

The House Committee on Education offers the following substitute to SB 428:

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 delay the implementation of the Georgia  
 3 Academic Placement and Promotion Policy for third graders for one year; to provide for  
 4 testing policies and procedures for the 2003-2004 school year; to provide for remedial  
 5 instruction, retesting, reports, and reporting subsequent test results separately for certain  
 6 students who fail the reading assessment in 2004; to conform a provision in the compulsory  
 7 attendance law to other provisions; to change penalties for failure to comply with compulsory  
 8 attendance requirements; to provide for written summaries of penalties and consequences of  
 9 failure to comply with compulsory attendance requirements; to provide for student  
 10 attendance protocols and their contents and dissemination; to provide for student attendance  
 11 protocol committees and their membership and duties; to provide for designation of school  
 12 employees as attendance officers; to change the authority of attendance officers; to provide  
 13 for immunity of attendance officers; to provide that peace officers assigned to schools shall  
 14 have the authority of attendance officers; to require school principals to support the authority  
 15 of teachers to remove certain students from a classroom; to revise the definition of  
 16 "disciplinary orders" to include those from private schools and out-of-state schools; to  
 17 provide for notice to additional school personnel of a student's conviction of or adjudication  
 18 as guilty of a designated felony; to provide for additional requirements for student codes of  
 19 conduct; to eliminate the requirement that local boards of education submit a copy of their  
 20 student codes of conduct to the State Board of Education; to provide that local board policies  
 21 require local school superintendents to support the authority of principals and teachers to  
 22 remove certain students from a classroom; to provide that state policy prefers reassignment  
 23 of disruptive students to alternative educational settings rather than suspension or expulsion;  
 24 to change certain provisions relating to suspending students for committing acts of physical  
 25 violence to conform to other Code sections; to revise certain provisions relating to  
 26 disciplinary hearings by a disciplinary hearing officer, panel, or tribunal; to require that all  
 27 disciplinary hearings be held within a certain time after the beginning of a student's  
 28 suspension; to provide for exceptions; to provide for notice to any teacher who is called as  
 29 a witness for a disciplinary hearing; to amend Code Section 40-5-22 of the Official Code of

1 Georgia Annotated, relating to persons not to be issued a driver's license, school attendance  
 2 requirements, and driving training requirements, so as to provide for an additional exception  
 3 to school attendance requirements to obtain a driver's license for a minor pursuing a general  
 4 educational development diploma; to provide for additional offenses to prohibit a suspended  
 5 student from maintaining a driver's license; to provide conditions for reinstatement of  
 6 drivers' licenses and permits for suspended students; to provide for an effective date; to  
 7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
 11 secondary education, is amended by striking Code Section 20-2-285, relating to the timetable  
 12 for implementation of the promotion policy, and inserting in lieu thereof new Code Sections  
 13 20-2-285 and 20-2-285.1 to read as follows:

14 "20-2-285.

15 The State Board of Education shall provide for a timetable of implementation of this Code  
 16 section and the Georgia Academic Placement and Promotion Policy which shall include:

- 17 (1) The third grade beginning with the ~~2003-2004~~ 2004-2005 school year;
- 18 (2) The fifth grade beginning with the 2004-2005 school year; and
- 19 (3) The eighth grade beginning with the 2005-2006 school year.

20 20-2-285.1.

21 (a) This Code section will apply to students tested with the third grade criterion-referenced  
 22 reading assessment in the 2003-2004 school year only.

23 (b) The third grade criterion-referenced reading assessment shall be given as required by  
 24 other provisions of this chapter, but results of the test shall not be used in any way in  
 25 determining whether any student shall be promoted or retained at the end of the 2003-2004  
 26 school year. Other promotional standards and criteria established by the State Board of  
 27 Education and the local school board, including but not limited to academic performance,  
 28 shall be the basis for placement decisions for the 2003-2004 school year.

29 (c) Each school system shall provide remedial instruction for each student who does not  
 30 pass the third grade criterion-referenced reading assessment. Each school system shall  
 31 report to the Department of Education the number of students not passing the third grade  
 32 criterion-referenced reading assessment and the remedial instruction provided to such  
 33 students.

1 (d) Each school system shall retest each student who does not pass the third grade  
2 criterion-referenced reading assessment. Each school system shall report to the Department  
3 of Education the number of students who pass and fail when tested for the second time.  
4 Each school system shall develop a plan of remedial instruction for each student who does  
5 not pass the test the second time, whether the student is in the third grade or the fourth  
6 grade for the 2004-2005 school year. Each school system shall report such plans for  
7 remedial instruction to the Department of Education during the first month of the  
8 2004-2005 school year.

9 (e) When reporting the results for criterion-referenced reading assessments in 2005 to the  
10 Department of Education, each school system shall report test results for students who  
11 failed the third grade reading assessment in the 2003-2004 school year separately.

12 (f) The Department of Education shall report to the General Assembly on the results of the  
13 third grade criterion-referenced tests in the 2003-2004 school year, remedial instruction for  
14 students, students who failed the reading assessment a second time, remedial instruction  
15 for such students, and subsequent test results for students who failed the reading  
16 assessment once or twice."

## 17 SECTION 2.

18 Said chapter is further amended by striking subsections (a) and (b) of Code Section  
19 20-2-690.1, relating to mandatory education for children, and inserting in lieu thereof the  
20 following:

21 "(a) Every parent, guardian, or other person residing within this state having control or  
22 charge of any child or children between their ~~sixth~~ seventh and sixteenth birthdays shall  
23 enroll and send such child or children to a public school, a private school, or a home study  
24 program that meets the requirements for a public school, a private school, or a home study  
25 program; and such child shall be responsible for enrolling in and attending a public school,  
26 a private school, or a home study program that meets the requirements for a public school,  
27 a private school, or a home study program under such penalty for noncompliance with this  
28 subsection as is provided in Chapter 11 of Title 15, unless the child's failure to enroll and  
29 attend is caused by the child's parent, guardian, or other person, in which case the parent,  
30 guardian, or other person alone shall be responsible; provided, however, that tests and  
31 physical exams for military service and the National Guard and such other approved  
32 absences shall be excused absences. The requirements of this subsection shall apply to a  
33 child between his or her seventh and sixteenth birthdays who has been assigned by a local  
34 board of education or its delegate to attend an alternative public school program established  
35 by that local board of education, including an alternative public school program provided  
36 for in Code Section 20-2-154.1, regardless of whether such child has been suspended or

1 expelled from another public school program by that local board of education or its  
 2 delegate, and to the parent, guardian, or other person residing in this state who has control  
 3 or charge of such child. Nothing in this Code section shall be construed to require a local  
 4 board of education or its delegate to assign a child to attend an alternative public school  
 5 program rather than suspending or expelling the child.

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. After two reasonable attempts to notify the parent, guardian, or other person who  
 15 has control or charge of a child of five unexcused days of absence without response, the  
 16 school system shall send a notice by certified mail, return receipt requested. Public schools  
 17 shall provide to the parent, guardian, or other person having control or charge of each child  
 18 enrolled in public school a written summary of possible consequences and penalties for  
 19 failing to comply with compulsory attendance under this Code section for children and  
 20 their parents, guardians, or other persons having control or charge of children. The parent,  
 21 guardian, or other person who has control or charge of a child or children shall sign a  
 22 statement indicating receipt of such written statement of possible consequences and  
 23 penalties; children who are age ten years or older by September 1 shall sign a statement  
 24 indicating receipt of such written statement of possible consequences and penalties. After  
 25 two reasonable attempts by the school to secure such signature or signatures, the school  
 26 shall be considered to be in compliance with this subsection if it sends a copy of the  
 27 statement, via certified mail, return receipt requested, to such parent, guardian, other person  
 28 who has control or charge of a child, or child. Public schools shall retain signed copies of  
 29 statements through the end of the school year."

### 30 SECTION 3.

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

33 "20-2-690.2.

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

1 compulsory attendance issues, to reduce the number of unexcused absences from school,  
2 and 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  
4 all members of the committee are notified of their responsibility to the committee and shall  
5 call the first meeting of the committee in each county. The committee shall elect a  
6 chairperson and may elect other officers.

7 (b) Each local board of education shall participate in and consider 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 such systems are located. Independent  
10 school systems whose geographic area encompasses more than one county may select one  
11 of such counties in which to participate. An independent school system that elects not to  
12 participate in the committee of the county where it is located shall request that the chief  
13 judge of the superior court of a county where it is located establish an independent student  
14 attendance protocol committee in the same manner as established for such county.

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

17 (1) The chief judge of the superior court;

18 (2) The juvenile court judge or judges of the county;

19 (3) The district attorney for the county;

20 (4) The solicitor-general of state court, if the county has a state court;

21 (5) The Department of Juvenile Justice, which may include representatives from area  
22 youth detention centers or regional youth detention centers;

23 (6) The superintendent of each public school system in the county that is participating  
24 and at least one certificated school employee selected by each such superintendent;

25 (7) The sheriff of the county;

26 (8) The chief of police of the county police department, if the county has a county police  
27 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;

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; and

1 (15) Each public school system in the county that is participating shall designate a  
2 certificated school social worker, if any is employed by the system.

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

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

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

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

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

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

#### 32 **SECTION 4.**

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

1 "20-2-695.

2 (a) A local board of education may employ an attendance officer or attendance officers in  
3 addition to a visiting teacher or visiting teachers. Such an attendance officer must be paid  
4 wholly from local funds of the local board unless state funds are specifically appropriated  
5 for purposes of employment of attendance officers, in which case state funds may be used  
6 to the extent so appropriated. Attendance officers shall not be required to qualify under  
7 rules and regulations promulgated by the Professional Standards Commission for the  
8 certification of visiting teachers.

9 (a.1) A local board of education may designate one or more school employees as an  
10 attendance officer or attendance officers; provided, however, no certificated employee shall  
11 be required to serve as an attendance officer. Such school employees designated as  
12 attendance officers shall have the duties and authority of attendance officers defined in this  
13 subpart.

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

16 (1) The duty to cooperate with state agencies, make monthly reports to that officer's  
17 school superintendent, and comply with state and local rules as provided in Code Section  
18 20-2-696;

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

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

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

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

1 (c) Attendance officers and school employees designated as attendance officers pursuant  
 2 to subsection (a.1) of this Code section, when acting in their official capacity, shall be  
 3 immune from criminal or civil liability for, or arising out of, any act or omission  
 4 concerning, relating to, or resulting from their performance of duties under subsection (b)  
 5 of this Code section, except for acts or omissions of willful or wanton misconduct.

6 (d) Any peace officer assigned to a school on a full-time or part-time basis shall have the  
 7 authority of an attendance officer in addition to the authority of a peace officer."

#### 8 SECTION 5.

9 Said chapter is further amended by striking subsection (b) of Code Section 20-2-738, relating  
 10 to authority of teacher over classroom, procedures following removal of student from  
 11 classroom, and placement review committees, and inserting in lieu thereof the following:

12 "~~(b) On and after July 1, 2000, a~~ A teacher shall have the authority to remove from his or  
 13 her class a student who repeatedly or substantially interferes with the teacher's ability to  
 14 communicate effectively with the students in the class or with the ability of the student's  
 15 classmates to learn, where the student's behavior is in violation of the student code of  
 16 conduct, provided that the teacher has previously filed a report pursuant to Code Section  
 17 20-2-737 or determines that such behavior of the student poses an immediate threat to the  
 18 safety of the student's classmates or the teacher. Each school principal shall fully support  
 19 the authority of every teacher in his or her school to remove a student from the classroom  
 20 under this Code section. Each school principal shall implement the policies and procedures  
 21 of the superintendent and local board of education relating to the authority of every teacher  
 22 to remove a student from the classroom and shall disseminate such policies and procedures  
 23 to faculty, staff, parents or guardians, and students. The teacher shall file with the principal  
 24 or the principal's designee a report describing the student's behavior, in one page or less,  
 25 by the end of the school day on which such removal occurs or at the beginning of the next  
 26 school day. The principal or the principal's designee shall, within one school day after the  
 27 student's removal from class, send to the student's parents or guardians written notification  
 28 that the student was removed from class, a copy of the report filed by the teacher, and  
 29 information regarding how the student's parents or guardians may contact the principal or  
 30 the principal's designee."

#### 31 SECTION 6.

32 Said chapter is further amended by striking Code Section 20-2-751.2, relating to students  
 33 subject to disciplinary orders of other school systems, and inserting in lieu thereof the  
 34 following:

1 "20-2-751.2.

2 (a) As used in this Code section, the term 'disciplinary order' means any order of a local  
3 school system in this state, a private school in this state, or a public school outside of this  
4 state which imposes short-term suspension, long-term suspension, or expulsion upon a  
5 student in such system or school.

6 (b) A local board of education which has a student who attempts to enroll or who is  
7 enrolled in any school in its school system during the time in which that student is subject  
8 to a disciplinary order ~~of any other school system~~ is authorized to refuse to enroll or subject  
9 that student to short-term suspension, long-term suspension, or expulsion for any time  
10 remaining in that other school system's or school's disciplinary order upon receiving a  
11 certified copy of such order if the offense which led to such suspension or expulsion in the  
12 other school system or school was an offense for which suspension or expulsion could be  
13 imposed in the enrolling school.

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

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

## 29 SECTION 7.

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

32 "20-2-751.5.

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

- 1 (1) Verbal assault, including threatened violence, of teachers, administrators, and other  
 2 school personnel;
- 3 (2) Physical assault or battery of teachers, administrators, and other school personnel;
- 4 (3) Disrespectful conduct toward teachers, administrators, and other school personnel,  
 5 including use of vulgar or profane language;
- 6 (4) Verbal assault of other students;
- 7 (5) Physical assault or battery of other students;
- 8 (6) Disrespectful conduct toward other students, including use of vulgar or profane  
 9 language; and
- 10 (7) Verbal assault of, physical assault or battery of, and disrespectful conduct, including  
 11 use of vulgar or profane language, toward persons attending school related functions;:
- 12 (8) Failure to comply with compulsory attendance as required under Code Section  
 13 20-2-690.1;
- 14 (9) Willful or malicious damage to real or personal property of the school or to personal  
 15 property of any person legitimately at the school;
- 16 (10) Inciting, advising, or counseling of others to engage in prohibited acts;
- 17 (11) Marking, defacing, or destroying school property;
- 18 (12) Possession of a weapon, as provided for in Code Section 16-11-127.1;
- 19 (13) Unlawful use or possession of illegal drugs or alcohol;
- 20 (14) Willful and persistent violation of the student code of conduct; and
- 21 (15) Behavior which may result in removal from a classroom.

22 (b)(1) In addition to the requirements contained in subsection (a) of this Code section,  
 23 each ~~Each~~ student code of conduct shall include comprehensive and specific provisions  
 24 prescribing and governing student conduct and safety rules on all public school buses.  
 25 The specific provisions shall include but not be limited to:

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

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

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

4 (2) If a student is found to have engaged in physical acts of violence as defined by Code  
 5 Section 20-2-751.6, the student shall be subject to the penalties set forth in such Code  
 6 section. If a student is found to have engaged in bullying as defined by subsection (a) of  
 7 Code Section 20-2-751.4 or in physical assault or battery of another person on the school  
 8 bus, the local school board policy shall require a meeting of the parent or guardian of the  
 9 student and appropriate school district officials to form a school bus behavior contract for  
 10 the student. Such contract shall provide for progressive age-appropriate discipline,  
 11 penalties, and restrictions for student misconduct on the bus. Contract provisions may  
 12 include but shall not be not limited to assigned seating, ongoing parental involvement,  
 13 and suspension from riding the bus. This subsection is not to be construed to limit the  
 14 instances when a school code of conduct or local board of education may require use of  
 15 a student bus behavior contract.

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

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

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



1 education program for the period of the student's expulsion. If the student who commits  
 2 an act of physical violence is in kindergarten through grade eight, then the local school  
 3 board at its discretion and on the recommendation of the disciplinary hearing officer,  
 4 panel, or tribunal may permit such a student to reenroll in the regular public school  
 5 program for grades nine through 12. If the local school board does not operate an  
 6 alternative education program for students in kindergarten through grade six, the local  
 7 school board at its discretion may permit a student in kindergarten through grade six who  
 8 has committed an act of physical violence as defined in paragraph (2) of subsection (a)  
 9 of this Code section to reenroll in the public school system;

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

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

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

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

## 25 SECTION 9.

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

29 "20-2-753.

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

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

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

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

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

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

#### 18 **SECTION 10.**

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

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

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

32 (2) The hearing is held no later than ten school days after the beginning of the suspension  
 33 unless the school system and parents or guardians mutually agree to an extension;

34 ~~(2)~~(3) All parties are afforded an opportunity to present and respond to evidence and to  
 35 examine and cross-examine witnesses on all issues unresolved; ~~and~~

1 (4) Any teacher called as a witness by the school system shall be given notice no later  
 2 than three days prior to the hearing; and

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

5 (c) If appointed to review an instance ~~specified in~~ pursuant to Code Section 20-2-753, the  
 6 disciplinary officer, panel, or tribunal shall conduct the hearing and, after receiving all  
 7 evidence, render its decision, which decision shall be based solely on the evidence received  
 8 at the hearing. The decision shall be in writing and shall be given to all parties within ten  
 9 days of the close of the record. Any decision by such disciplinary officer, panel, or tribunal  
 10 may be appealed to the local board of education by filing a written notice of appeal within  
 11 20 days from the date the decision is rendered. Any disciplinary action imposed by such  
 12 officer, panel, or tribunal may be suspended by the school superintendent pending the  
 13 outcome of the appeal."

#### 14 **SECTION 11.**

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

17 "20-2-759.

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

20 (b) The local school superintendent shall determine the disciplinary actions or proceedings  
 21 for children exempt from this subpart under subsection (a) of this Code section.

22 (c) Children in kindergarten through grade five shall be subject to the student attendance  
 23 protocol established in accordance with Code Section 20-2-690.2.

24 (d) Children in kindergarten through grade five shall be subject to removal from a  
 25 classroom in accordance with Code Section 20-2-738."

#### 26 **SECTION 12.**

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

31 "(a.1)(1) The department shall not issue an instruction permit or driver's license to a  
 32 person who is younger than 18 years of age unless at the time such minor submits an  
 33 application for an instruction permit or driver's license the applicant presents acceptable  
 34 proof that he or she has received a high school diploma, a general educational  
 35 development (GED) ~~equivalency~~ diploma, a special diploma, or a certificate of high

1 school completion, has permission of his or her parent or guardian to withdraw from  
 2 school, or has terminated his or her secondary education and is enrolled in a  
 3 postsecondary school, pursuing a general educational development (GED) diploma, or  
 4 the records of the department indicate that said applicant:

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

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

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

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

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

22 (C) Has been suspended from school for:

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

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

26 (iii) Possession or use of a weapon on school property. For purposes of this  
 27 subparagraph, the term 'weapon' shall be defined in accordance with Code Section  
 28 16-11-127.1 but shall not include any part of an archeological or cultural exhibit  
 29 brought to school in connection with a school project;

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

31 (v) Causing substantial physical or visible bodily harm to or seriously disfiguring  
 32 another person, including another student.

33 Notice given by certified mail or statutory overnight delivery with return receipt  
 34 requested mailed to the person's last known address shall be prima-facie evidence that  
 35 such person received the required notice. The minor so notified may request in writing  
 36 a hearing within ten business days from the date of receipt of notice. Within 30 days after  
 37 receiving a written request for a hearing, the department shall hold a hearing as provided

1 for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such  
2 hearing, the department shall sustain its order of suspension or rescind such order. Appeal  
3 from such hearing shall be in accordance with said chapter. If no hearing is requested  
4 within the ten business days specified above, the right to a hearing shall have been  
5 waived and the instruction permit or driver's license of the minor shall remain suspended.  
6 The suspension provided for in this paragraph shall be for a period to end upon the date  
7 of such minor's eighteenth birthday, but such minor's instruction permit or driver's  
8 license shall be reinstated if the minor submits evidence satisfactory to the department  
9 that he or she has resumed regular studies as determined by the State Board of Education  
10 or is pursuing a general educational development (GED) diploma and qualifies for an  
11 instruction permit or driver's license under the provisions of this subsection, upon  
12 payment of a restoration fee of \$50.00; provided, however, that any instruction permit or  
13 driver's license suspended pursuant to subparagraph (C) of this paragraph shall not be  
14 reinstated until 90 days after the effective date of the suspension of such permit or license  
15 by the department or for the duration of the minor's suspension from school, whichever  
16 is longer.

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

### 20 SECTION 13.

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

### 23 SECTION 14.

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