

House Bill 816

By: Representatives Mitchell of the 88th, Pruett of the 149th, Jackson of the 128th, LaRiccia of the 169th, Scott of the 76th, and others

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 enact the "Georgia Student Religious Liberties
3 Act of 2016"; to provide for voluntary student expression of religious viewpoints in public
4 schools; to provide that local school systems shall allow religious expression in class
5 assignments; to provide that local school systems shall provide students with the freedom to
6 organize religious groups and activities; to provide that local school systems shall provide
7 a limited public forum for student speakers at nongraduation and graduation events; to
8 provide a model policy for voluntary religious expression in public schools; to provide for
9 related matters; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 This Act shall be known and may be cited as the "Georgia Student Religious Liberties Act
13 of 2016."

14 **SECTION 2.**

15 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
16 secondary education, is amended by adding a new article to read as follows:

17 "ARTICLE 4B

18 20-2-90.

19 A local school system shall not discriminate against students or parents on the basis of a
20 religious viewpoint or religious expression. A local school system shall treat a student's
21 voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject
22 in the same manner the local school system treats a student's voluntary expression of a
23 secular or other viewpoint on an otherwise permissible subject and shall not discriminate

24 against the student based on a religious viewpoint expressed by the student on an otherwise
25 permissible subject.

26 20-2-91.

27 Students may express their beliefs about religion in coursework, artwork, and other written
28 and oral assignments free from discrimination based on the religious content of their
29 submissions. Homework and classroom assignments shall be judged by ordinary academic
30 standards of substance and relevance and against other legitimate pedagogical concerns
31 identified by the local school system. Students shall not be penalized or rewarded on
32 account of the religious content of their work. If coursework, artwork, or other written or
33 oral assignments require a student's viewpoint to be expressed, a local school shall not
34 penalize or reward the student on the basis of religious content or a religious viewpoint.
35 In such coursework, artwork, or other written or oral assignments, a student's academic
36 work that expresses a religious viewpoint shall be evaluated based on ordinary academic
37 standards of substance and relevance to the course curriculum or requirements of the
38 coursework, artwork, or assignment.

39 20-2-92.

40 (a) Students in local schools may pray or engage in religious activities or religious
41 expression before, during, and after the school day in the same manner and to the same
42 extent that students may engage in nonreligious activities or expression. Students may
43 organize prayer groups, religious clubs, see you at the pole gatherings, and other religious
44 gatherings before, during, and after school to the same extent that students are permitted
45 to organize other noncurricular student activities and groups. Religious groups shall be
46 given the same access to school facilities for assembling as is given to other noncurricular
47 groups without discrimination based on the religious content of the groups' expression. If
48 student groups that meet for nonreligious activities are permitted to advertise or announce
49 their meetings, the local school system shall not discriminate against groups that meet for
50 prayer or other religious speech. A local school system may disclaim school sponsorship
51 of noncurricular groups and events in a manner that neither favors nor disfavors groups that
52 meet to engage in prayer or other religious speech.

53 (b) Students in public schools may wear clothing, accessories, and jewelry that display
54 religious messages or religious symbols in the same manner and to the same extent that
55 other types of clothing, accessories, and jewelry that display messages or symbols are
56 permitted.

57 20-2-93.

58 (a) To ensure that the local school system does not discriminate against a student's publicly
 59 stated voluntary expression of a religious viewpoint, if any, and to eliminate any actual or
 60 perceived affirmative school sponsorship or attribution to the local school system of a
 61 student's expression of a religious viewpoint, if any, a local school system shall adopt a
 62 policy that shall include the establishment of a limited public forum for student speakers
 63 at all school events at which a student is to publicly speak. The policy regarding the
 64 limited public forum shall also require the local school system to:

65 (1) Provide the forum in a manner that does not discriminate against a student's voluntary
 66 expression of a religious viewpoint, if any, on an otherwise permissible subject;

67 (2) Provide a method based on neutral criteria for the selection of student speakers at
 68 nongraduation events and graduation ceremonies;

69 (3) Ensure that a student speaker does not engage in obscene, vulgar, offensively lewd,
 70 or indecent speech; and

71 (4) State in written or oral form, or both, that the student's speech does not reflect the
 72 endorsement, sponsorship, position, or expression of the local school system.

73 (b) The local school system disclaimer required by paragraph (4) of subsection (a) of this
 74 Code section shall be provided at all graduation ceremonies. The local school system shall
 75 continue to provide the disclaimer at any other event in which a student speaks publicly for
 76 as long as a need exists to dispel confusion over the local school system's nonsponsorship
 77 of the student's speech.

78 (c) Student expression on an otherwise permissible subject shall not be excluded from the
 79 limited public forum because the subject is expressed from a religious viewpoint.

80 (d) All local school systems shall adopt and implement a local policy regarding a limited
 81 public forum and voluntary student expression of religious viewpoints. If a local school
 82 system voluntarily adopts and follows the model policy governing voluntary religious
 83 expression in public schools contained in Code Section 20-2-94, the local school system
 84 shall be deemed in compliance with the provisions of this article covered by the model
 85 policy.

86 20-2-94.

87 (a) As used in this article, the term 'model policy' means a policy adopted by the local
 88 school system that is comparable to the policy contained in subsection (b) of this Code
 89 section.

90 (b) The model policy shall be substantially similar to the following:

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Article I

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Student Expression of Religious Viewpoints

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The local school system shall treat a student's voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject in the same manner the local school system treats a student's voluntary expression of a secular or other viewpoint on an otherwise permissible subject and shall not discriminate against the student based on a religious viewpoint expressed by the student on an otherwise permissible subject.

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Article II

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Student Speakers at Nongraduation Events

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The local school system hereby creates a limited public forum for student speakers at all school events at which a student is to publicly speak. For each speaker, the local school system shall set a maximum time limit reasonable and appropriate to the occasion. Student speakers shall introduce:

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(1) Football games;

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(2) Any other athletic events designated by the local school system;

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(3) Opening announcements and greetings for the school day; and

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(4) Any additional events designated by the local school system, which may include, without limitation, assemblies and pep rallies.

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The forum shall be limited in the manner provided by this article.

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Only those students in the highest two grade levels of the school who hold one of the following positions of honor based on neutral criteria are eligible to use the limited public forum: student council officers, class officers of the highest grade level in the school, captains of the football team, and other students holding positions of honor as the local school system may designate.

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An eligible student shall be notified of his or her eligibility, and a student who wishes to participate as an introducing speaker shall submit his or her name to the student council or other designated body during an announced period of not less than three days. The announced period may be at the beginning of the school year, at the end of the preceding school year so student speakers are in place for the new year, or, if the selection process will be repeated each semester, at the beginning of each semester or at the end of the preceding semester so speakers are in place for the next semester. The names of the volunteering student speakers shall be randomly drawn until all names have been selected, and the names shall be listed in the order drawn. Each selected student will be matched chronologically to the event for which the student will be giving the introduction. Each student may speak for one week at a time for all introductions of events that week or rotate after each speaking event, or otherwise as determined by the local school system. The list

127 of student speakers shall be chronologically repeated as needed, in the same order. The
 128 local school system may repeat the selection process each semester rather than once a year.

129 The subject of the student introductions shall be related to the purpose of the event and
 130 to the purpose of marking the opening of the event; honoring the occasion, the participants,
 131 and those in attendance; bringing the audience to order; and focusing the audience on the
 132 purpose of the event. The subject shall be designated, the student shall stay on the subject,
 133 and the student shall not engage in obscene, vulgar, offensively lewd, or indecent speech.
 134 The local school system shall treat a student's voluntary expression of a religious
 135 viewpoint, if any, on an otherwise permissible subject in the same manner the local school
 136 system treats a student's voluntary expression of a secular or other viewpoint on an
 137 otherwise permissible subject and shall not discriminate against the student based on a
 138 religious viewpoint expressed by the student on an otherwise permissible subject.

139 For as long as there is a need to dispel confusion over the local school system's
 140 nonsponsorship of the student's speech at each event in which a student will deliver an
 141 introduction, a disclaimer shall be stated in written or oral form, or both, such as, "The
 142 student giving the introduction for this event is a volunteering student selected on neutral
 143 criteria to introduce the event. The content of the introduction is the private expression of
 144 the student and does not reflect the endorsement, sponsorship, position, or expression of
 145 the local school system."

146 Students who have attained special positions of honor in the school have traditionally
 147 addressed school audiences from time to time as a tangential component of their achieved
 148 positions of honor, such as the captains of various sports teams, student council officers,
 149 class officers, homecoming kings and queens, and prom kings and queens, and have
 150 attained their positions based on neutral criteria. Nothing in this article eliminates the
 151 continuation of the practice of having these students, irrespective of grade level, address
 152 school audiences in the normal course of their respective positions. The local school
 153 system shall create a limited public forum for the speakers and shall treat a student's
 154 voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject
 155 in the same manner the local school system treats a student's voluntary expression of a
 156 secular or other viewpoint on an otherwise permissible subject and shall not discriminate
 157 against the student based on a religious viewpoint expressed by the student on an otherwise
 158 permissible subject.

159 **Article III**

160 **Student Speakers at Graduation Ceremonies**

161 The local school system hereby creates a limited public forum for a student to speak to
 162 begin graduation ceremonies and another student to speak to end graduation ceremonies.

163 For each speaker, the local school system shall set a maximum time limit reasonable and
164 appropriate to the occasion.

165 The forum shall be limited in the manner provided by this article.

166 Only students who are graduating and who hold one of the following positions of honor
167 based on neutral criteria shall be eligible to use the limited public forum: student council
168 officers, class officers of the graduating class, the top three academically ranked graduates,
169 or a shorter or longer list of student leaders as the local school system may designate. A
170 student who will otherwise have a speaking role in the graduation ceremonies shall be
171 ineligible to give the opening and closing remarks. The names of the eligible volunteering
172 students shall be drawn randomly. The first name drawn will give the opening remarks,
173 and the second name drawn will give the closing remarks.

174 The subject of the opening and closing remarks shall be related to the purpose of the
175 graduation ceremony and to the purpose of marking the opening and closing of the
176 ceremony; honoring the occasion, the participants, and those in attendance; bringing the
177 audience to order; and focusing the audience on the purpose of the ceremony.

178 In addition to the students giving the opening and closing remarks, certain other students
179 who have attained special positions of honor based on neutral criteria, including, without
180 limitation, the valedictorian, may have speaking roles at a graduation ceremony. For each
181 speaker, the local school system shall set a maximum time limit reasonable and appropriate
182 to the occasion and to the position held by the speaker. For this purpose, the local school
183 system creates a limited public forum for these students to deliver the addresses. The
184 subject of the addresses must be related to the purpose of the graduation ceremony,
185 marking and honoring the occasion, honoring the participants and those in attendance, and
186 the student's perspective on purpose, achievement, life, school, graduation, and looking
187 forward to the future.

188 The subject shall be designated for each student speaker, the student shall stay on the
189 subject, and the student shall not engage in obscene, vulgar, offensively lewd, or indecent
190 speech. The local school system shall treat a student's voluntary expression of a religious
191 viewpoint, if any, on an otherwise permissible subject in the same manner the local school
192 system treats a student's voluntary expression of a secular or other viewpoint on an
193 otherwise permissible subject and shall not discriminate against the student based on a
194 religious viewpoint expressed by the student on an otherwise permissible subject.

195 A written disclaimer shall be printed in the graduation program that states, "The students
196 who will be speaking at the graduation ceremony were selected based on neutral criteria
197 to deliver messages of their own choices. The content of each student speaker's message
198 is the private expression of the individual student and does not reflect any position or
199 expression of the local school system, the local board of education, the local school

200 system's administration, employees of the local school system, or any other graduate. The
 201 contents of these messages were prepared by the student volunteers, and the local school
 202 system refrained from any interaction with student speakers regarding the student speakers'
 203 viewpoints on permissible subjects."

204 Article IV

205 Religious Expression in Class Assignments

206 Students may express their beliefs about religion in coursework, artwork, and other
 207 written and oral assignments free from discrimination based on the religious content of
 208 their submissions. Homework and classroom assignments shall be judged by ordinary
 209 academic standards of substance and relevance and against other legitimate pedagogical
 210 concerns identified by the local school system. Students may not be penalized or rewarded
 211 on account of the religious content of their work. If a teacher's assignment involves writing
 212 a poem, the work of a student who submits a poem in the form of a prayer, such as a psalm,
 213 shall be judged on the basis of academic standards, including literary quality, and shall not
 214 be penalized or rewarded on account of its religious content.

215 Article V

216 Freedom to Organize Religious Groups and Activities

217 Students may organize prayer groups, religious clubs, see you at the pole gatherings, and
 218 other religious gatherings before, during, and after school to the same extent that students
 219 are permitted to organize other noncurricular student activities and groups. Religious
 220 groups shall be given the same access to school facilities for assembling as is given to other
 221 noncurricular groups without discrimination based on the religious content of the
 222 expression. If student groups that meet for nonreligious activities are permitted to advertise
 223 or announce their meetings, such as by advertising in a student newspaper, putting up
 224 posters, making announcements on a student activities bulletin board or public address
 225 system, or handing out leaflets, school authorities shall not discriminate against groups that
 226 meet for prayer or other religious speech. School authorities may disclaim sponsorship of
 227 noncurricular groups and events, provided that they administer the disclaimer in a manner
 228 that does not favor or disfavor groups that meet to engage in prayer or other religious
 229 speech.'

230 20-2-95.

231 (a) This article shall not be construed to authorize this state or any of its political
 232 subdivisions to:

233 (1) Require any person to participate in prayer or any other religious activity; or

- 234 (2) Violate the constitutional rights of any person.
- 235 (b) This article shall not be construed to limit the authority of any public school to:
- 236 (1) Maintain order and discipline on the campus of the public school in a content-neutral
- 237 and viewpoint-neutral manner;
- 238 (2) Protect the safety of students, employees, and visitors of the public school; or
- 239 (3) Adopt and enforce policies and procedures regarding student speech at school,
- 240 provided that the policies and procedures do not violate the rights of students as
- 241 guaranteed by the United States and Georgia Constitutions and laws."

242 **SECTION 3.**

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