

House Bill 812

By: Representative Waites of the 60<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 2 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia  
2 Annotated, relating to discipline of students in elementary and secondary education, so as to  
3 revise provisions relating to bullying; to provide for legislative findings; to require annual  
4 reporting of bullying incidents; to provide for definitions; to provide for requirements for  
5 local boards of education, state charter schools, and private schools; to provide for  
6 requirements for the Department of Education; to provide for statutory construction; to  
7 provide for related matters; to repeal conflicting laws; and for other purposes.

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

9 **SECTION 1.**

10 The General Assembly finds and declares:

- 11 (1) All students have the right to participate fully in the educational process, free from  
12 bullying and harassment;
- 13 (2) A safe and civil environment in school is necessary for students to learn and to achieve  
14 high academic standards;
- 15 (3) Bullying and harassment, like other disruptive or violent behaviors, are forms of  
16 conduct that disrupt both a student's ability to learn and a school's ability to educate its  
17 students in a safe environment; and
- 18 (4) Because students learn by example, school administrators, faculty, staff, and volunteers  
19 should be expected to demonstrate appropriate behavior, treat others with civility and  
20 respect, and refuse to tolerate bullying and harassment.

21 **SECTION 2.**

22 Part 2 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,  
23 relating to discipline of students in elementary and secondary education, is amended in Code  
24 Section 20-2-740, relating to an annual report by local boards of education regarding

25 disciplinary and placement actions and an annual study by the Department of Education, by  
 26 revising subsections (a) and (b) as follows:

27 "(a) Each local board of education shall file an annual report, by August 1 of each year,  
 28 with the Department of Education regarding disciplinary and placement actions taken  
 29 during the prior school year. Such report shall classify the types of actions into the  
 30 following categories:

- 31 (1) Actions in which a student was assigned to in-school suspension;
- 32 (2) Actions in which a student was suspended for a period of ten days or less;
- 33 (3) Actions in which a student was suspended for a period of more than ten days but not  
 34 beyond the current school quarter or semester;
- 35 (4) Actions in which a student was expelled beyond the current school quarter or  
 36 semester but not permanently expelled;
- 37 (5) Actions in which a student was permanently expelled;
- 38 (6) Actions in which a student was placed in an alternative educational setting;
- 39 (7) Actions in which a student was suspended from riding the bus;
- 40 (8) Actions in which corporal punishment was administered; ~~and~~
- 41 (9) Actions in which a student was removed from class pursuant to subsection (b) of  
 42 Code Section 20-2-738; and
- 43 (10) Actions in which a student was disciplined for bullying or harassment, as defined  
 44 by Code Section 20-2-751.4.

45 (b) For each category of ~~disciplinary or placement action~~ listed in paragraphs (1) through  
 46 ~~(9)~~(10) of subsection (a) of this Code section, the local board shall provide the following  
 47 information: the number of students subject to the type of disciplinary or placement action;  
 48 the age and grade level of such students; such students' race and gender; and the number  
 49 of students ~~subject to the type of disciplinary action~~ in each category who were eligible for  
 50 free or reduced price lunches under federal guidelines. For each action listed in  
 51 paragraph (9) of subsection (a) of this Code section, the local board shall also provide  
 52 information regarding the decisions of placement review committees and the disciplinary  
 53 and placement decisions made by principals or their designees. The data required by this  
 54 Code section shall be reported separately for each school within the local school system  
 55 and collected and reported in compliance with the requirements of 20 U.S.C. Sections  
 56 1232g and 1232h."

### 57 **SECTION 3.**

58 Said part is further amended by revising Code Section 20-2-751.4, relating to policies in  
 59 public schools prohibiting bullying, as follows:

60 "20-2-751.4.

61 (a) As used in this Code section, the term:

62 (1) 'Bullying' means conduct that:

63 (A) Adversely affects the ability of one or more students to participate in or benefit  
 64 from the school's educational programs or activities by placing a student in reasonable  
 65 fear of physical harm; and

66 (B)(i) Includes conduct based on a student's actual or perceived race, color, national  
 67 origin, sex, gender, disability, sexual orientation, gender identity or expression,  
 68 religion, or any other distinguishing characteristics that may be defined by a state or  
 69 local education agency; or

70 (ii) Is based on association with a person or group with any person with one or more  
 71 of the actual or perceived characteristics listed in division (i) of this subparagraph.

72 (2) 'Harassment' means conduct that:

73 (A) Adversely affects the ability of one or more students to participate in or benefit  
 74 from the school's educational programs or activities because the conduct as reasonably  
 75 perceived by the student is so severe, persistent, or pervasive; and

76 (B)(i) Includes conduct based on a student's actual or perceived race, color, national  
 77 origin, sex, gender, disability, sexual orientation, gender identity or expression,  
 78 religion, or any other distinguishing characteristics that may be defined by a state or  
 79 local educational agency; or

80 (ii) Is based on association with a person or group with any person with one or more  
 81 of the actual or perceived characteristics listed in division (i) of this subparagraph.

82 ~~'bullying' means an act which occurs on school property, on school vehicles, at designated~~  
 83 ~~school bus stops, or at school related functions or activities, or by use of data or software~~  
 84 ~~that is accessed through a computer, computer system, computer network, or other~~  
 85 ~~electronic technology of a local school system, that is:~~

86 ~~(1) Any willful attempt or threat to inflict injury on another person, when accompanied~~  
 87 ~~by an apparent present ability to do so;~~

88 ~~(2) Any intentional display of force such as would give the victim reason to fear or~~  
 89 ~~expect immediate bodily harm; or~~

90 ~~(3) Any intentional written, verbal, or physical act which a reasonable person would~~  
 91 ~~perceive as being intended to threaten, harass, or intimidate, that:~~

92 ~~(A) Causes another person substantial physical harm within the meaning of Code~~  
 93 ~~Section 16-5-23.1 or visible bodily harm as such term is defined in Code Section~~  
 94 ~~16-5-23.1;~~

95 ~~(B) Has the effect of substantially interfering with a student's education;~~

- 96 ~~(C) Is so severe, persistent, or pervasive that it creates an intimidating or threatening~~  
 97 ~~educational environment; or~~
- 98 ~~(D) Has the effect of substantially disrupting the orderly operation of the school.~~
- 99 (b) This Code section applies to conduct occurring on all public elementary and secondary  
 100 school premises, at any school-sponsored functions or activities, and on school-sponsored  
 101 transportation. This Code section also applies to usage of electronic technology and  
 102 electronic communications occurring on all public elementary and secondary school  
 103 premises, at any school-sponsored functions or activities, on school-sponsored  
 104 transportation, and on school computers, networks, forums, and mailing lists.
- 105 ~~(b)(c)~~ No later than August 1, ~~2011~~ 2014:
- 106 (1) Each local board of education, state charter school, and private school shall adopt a  
 107 policy that prohibits bullying and harassment of a student by another student, which shall  
 108 include, at a minimum, incorporation of the model policy established by the Department  
 109 of Education pursuant to subsection (d) of this Code section ~~and shall require such~~  
 110 ~~prohibition to be included in the student code of conduct for schools in that school~~  
 111 ~~system;~~
- 112 (2) Each local board, state charter school, and private school ~~policy~~ shall adopt policies  
 113 pursuant to this Code section that, at a minimum:
- 114 (A) Prohibit bullying and harassment of all students, as specified in this Code section;  
 115 (B) Designate one person in the local school system, state charter school, or private  
 116 school as the primary contact regarding the antibullying and harassment policy. The  
 117 primary contact shall receive copies of all formal and informal complaints, have  
 118 responsibility for assuring the implementation of the policy and procedure, and serve  
 119 as the primary contact on the policy and procedures between the local school system,  
 120 state charter school, or private school and the Department of Education;
- 121 (C) Require that school employees and trained volunteers who witness incidents of  
 122 bullying or harassment, or possess reliable information that would lead a reasonable  
 123 person to suspect that a person is a target of bullying or harassment, promptly report  
 124 that information to the school principal and local school system, state charter school,  
 125 or private school designee;
- 126 (D) Provide a procedure for prompt investigation of reports of complaints of bullying  
 127 or harassment, identifying either the principal or the principal's designee as the person  
 128 responsible for the investigation;
- 129 (E) Delineate the range of ways in which a school will respond once an incident of  
 130 bullying or harassment is identified, including a range of age-appropriate consequences  
 131 that may or will attach to the prohibited bullying and harassment;

132 (F) Prohibit reprisal or retaliation against any person who reports an act of bullying or  
 133 harassment and describe appropriate remedial action for a person who engages in  
 134 reprisal or retaliation;

135 (G) Allow for anonymous reporting while clarifying that no remedial action may be  
 136 undertaken solely on the basis of an anonymous report;

137 (H) Include a statement of how the policy is to be publicized, including that the policy  
 138 of the local school system, state charter school, or private school shall appear in new  
 139 employee training materials, any publication of the local school system, state charter  
 140 school, or private school that sets forth the comprehensive rules, procedures, and  
 141 standards of conduct for schools within the local school system or for state charter  
 142 schools or private schools, and in any student handbook; and

143 (I) Describe a process by which data on incidents of bullying and harassment shall be  
 144 collected, reported, and analyzed at least on an annual basis; and

145 (3) Each local board of education shall require each school to adopt and implement and  
 146 each state charter school and private school shall adopt and implement annual  
 147 professional development in the identification, prevention, and resolution of bullying and  
 148 harassment incidents.

149 ~~require that, upon a finding by the disciplinary hearing officer, panel, or tribunal of~~  
 150 ~~school officials provided for in this subpart that a student in grades six through 12 has~~  
 151 ~~committed the offense of bullying for the third time in a school year, such student shall~~  
 152 ~~be assigned to an alternative school;~~

153 ~~(3) Each local board of education shall establish and publish in its local board policy a~~  
 154 ~~method to notify the parent, guardian, or other person who has control or charge of a~~  
 155 ~~student upon a finding by a school administrator that such student has committed an~~  
 156 ~~offense of bullying or is a victim of bullying; and~~

157 ~~(4) Each local board of education shall ensure that students and parents of students are~~  
 158 ~~notified of the prohibition against bullying, and the penalties for violating the prohibition,~~  
 159 ~~by posting such information at each school and by including such information in student~~  
 160 ~~and parent handbooks.~~

161 ~~(e)(d)~~ No later than ~~January 1, 2011~~ June 30, 2014, the Department of Education shall:

162 (1) Develop ~~develop~~ a model policy regarding bullying and harassment, that may be  
 163 revised from time to time, and shall post such policy on its website in order to assist local  
 164 school systems, state charter schools, and private schools. Such model policy shall  
 165 ~~include~~ provide that it:

166 (A) Is applicable to grades kindergarten through 12; and

167 (B) Contains definitions of bullying and harassment consistent with this Code section;

- 168 (2) Adopt rules and regulations necessary to implement the provisions of this Code  
 169 section; and
- 170 (3) Develop appropriate procedures for:
- 171 (A) Investigating violations of this Code section;  
 172 (B) Reporting of and responding to failures to implement this Code section by school  
 173 systems, schools, and administrators;  
 174 (C) Reporting of incidents of bullying and harassment by school systems and schools;  
 175 (D) Publication of state-wide statistics concerning bullying and harassment;  
 176 (E) Filing complaints regarding school system, state charter school, and private school  
 177 failure to develop and implement policies that provide the protections set forth in this  
 178 Code section; and
- 179 ~~(1) A statement prohibiting bullying;~~  
 180 ~~(2) A requirement that any teacher or other school employee who has reliable~~  
 181 ~~information that would lead a reasonable person to suspect that someone is a target of~~  
 182 ~~bullying shall immediately report it to the school principal;~~  
 183 ~~(3) A requirement that each school have a procedure for the school administration to~~  
 184 ~~promptly investigate in a timely manner and determine whether bullying has occurred;~~  
 185 ~~(4) An age-appropriate range of consequences for bullying which shall include, at~~  
 186 ~~minimum and without limitation, disciplinary action or counseling as appropriate under~~  
 187 ~~the circumstances;~~  
 188 ~~(5) A procedure for a teacher or other school employee, student, parent, guardian, or~~  
 189 ~~other person who has control or charge of a student, either anonymously or in such~~  
 190 ~~person's name, at such person's option, to report or otherwise provide information on~~  
 191 ~~bullying activity;~~  
 192 ~~(6) A statement prohibiting retaliation following a report of bullying; and~~  
 193 ~~(7) Provisions consistent with the requirements of subsection (b) of this Code section.~~
- 194 ~~(d)(F) Post~~ The Department of Education shall develop and post on its website a list  
 195 of entities and their contact information which produce antibullying and harassment  
 196 training programs and materials deemed appropriate by the department for use in local  
 197 school systems, state charter schools, and private schools.
- 198 ~~(e)(1)~~ (1) Any person who reports an incident of bullying and harassment in good faith shall  
 199 be immune from civil liability for any damages caused by such reporting.
- 200 (2) A school employee shall be immune from a cause of action for damages arising from  
 201 any failure to remedy a reported incident, if he or she:
- 202 (A) Promptly reports an incident of bullying or harassment to the appropriate official  
 203 designated by the school system's, state charter school's, and private school's policy, as  
 204 appropriate; and

- 205 (B) Makes such report in compliance with the procedures in the school system's policy.  
206 (f) Nothing in this Code section or in the model policy promulgated by the Department of  
207 Education shall be construed to require a local board of education, state charter school, and  
208 private school to provide transportation to a student transferred to another school as a result  
209 of a bullying or harassment incident.
- 210 (g) Any school system or state charter school which is not in compliance with the  
211 requirements of subsection ~~(b)~~ (c) of this Code section shall be ineligible to receive state  
212 funding pursuant to Code Sections 20-2-161 and 20-2-260.
- 213 (h)(1) This Code section is not intended to establish any private right of action.  
214 (2) This Code section is not intended to limit the rights of any individual currently  
215 available under any other available civil or criminal law.  
216 (3) Nothing in this Code section is intended to interfere with the First Amendment rights  
217 of free speech and expression of any person affected.
- 218 (i) A school employee, student, or volunteer shall not engage in reprisal, retaliation, or  
219 false accusation against a victim, witness, or one with reliable information about an act of  
220 bullying or harassment.
- 221 (j) The provisions of this Code section shall be liberally construed to give effect to the  
222 purposes thereof.
- 223 (k) A local board of education, state charter school, and private school may require  
224 community service for a student in grades six through 12 who commits the offense of  
225 bullying or harassment."

226 **SECTION 4.**

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