

Senate Bill 239

By: Senators Ramsey, Sr. of the 43rd, Henson of the 41st, Butler of the 55th, Jones of the 10th, Buckner of the 44th and others

**AS PASSED SENATE**

**A BILL TO BE ENTITLED  
AN ACT**

1 To amend Part 1 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia  
2 Annotated, relating to school attendance in elementary and secondary education, so as to  
3 revise certain provisions relating to mandatory attendance; to require new residents in a local  
4 school system to enroll a child within 10 days; to provide for reporting violations of  
5 mandatory attendance requirements; to provide that a local school system official who fails  
6 to make certain reports is guilty of a misdemeanor; to provide that a person who fails to  
7 enroll a child is guilty of a misdemeanor; to provide for statutory construction; to provide for  
8 related matters; to repeal conflicting laws; and for other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

11 Part 1 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,  
12 relating to school attendance in elementary and secondary education, is amended by revising  
13 Code Section 20-2-690.1, relating to mandatory education for children, as follows:

14 "20-2-690.1.

15 (a) Mandatory attendance in a public school, private school, or home school program shall  
16 be required for children between their sixth and sixteenth birthdays. Such mandatory  
17 attendance shall not be required where the child has successfully completed all  
18 requirements for a high school diploma. Any parent, guardian, or other person having  
19 control or charge of any child or children subject to mandatory attendance pursuant to this  
20 subsection who becomes a new resident of a local school system in this state during the  
21 academic year of such school system shall within 10 days of such new residency enroll  
22 such child or children in a public school, a private school, or a home study program that  
23 meets the requirements for a public school, a private school, or a home study program.  
24 Failure to enroll such child or children within 10 days shall constitute a violation of this  
25 Code section.

26 (b) Every parent, guardian, or other person residing within this state having control or  
27 charge of any child or children during the ages of mandatory attendance as required in  
28 subsection (a) of this Code section shall enroll and send such child or children to a public  
29 school, a private school, or a home study program that meets the requirements for a public  
30 school, a private school, or a home study program; and such child shall be responsible for  
31 ~~enrolling in and~~ attending a public school, a private school, or a home study program that  
32 meets the requirements for a public school, a private school, or a home study program  
33 under such penalty for noncompliance with this subsection as is provided in Chapter 11 of  
34 Title 15, unless the child's failure to enroll and attend is caused by the child's parent,  
35 guardian, or other person, in which case the parent, guardian, or other person alone shall  
36 be responsible; provided, however, that tests and physical exams for military service and  
37 the National Guard and such other approved absences as provided for by law or by the  
38 local board of education shall be excused absences. The requirements of this subsection  
39 shall apply to a child during the ages of mandatory attendance as required in subsection (a)  
40 of this Code section who has been assigned by a local board of education or its delegate to  
41 attend an alternative public school program established by that local board of education,  
42 including an alternative public school program provided for in Code Section 20-2-154.1,  
43 regardless of whether such child has been suspended or expelled from another public  
44 school program by that local board of education or its delegate, and to the parent, guardian,  
45 or other person residing in this state who has control or charge of such child. Nothing in  
46 this Code section shall be construed to require a local board of education or its delegate to  
47 assign a child to attend an alternative public school program rather than suspending or  
48 expelling the child.

49 ~~(c) Any parent, guardian, or other person residing in this state who has control or charge~~  
50 ~~of a child or children and who shall violate this Code section shall be guilty of a~~  
51 ~~misdemeanor and, upon conviction thereof, shall be subject to a fine not less than \$25.00~~  
52 ~~and not greater than \$100.00, imprisonment not to exceed 30 days, community service, or~~  
53 ~~any combination of such penalties, at the discretion of the court having jurisdiction. Each~~  
54 ~~day's absence from school in violation of this part after the child's school system notifies~~  
55 ~~the parent, guardian, or other person who has control or charge of a child of five unexcused~~  
56 ~~days of absence for a child shall constitute a separate offense. After two reasonable~~  
57 ~~attempts to notify the parent, guardian, or other person who has control or charge of a child~~  
58 ~~of five unexcused days of absence without response, the school system shall send a notice~~  
59 ~~to such parent, guardian, or other person by certified mail, return receipt requested. Public~~  
60 ~~schools shall provide to the parent, guardian, or other person having control or charge of~~  
61 ~~each child enrolled in public school a written summary of possible consequences and~~  
62 ~~penalties for failing to comply with compulsory attendance under this Code section for~~

63 ~~children and their parents, guardians, or other persons having control or charge of children.~~  
 64 ~~The parent, guardian, or other person who has control or charge of a child or children shall~~  
 65 ~~sign a statement indicating receipt of such written statement of possible consequences and~~  
 66 ~~penalties; children who are age ten years or older by September 1 shall sign a statement~~  
 67 ~~indicating receipt of such written statement of possible consequences and penalties. After~~  
 68 ~~two reasonable attempts by the school to secure such signature or signatures, the school~~  
 69 ~~shall be considered to be in compliance with this subsection if it sends a copy of the~~  
 70 ~~statement, via certified mail, return receipt requested, to such parent, guardian, other person~~  
 71 ~~who has control or charge of a child, or children. Public schools shall retain signed copies~~  
 72 ~~of statements through the end of the school year.~~

73 ~~(d)(c)~~ Local school superintendents in the case of private schools or home study programs  
 74 and visiting teachers and attendance officers in the case of public schools shall have  
 75 authority and it shall be their duty to file proceedings in court to enforce this subpart.

76 (d)(1) Local school system officials shall make and file a report to the appropriate  
 77 enforcement agency regarding any parent, guardian, or other person having control or  
 78 charge of any child or children subject to mandatory attendance requirements pursuant  
 79 to subsection (a) of this Code section who have accumulated 15 days of unexcused  
 80 absences. Any person required to make a report pursuant to this paragraph who  
 81 knowingly and willfully fails to do so shall be guilty of a misdemeanor.

82 (2) Local school system officials or other persons may make and file a report to the  
 83 appropriate enforcement agency regarding any parent, guardian, or other person having  
 84 control or charge of any child or children subject to mandatory attendance requirements  
 85 pursuant to subsection (a) of this Code section whose child or children are not regularly  
 86 attending school.

87 (3) Local school system officials or other persons may make and file a report to the  
 88 appropriate enforcement agency regarding any parent, guardian, or other person having  
 89 control or charge of any child or children subject to mandatory attendance requirements  
 90 pursuant to subsection (a) of this Code section if it appears that such parent, guardian, or  
 91 other person has knowingly violated any of the provisions of this Code section.

92 (4) Local school systems shall cooperate in the investigation and prosecution of  
 93 mandatory attendance violations in accordance with Code Section 20-2-694.

94 (e) No case shall constitute a violation of this Code section unless said child has  
 95 accumulated five or more days of unexcused absences. Each day's absence from school  
 96 in violation of this part after the child's school system or its designee notifies the parent,  
 97 guardian, or other person who has control or charge of a child of five unexcused days of  
 98 absence for a child shall constitute a separate offense. After two or more reasonable  
 99 attempts to notify the parent, guardian, or other person who has control or charge of a child

100 of five unexcused days of absence without response, the school system shall send a notice  
101 to such parent, guardian, or other person by certified mail, return receipt requested and  
102 upon doing so, the school system shall be considered to be in compliance with this  
103 subsection.

104 ~~(e)~~(f) An unemancipated minor who is older than the age of mandatory attendance as  
105 required in subsection (a) of this Code section who has not completed all requirements for  
106 a high school diploma who wishes to withdraw from school shall have the written  
107 permission of his or her parent or legal guardian prior to withdrawing. Prior to accepting  
108 such permission, the school principal or designee shall convene a conference with the child  
109 and parent or legal guardian within two school days of receiving notice of the intent of the  
110 child to withdraw from school. The principal or designee shall make a reasonable attempt  
111 to share with the student and parent or guardian the educational options available, including  
112 the opportunity to pursue a general educational development (GED) diploma and the  
113 consequences of not having earned a high school diploma, including lower lifetime  
114 earnings, fewer jobs for which the student will be qualified, and the inability to avail  
115 oneself of higher educational opportunities. Every local board of education shall adopt a  
116 policy on the process of voluntary withdrawal of unemancipated minors who are older than  
117 the mandatory attendance age. The policy shall be filed with the Department of Education  
118 no later than January 1, 2007. The Department of Education shall provide annually to all  
119 local school superintendents model forms for the parent or guardian signature requirement  
120 contained in this subsection and updated information from reliable sources relating to the  
121 consequences of withdrawing from school without completing all requirements for a high  
122 school diploma. Such form shall include information relating to the opportunity to pursue  
123 a general educational development (GED) diploma and the consequences of not having  
124 earned a high school diploma, including lower lifetime earnings, fewer jobs for which the  
125 student will be qualified, and the inability to avail oneself of higher educational  
126 opportunities. Each local school superintendent shall provide such forms and information  
127 to all of its principals of schools serving grades six through ~~twelve~~ 12 for the principals to  
128 use during the required conference with the child and parent or legal guardian.

129 (g)(1) Any parent, guardian, or other person residing in this state who has control or  
130 charge of a child or children and who shall fail to send such child or children in a public  
131 school, a private school, or a home study program in accordance with this Code section  
132 shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine  
133 not less than \$25.00 and not greater than \$100.00, imprisonment not to exceed 30 days,  
134 community service, or any combination of such penalties, at the discretion of the court  
135 having jurisdiction.

136 (2) Any parent, guardian, or other person residing in this state who has control or charge  
137 of a child or children and who shall fail to enroll such child or children in a public school,  
138 a private school, or a home study program in accordance with this Code section shall be  
139 guilty of a misdemeanor and, upon conviction thereof, shall be subject to punishment as  
140 for a misdemeanor with the exception that any imprisonment portion of the sentence shall  
141 not exceed 30 days.

142 (h) Nothing in this Code section shall be construed to authorize the State Board of  
143 Education, local boards of education, or any officers thereof or appropriate enforcement  
144 agencies to impose any additional requirements on private schools or home study  
145 programs beyond that specifically included in subsection (a) of this Code section and  
146 in Code Section 20-2-690."

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## **SECTION 2.**

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