private institution pursuant to Chapter 11 of Title 15,  
26 school shall be provided for such child.

27 (b) Local school superintendents as applied to private schools and home study programs  
28 or visiting teachers and attendance officers as applied to public schools shall use their best  
29 efforts to notify any child 14 years of age or older who has only three absences remaining  
30 prior to violating the attendance requirements contained in subsection (a.1) of Code Section  
31 40-5-22. Such notification shall be made via first-class mail.

32 (c) Local school superintendents as applied to private schools and home study programs  
33 or visiting teachers and attendance officers as applied to public schools shall report to the  
34 State Board of Education, which shall in turn, report to the Department of Motor Vehicle

1 Safety any child 14 years of age or older who does not meet the attendance requirements  
 2 contained in subsection (a.1) of Code Section 40-5-22. Such report shall include the  
 3 child's name, current address, and social security number, if known.

4 (d) Subsections (b) and (c) of this Code section shall not be effective until full  
 5 implementation of the state-wide education information system."

#### 6 **SECTION 4.**

7 Said chapter is further amended by striking Code Section 20-2-720, relating to inspection of  
 8 students' records by parents, and inserting in lieu thereof the following:

9 "20-2-720.

10 No local school system, whether county, independent, or area, shall have a policy of  
 11 denying, or which effectively prevents, the parents of students who are in attendance at or  
 12 who have been enrolled in any facility within such system the right to inspect and review  
 13 the education records of their ~~children~~ child. A parent shall be entitled to inspect and  
 14 review only information relating to his or her own child and if any material or document  
 15 in a child's record includes information on another student, such information regarding any  
 16 other student shall not be made available for inspection or review except to the parents of  
 17 that student. Both parents of a child shall be entitled to inspect and review the ~~educational~~  
 18 education records of their child or to be provided information concerning their child's  
 19 progress. Information concerning a child's education record shall not be withheld from the  
 20 noncustodial parent unless a court order has specifically removed the right of the  
 21 noncustodial parent to such information or unless parental rights have been terminated. For  
 22 purposes of this Code section, 'education records' shall include attendance reports and  
 23 records."

#### 24 **SECTION 5.**

25 Chapter 2 of Title 39 of the Official Code of Georgia Annotated, relating to regulation of  
 26 employment of minors, is amended in Code Section 39-2-11, relating to required  
 27 employment certificates and the requirements for issuance, by adding a new subsection (e)  
 28 to read as follows:

29 "(e) The certificate provided for in subsection (a) of this Code section shall be  
 30 accompanied by a letter from the minor's school administrator indicating that the minor is  
 31 enrolled in school full-time and has an attendance record in good standing for the current  
 32 academic year. The employer of a minor shall maintain a copy of such certificate and letter  
 33 in the minor's employment file. Such letter shall be updated in January of each subsequent  
 34 academic year during which the minor maintains his or her employment until such minor  
 35 reaches the age of 18 years or receives a high school diploma, a general educational

1 development (GED) diploma, a special education diploma, or a certificate of high school  
 2 completion, or has terminated his or her secondary education and is enrolled in a  
 3 postsecondary school. Any employer failing to comply with this subsection shall be guilty  
 4 of a misdemeanor and, upon conviction thereof, shall be subject to a fine not to exceed  
 5 \$1,000.00, up to twelve months imprisonment, or both, for each violation."

## 6 SECTION 6.

7 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses  
 8 for motor vehicles, is amended in Code Section 40-5-22, relating to persons not to be  
 9 licensed, minimum ages for licensees, school attendance requirements, and driving training  
 10 requirements, by striking subsection (a.1) and inserting in lieu thereof the following:

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

19 (A) Is enrolled in and not under suspension from a public or private school and  
 20 ~~satisfies~~ has satisfied relevant attendance requirements as set forth in paragraph (2) of  
 21 this subsection for a period of one academic year prior to application for an instruction  
 22 permit or driver's license; or

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

25 The department shall notify such minor of his or her ineligibility for an instruction permit  
 26 or driver's license at the time of such application.

27 (2) The department shall forthwith notify by certified mail or statutory overnight  
 28 delivery, return receipt requested, any minor issued an instruction permit or driver's  
 29 license in accordance with this subsection other than a minor who has terminated his or  
 30 her secondary education and is enrolled in a postsecondary school ~~or who has permission~~  
 31 ~~of his or her parent or guardian to withdraw from school~~ that such minor's instruction  
 32 permit or driver's license is suspended subject to review as provided for in this subsection  
 33 if the ~~records of the~~ department indicate receives notice pursuant to Code Section  
 34 20-2-701 that indicates that such minor:

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

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

3 (C) Has been suspended from school for:

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

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

7 (iii) Possession or use of a weapon on school property. For purposes of this  
8 subparagraph, the term 'weapon' shall not include any part of an archeological or  
9 cultural exhibit brought to school in connection with a school project.

10 Notice given by certified mail or statutory overnight delivery with return receipt  
11 requested mailed to the person's last known address shall be prima-facie evidence that  
12 such person received the required notice. Such notice shall include instructions to the  
13 minor to return immediately the instruction permit or driver's license to the department  
14 and information summarizing the minor's right to request an exemption from the  
15 provisions of this subsection. The minor so notified may request in writing a hearing  
16 within ten business days from the date of receipt of notice. Within 30 days after receiving  
17 a written request for a hearing, the department shall hold a hearing as provided for in  
18 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such hearing,  
19 the department shall sustain its order of suspension or rescind such order. The  
20 department shall be authorized to grant an exemption from the provisions of this  
21 subsection to a minor, upon such minor's petition, if enforcement of the provisions of this  
22 subsection upon such minor would create an undue hardship upon the minor or the  
23 minor's family, if there is clear and convincing evidence that the enforcement of the  
24 provisions of this subsection would act as a detriment to the health or welfare of the  
25 minor, or if enforcement of the provisions of this subsection would otherwise not be in  
26 the best interests of the minor. Any exemption granted herein shall be effective for a  
27 maximum of one year, at which time a minor may petition for a further exemption.  
28 Appeal from such hearing shall be in accordance with said chapter. If no hearing is  
29 requested within the ten business days specified above, the right to a hearing shall have  
30 been waived and the instruction permit or driver's license of the minor shall remain  
31 suspended. The suspension provided for in this paragraph shall be for a period ~~to end of~~  
32 one year or shall end upon the date of such minor's eighteenth birthday, ~~but such minor's~~  
33 ~~instruction permit or driver's license shall be reinstated if the minor submits evidence~~  
34 ~~satisfactory to the department that he or she has resumed regular studies as determined~~  
35 ~~by the State Board of Education and qualifies for an instruction permit or driver's license~~  
36 ~~under the provisions of this subsection, upon payment of a restoration fee of \$50.00;~~  
37 ~~provided, however, that any instruction permit or driver's license suspended pursuant to~~

