

House Bill 16

By: Representatives Waites of the 60th, Sharper of the 177th, Thomas of the 39th, Scott of the 76th, and Jones of the 53rd

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 prohibit bullying and harassment of students and
4 school employees; to require annual reporting of bullying and harassment incidents; to
5 provide for definitions; to provide for requirements for local boards of education and state
6 charter schools; to provide for requirements for the Department of Education; to provide for
7 statutory construction; to provide for legislative findings; to provide for an effective date; to
8 provide for related matters; to repeal conflicting laws; and for other purposes.

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

10 **SECTION 1.**

11 The General Assembly finds and declares:

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

23 **SECTION 2.**

24 Part 2 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
25 relating to discipline of students in elementary and secondary education, is amended in Code

26 Section 20-2-740, relating to an annual report by local boards of education regarding
 27 disciplinary and placement actions and an annual study by the Department of Education, by
 28 revising subsections (a) and (b) as follows:

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

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

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

59 **SECTION 3.**

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

62 "20-2-751.4.

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

64 (1) 'Bullying' means conduct by a student or school employee that:

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

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

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

75 (2) 'Harassment' means conduct by a student or school employee that:

76 (A) Adversely affects the ability of one or more students to participate in or benefit
 77 from the school's educational programs or activities or the ability of school employees
 78 to provide educational programs or activities because the conduct as reasonably
 79 perceived by the student or students or school employee or employees is so severe,
 80 persistent, or pervasive; and

81 (B)(i) Includes conduct based on a student's or school employee's actual or perceived
 82 race, color, national origin, sex, gender, disability, sexual orientation, gender identity
 83 or expression, religion, or any other distinguishing characteristic that may be defined
 84 by a state or local educational agency; or

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

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

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

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

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

97 ~~(A) Causes another person substantial physical harm within the meaning of Code~~
 98 ~~Section 16-5-23.1 or visible bodily harm as such term is defined in Code Section~~
 99 ~~16-5-23.1;~~

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

101 ~~(C) Is so severe, persistent, or pervasive that it creates an intimidating or threatening~~
 102 ~~educational environment; or~~

103 ~~(D) Has the effect of substantially disrupting the orderly operation of the school.~~

104 ~~The term applies to acts which occur on school property, on school vehicles, at designated~~
 105 ~~school bus stops, or at school related functions or activities or by use of data or software~~
 106 ~~that is accessed through a computer, computer system, computer network, or other~~
 107 ~~electronic technology of a local school system. The term also applies to acts of~~
 108 ~~cyberbullying which occur through the use of electronic communication, whether or not~~
 109 ~~such electronic act originated on school property or with school equipment, if the electronic~~
 110 ~~communication (1) is directed specifically at students or school personnel, (2) is~~
 111 ~~maliciously intended for the purpose of threatening the safety of those specified or~~
 112 ~~substantially disrupting the orderly operation of the school, and (3) creates a reasonable~~
 113 ~~fear of harm to the students' or school personnel's person or property or has a high~~
 114 ~~likelihood of succeeding in that purpose. For purposes of this Code section, electronic~~
 115 ~~communication includes but is not limited to any transfer of signs, signals, writings,~~
 116 ~~images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire,~~
 117 ~~radio, electromagnetic, photo-electronic or photo-optical system.~~

118 (b) This Code section applies to conduct by students and school employees occurring on
 119 any elementary or secondary school premises, at any school sponsored functions or
 120 activities, and on school sponsored transportation. This Code section also applies to usage
 121 by students and school employees of electronic technology and electronic communications
 122 occurring on any elementary or secondary school premises, at any school sponsored
 123 functions or activities, on school sponsored transportation, and on school computers,
 124 networks, forums, and mailing lists.

125 ~~(b)(c)~~ No later than August 1, 2017:

126 (1) Each local board of education and state charter school shall adopt a policy that
 127 prohibits bullying of a student by another student and harassment, which shall incorporate
 128 the model policy established by the Department of Education pursuant to subsection (d)
 129 of this Code section and shall require such prohibition to be included in the student code
 130 of conduct for schools in that school system; that also, at a minimum:

131 (A) Prohibits bullying and harassment by and of students and school employees as
 132 specified in this Code section;

133 (B) Designates one person in the local school system or state charter school as the
 134 primary contact regarding the bullying and harassment policy. The primary contact
 135 shall receive copies of all formal and informal complaints, have responsibility for
 136 assuring the implementation of the policy and procedures, and serve as the primary
 137 contact on the policy and procedures between the local school system or state charter
 138 school and the Department of Education;

139 (C) Requires that school employees and trained volunteers who witness incidents of
 140 bullying or harassment, or possess reliable information that would lead a reasonable
 141 person to suspect that a person is a target of bullying or harassment, promptly report
 142 such information to the school principal and the primary contact of the local school
 143 system or state charter school;

144 (D) Provides a procedure for prompt investigation of reports of complaints of bullying
 145 or harassment, identifying either the principal or the principal's designee as the person
 146 responsible for the investigation;

147 (E) Delineates the range of ways in which a school will respond once an incident of
 148 bullying or harassment is identified, including a range of age-appropriate consequences
 149 for students or appropriate consequences for school employees that may or will attach
 150 to the prohibited bullying and harassment;

151 (F) Prohibits reprisal or retaliation against any person who reports an act of bullying
 152 or harassment and describes appropriate remedial action for a person who engages in
 153 reprisal or retaliation;

154 (G) Allows for anonymous reporting while clarifying that no remedial action may be
 155 undertaken solely on the basis of an anonymous report;

156 (H) Includes a statement of how the policy is to be publicized, including that the policy
 157 of the local school system or state charter school shall appear in new employee training
 158 materials, any publication of the local school system or state charter school that sets
 159 forth the comprehensive rules, procedures, and standards of conduct for schools within
 160 the local school system or for state charter schools, and in any student handbook and
 161 employee handbook; and

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

164 (2) Each school and each state charter school shall adopt and implement annual
 165 professional development in the identification, prevention, and resolution of bullying and
 166 harassment incidents.

167 ~~(2) Each local board policy shall require that, upon a finding by the disciplinary hearing~~
 168 ~~officer, panel, or tribunal of school officials provided for in this subpart that a student in~~

169 ~~grades six through 12 has committed the offense of bullying for the third time in a school~~
 170 ~~year, such student shall be assigned to an alternative school;~~

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

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

179 ~~(e)(d)~~ No later than ~~January 1, 2011~~ June 30, 2017, the Department of Education shall:

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

184 (A) Is applicable to students in grades kindergarten through 12 and to all school
 185 employees; and

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

187 (2) Adopt rules and regulations necessary to implement the provisions of this Code
 188 section;

189 (3) Develop appropriate procedures for:

190 (A) Investigating violations of this Code section;

191 (B) Reporting of and responding to failures to implement this Code section by school
 192 systems, schools, and administrators;

193 (C) Reporting of incidents of bullying and harassment by school systems and state
 194 charter schools;

195 (D) Publication of state-wide statistics concerning bullying and harassment;

196 (E) Filing complaints regarding school system and state charter school failure to
 197 develop and implement policies that provide the protections set forth in this Code
 198 section; and

199 ~~(1) A statement prohibiting bullying;~~

200 ~~(2) A requirement that any teacher or other school employee who has reliable~~
 201 ~~information that would lead a reasonable person to suspect that someone is a target of~~
 202 ~~bullying shall immediately report it to the school principal;~~

203 ~~(3) A requirement that each school have a procedure for the school administration to~~
 204 ~~promptly investigate in a timely manner and determine whether bullying has occurred;~~

- 205 ~~(4) An age-appropriate range of consequences for bullying which shall include, at~~
 206 ~~minimum and without limitation, disciplinary action or counseling as appropriate under~~
 207 ~~the circumstances;~~
- 208 ~~(5) A procedure for a teacher or other school employee, student, parent, guardian, or~~
 209 ~~other person who has control or charge of a student, either anonymously or in such~~
 210 ~~person's name, at such person's option, to report or otherwise provide information on~~
 211 ~~bullying activity;~~
- 212 ~~(6) A statement prohibiting retaliation following a report of bullying; and~~
- 213 ~~(7) Provisions consistent with the requirements of subsection (b) of this Code section.~~
- 214 ~~(d)(4) Post~~ The Department of Education shall develop and post on its website a list of
 215 entities and their contact information which produce antibullying and harassment training
 216 programs and materials deemed appropriate by the department for use in local school
 217 systems and state charter schools.
- 218 (e)(1) Any person who reports an incident of bullying or harassment in good faith shall
 219 be immune from civil liability for any damages caused by such reporting.
- 220 (2) A school employee shall be immune from a cause of action for damages arising from
 221 any failure to remedy a reported incident, if he or she:
- 222 (A) Promptly reports an incident of bullying or harassment to the principal and the
 223 primary contact designated by the school system or state charter school pursuant to
 224 subparagraph (c)(1)(B) of this Code section; and
- 225 (B) Makes such report in compliance with the procedures established by the school
 226 system or state charter school.
- 227 (f) Nothing in this Code section or in the model policy promulgated by the Department of
 228 Education shall be construed to require a local board of education or state charter school
 229 to provide transportation to a student transferred to another school as a result of a bullying
 230 or harassment incident.
- 231 (g) Any school system or state charter school which is not in compliance with the
 232 requirements of subsection ~~(b)~~ (c) of this Code section shall be ineligible to receive state
 233 funding pursuant to Code Sections 20-2-161 and 20-2-260.
- 234 (h)(1) This Code section is not intended to establish any private right of action.
- 235 (2) This Code section is not intended to limit the rights of any individual currently
 236 available under any other civil or criminal law.
- 237 (3) Nothing in this Code section is intended to interfere with the First Amendment rights
 238 of free speech and expression of any person affected.
- 239 (i) A school employee, student, or volunteer shall not engage in reprisal, retaliation, or
 240 false accusation against a victim, witness, or one with reliable information about an act of
 241 bullying or harassment.

- 242 (j) The provisions of this Code section shall be liberally construed to give effect to the
243 purposes thereof.
- 244 (k) A local board of education or state charter school may require community service for
245 a student in grades six through 12 who commits the offense of bullying or harassment."

246 **SECTION 4.**

247 Said part is further amended by revising subsection (e) of Code Section 20-2-751.5, relating
248 to student codes of conduct, as follows:

249 "(e) Any student handbook which is prepared by a local board or school shall include a
250 copy of the student code of conduct for that school or be accompanied by a copy of the
251 student code of conduct for that school as annually distributed pursuant to Code Section
252 20-2-736. Any such student handbook shall also include a statement that all students have
253 a right to be free from bullying or harassment, as defined by Code Section 20-2-751.4, by
254 other students or school employees. When distributing a student code of conduct, a local
255 school shall include a form for acknowledgment of the student's ~~parent~~ parent's or
256 guardian's receipt of the code, and the local school shall solicit or require that the form be
257 signed and returned to the school."

258 **SECTION 5.**

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

261 **SECTION 6.**

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