

Senate Bill 355

By: Senators Ligon, Jr. of the 3rd, McKoon of the 29th, Hill of the 6th, Williams of the 27th, Martin of the 9th and others

**AS PASSED**

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 "Student Protection Act"; to end  
3 punitive testing consequences for students related to federal, state, and locally mandated  
4 standardized assessments; to provide for alternative administrations of student assessments;  
5 to provide for parental and medical reasons to excuse students from participation in any  
6 federal, state, and locally mandated standardized assessments; to provide for guidance on  
7 how students are reported for failure to take federal, state, and locally mandated standardized  
8 assessments; to provide for a short title; to provide for related matters; to repeal conflicting  
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 style="text-align:center">**SECTION 1.**

12 This Act shall be known and may be cited as the "Student Protection Act."

13 style="text-align:center">**SECTION 2.**

14 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
15 secondary education, is amended by adding new subsections to Code Section 20-2-281,  
16 relating to student assessments, to read as follows:

17 "(r) With respect to any standardized assessments developed and administered pursuant  
18 to this Code section, the State Board of Education or local school system may administer  
19 such assessment in a paper-and-pencil format to any student whose parent or guardian  
20 requests such format and to any student 18 years of age or older who requests such format;  
21 provided, however, that this shall not apply to make-up assessments.

22 (s) The State School Superintendent shall develop guidelines, approved by the State Board  
23 of Education, by September 1, 2016, that identify a range of appropriate policies that may  
24 be adopted by a school system when considering how students not participating in a  
25 state-wide assessment will be supervised and what, if any, alternative to the assessment will

26 be provided to them during the test administration. The guidelines should prohibit a school  
 27 system from taking punitive action against a student, including, but not limited to, the  
 28 adoption of sit and stare policies, in response to a student's refusal to participate in a  
 29 federal, state, or locally mandated standardized assessment. The guidelines shall offer  
 30 positive learning opportunities for students and not be undirected free time. The guidelines  
 31 shall also address how and when the school system's policy will be communicated to  
 32 parents, students, and school system staff. As used in this subsection, the term 'sit and  
 33 stare' means any policy that requires a student whose parent or guardian has given written  
 34 instructions for such student not to participate in federal, state, or locally mandated  
 35 standardized assessments to remain with his or her class in the test room or in another  
 36 location without any alternate instructional activity provided."

### 37 SECTION 3.

38 Said chapter is further amended by adding a new Code section to read as follows:

39 "20-2-281.2.

40 (a) State mandated tests pursuant to Code Section 20-2-281 shall be mandatory for school  
 41 systems to administer but optional for students, notwithstanding any other provision of law,  
 42 under the following conditions:

43 (1) A parent or legal guardian's written request to school officials to excuse his or her  
 44 child from any or all parts of the state mandated assessments administered pursuant to  
 45 Code Section 20-2-281 shall be granted if the child is diagnosed with a life-threatening  
 46 or serious health condition; and

47 (2) A licensed therapist's order or a physician's order to excuse a child from any or all  
 48 parts of the state mandated assessments administered pursuant to Code Section 20-2-281  
 49 shall be granted.

50 (b) A student who is absent or otherwise unable to take any federal, state, or locally  
 51 mandated assessment on the first administration or its designated make-up day or days may  
 52 take the assessment on the second administration day or days or may take an alternative to  
 53 the assessment as specified by the State Board of Education or the local board of education,  
 54 which is appropriate for the student's grade level. Placement or promotion of these students  
 55 shall follow the same procedures as students who do not achieve grade level on the first  
 56 administration of the assessment; provided, however, that students who have not taken a  
 57 federal, state, or locally mandated assessment due to parental refusal or medical or  
 58 professional exemption shall be offered an appeals process if grade retention is based solely  
 59 on the fact that the student failed to take the assessment, and teachers, principals, assistant  
 60 principals, schools, and local school systems shall not be subject to any penalties due to any  
 61 student's nonparticipation.

62 (c) If the rating on a school performance report is affected by the number of students  
 63 excused or otherwise not taking the standardized assessments, the Department of Education  
 64 shall include on the school performance report:

- 65 (1) An indication that the rating was affected by a federal law requirement;  
 66 (2) A brief explanation of the federal law requirement that affected the rating; and  
 67 (3) The rating the school would have received if not for the federal law requirement of  
 68 the 95 percent participation threshold.

69 A teacher, principal, assistant principal, school, or local school system shall not be  
 70 penalized for any such child who does not participate in such assessments."

71 **SECTION 4.**

72 Said chapter is further amended in Code Section 20-2-283, relating to criteria and specific  
 73 requirements for students in grades three, five, and eight, by revising paragraph (2) of  
 74 subsection (b) as follows:

75 "(2) When a student does not perform at grade level on any end-of-grade assessment  
 76 specified in paragraph (1) of this subsection, then the following shall occur:

77 (A) The parent or guardian of the student shall be notified in writing by first-class mail  
 78 by the school principal or such official's designee regarding the student's performance  
 79 below grade level on the assessment instrument, the retest to be given the student, the  
 80 accelerated, differentiated, or additional instruction program to which the student is  
 81 assigned, and the possibility that the student might be retained at the same grade level  
 82 for the next school year;

83 (B) The student shall be retested with ~~a~~ an end-of-grade assessment, ~~or~~ an alternative  
 84 assessment instrument that is appropriate for the student's grade level, or any other  
 85 assessment, as provided for by the State Board of Education and the local board of  
 86 education, and promotion may be determined based on the student's performance on  
 87 these assessments; and

88 (C) The student shall be given an opportunity for accelerated, differentiated, or  
 89 additional instruction in the applicable subject; and"

90 **SECTION 5.**

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