

The House Committee on Higher Education offers the following substitute to HB 1:

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education
2 generally, so as to provide for public forums at public institutions of higher education within
3 the University System of Georgia and the Technical College System of Georgia for the
4 campus community; to prevent the creation of "free speech zones" at such public institutions
5 of higher education; to allow for reasonable, content- and viewpoint-neutral, and narrowly
6 tailored time, place, and manner restrictions on expressive activity at public institutions of
7 higher education; to prohibit material and substantial disruption of protected expressive
8 activity at public institutions of higher education; to require public institutions of higher
9 education to provide public notice of rules and expectations regarding expressive activity;
10 to require public institutions of higher education to develop materials, programs, and
11 procedures related to expressive activity; to provide for a short title; to provide for
12 definitions; to provide for related matters; to provide for an effective date; to repeal
13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

H. B. 1 (SUB)

SECTION 1.

15

16 Title 20 of the Official Code of Georgia Annotated, relating to education generally, is
17 amended by repealing Code Section 20-3-48, relating to adoption of free speech and
18 expression regulations and disciplinary sanctions for interfering with rights, and enacting a
19 new Code Section 20-3-48 to read as follows:

20 "20-3-48.

21 (a) This part shall be known and may be cited as the 'Forming Open and Robust University
22 Minds (FORUM) Act.'

23 (b) As used in this part, the term:

24 (1) 'Campus community' means students, administrators, faculty, and staff at the public
25 institution of higher education and their invited guests.

26 (2) 'Materially and substantially disrupts' means when a person intentionally engages in
27 conduct or expressive activity which such person knew or reasonably should have known
28 would significantly hinder another person's or group's expressive activity, prevent the
29 communication of the person's or group's message, or prevent the transaction of the
30 business of a lawful meeting, gathering, or procession by:

31 (A) Engaging in fighting, violent, or other unlawful behavior; or

32 (B) Physically blocking, using threats of violence, or creating loud or sustained noise
33 or vocalization intended to prevent any person from attending, listening to, viewing, or
34 otherwise participating in an expressive activity.

35 Conduct or expressive activity shall not be considered a material or substantial disruption
36 if it is protected under the Georgia Constitution or the First Amendment to the United
37 States Constitution, including, but not limited to, lawful protests in an unrestricted
38 outdoor area of campus (except during times when those areas have been reserved in
39 advance for other events) or minor, brief, or fleeting nonviolent disruptions of events that
40 are isolated and short in duration.

41 (3) 'Public institution of higher education' or 'institution' means any college or university
42 under the management and control of the Board of Regents of the University System of
43 Georgia.

44 (4) 'Student' means any person who is enrolled on a full-time or part-time basis in a
45 public institution of higher education.

46 (5) 'Student-on-student harassment' means unwelcome conduct or expressive activity
47 directed at a student that is so severe, pervasive, and objectively offensive that a student
48 is effectively denied equal access to educational opportunities or benefits provided by the
49 public institution of higher education. This term shall not apply to or govern any
50 employment policy of a public institution of higher education relating to harassment.

51 (6) 'Student organization' means any association, club, fraternity, society, sorority, or
52 organized group of students, whether academic, athletic, political, social, or otherwise,
53 that is officially recognized by a public institution of higher education.

54 (7) 'Unrestricted outdoor area of campus' means any outdoor area of campus that is
55 generally accessible to members of the campus community, including, but not limited to,
56 grassy areas, walkways, or other common areas, and does not include outdoor areas when
57 and where access to members of the campus community is lawfully restricted.

58 (c) Unrestricted outdoor areas of campuses of public institutions of higher education in this
59 state shall be deemed public forums for the campus community, and public institutions of
60 higher education shall not create 'free speech zones' or other designated areas of campus
61 outside of which expressive activities are prohibited for the campus community.

62 (d) Public institutions of higher education may maintain and enforce reasonable time,
63 place, and manner restrictions for the campus community narrowly tailored in service of
64 a significant institutional interest only when such restrictions employ clear, published,
65 content- and viewpoint-neutral criteria, and provide for ample alternative means of
66 expression. Any such restrictions shall allow for members of the campus community to
67 spontaneously and contemporaneously assemble and distribute literature. Nothing in this

68 Code section shall be interpreted as limiting the right of student expression elsewhere on
69 campus.

70 (e) Protected expressive activity under this part consists of speech and other conduct
71 protected by the First Amendment to the United States Constitution, including, but not
72 limited to, lawful verbal, written, audio-visual, or electronic expression by which
73 individuals may communicate ideas to one another, including all forms of peaceful
74 assembly, distributing literature, carrying signs, circulating petitions, demonstrations,
75 protests, and speeches including those by guest speakers.

76 (f) Any person who wishes to engage in noncommercial expressive activity in an
77 unrestricted outdoor area of campus shall be permitted to do so freely, as long as the
78 person's conduct is not unlawful and does not materially and substantially disrupt the
79 functioning of the public institution of higher education, subject to restrictions lawfully
80 imposed under subsections (c) and (d) of this Code section. Nothing in this Code section
81 shall be construed to make the unrestricted areas of campus into a designated public forum
82 for persons who are not members of the campus community.

83 (g) Nothing in this part shall be interpreted as preventing public institutions of higher
84 education from prohibiting student-on-student harassment as defined in this part; from
85 complying with federal and state laws prohibiting discrimination and harassment; or from
86 prohibiting, limiting, or restricting expression that is not protected under the Georgia
87 Constitution or the First Amendment to the United States Constitution, including, but not
88 limited to, true threats or expressive activity directed to provoke imminent lawless actions
89 and likely to produce it.

90 (h) Nothing in this part shall enable individuals to engage in conduct that materially and
91 substantially disrupts another's expressive activity that is occurring in an unrestricted
92 outdoor area of campus or a campus space reserved for that activity under the exclusive use
93 or control of a particular group.

94 (i) Public institutions of higher education shall make public in their handbooks, on their
95 websites, and through their orientation programs for students the policies, regulations, and
96 expectations of students regarding free expressive activity on campus consistent with this
97 part.

98 (j) Public institutions of higher education shall develop materials, programs, and
99 procedures to ensure that those persons who have responsibility for discipline or education
100 of students, such as administrators, campus police officers, residence life officials, and
101 professors, understand the policies, regulations, and duties of public institutions of higher
102 education regarding expressive activity on campus consistent with this part."

103 **SECTION 2.**

104 Said title is further amended by revising Code Section 20-3-48.1, relating to annual report
105 by board of regents, as follows:

106 "20-3-48.1.

107 The board of regents shall make and publish an annual report and provide a copy to the
108 Governor and each chamber of the General Assembly on July 1 of each year addressing the
109 following from the previous calendar year:

110 (1) Any barriers to, or disruptions of, free expression within ~~state~~ public institutions of
111 higher education;

112 (2) Administrative response and discipline relating to violation of regulations and
113 policies established pursuant to Code Section 20-3-48;

114 (3) Actions taken by ~~state~~ public institutions of higher ~~learning~~ education, including
115 difficulties, controversies, or successes, in maintaining a posture of administrative and
116 institutional neutrality with regard to political or social issues; and

117 (4) Any assessments, criticisms, commendations, or recommendations the board of
118 regents deems appropriate to further include in the report."

119 **SECTION 3.**

120 Said title is further amended by repealing Code Section 20-3-48.2, relating to reasonable
121 time, place, and manner restrictions on speech.

122 **SECTION 4.**

123 Said title is further amended in Article 2 of Chapter 4, relating to technical and adult
124 education, by adding a Code section to read as follows:

125 "20-4-11.1.

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

127 (1) 'Campus community' means students, administrators, faculty, and staff at the public
128 institution of higher education and their invited guests.

129 (2) 'Materially and substantially disrupts' means when a person intentionally engages in
130 conduct or expressive activity which such person knew or reasonably should have known
131 would significantly hinder another person's or group's expressive activity, prevent the
132 communication of the person's or group's message, or prevent the transaction of the
133 business of a lawful meeting, gathering, or procession by:

134 (A) Engaging in fighting, violent, or other unlawful behavior; or

135 (B) Physically blocking, using threats of violence, or creating loud or sustained noise
136 or vocalization intended to prevent any person from attending, listening to, viewing, or
137 otherwise participating in an expressive activity.

138 Conduct or expressive activity shall not be considered a material or substantial disruption
139 if it is protected under the Georgia Constitution or the First Amendment to the United
140 States Constitution, including, but not limited to, lawful protests in an unrestricted
141 outdoor area of campus (except during times when those areas have been reserved in
142 advance for other events) or minor, brief, or fleeting nonviolent disruptions of events that
143 are isolated and short in duration.

144 (3) 'Public institution of higher education' or 'institution' means any postsecondary
145 technical school or other postsecondary branch of the Technical College System of
146 Georgia.

147 (4) 'Student' means any person who is enrolled on a full-time or part-time basis in a
148 public institution of higher education.

149 (5) 'Student-on-student harassment' means unwelcome conduct or expressive activity
150 directed at a student that is so severe, pervasive, and objectively offensive that a student
151 is effectively denied equal access to educational opportunities or benefits provided by the
152 public institution of higher education. This term shall not apply to or govern any
153 employment policy of a public institution of higher education relating to harassment.

154 (6) 'Student organization' means any association, club, fraternity, society, sorority, or
155 organized group of students, whether academic, athletic, political, social, or otherwise,
156 that is officially recognized by a public institution of higher education.

157 (7) 'Unrestricted outdoor area of campus' means any outdoor area of campus that is
158 generally accessible to members of the campus community, including, but not limited to,
159 grassy areas, walkways, or other common areas, and does not include outdoor areas when
160 and where access to members of the campus community is lawfully restricted.

161 (b) Unrestricted outdoor areas of campuses of public institutions of higher education in
162 this state shall be deemed public forums for the campus community, and public institutions
163 of higher education shall not create 'free speech zones' or other designated areas of campus
164 outside of which expressive activities are prohibited for the campus community.

165 (c) Public institutions of higher education may maintain and enforce reasonable time,
166 place, and manner restrictions for the campus community narrowly tailored in service of
167 a significant institutional interest only when such restrictions employ clear, published,
168 content- and viewpoint-neutral criteria, and provide for ample alternative means of
169 expression. Any such restrictions shall allow for members of the campus community to
170 spontaneously and contemporaneously assemble and distribute literature. Nothing in this

171 Code section shall be interpreted as limiting the right of student expression elsewhere on
172 campus.

173 (d) Protected expressive activity under this Code section consists of speech and other
174 conduct protected by the First Amendment to the United States Constitution, including, but
175 not limited to, lawful verbal, written, audio-visual, or electronic expression by which
176 individuals may communicate ideas to one another, including all forms of peaceful
177 assembly, distributing literature, carrying signs, circulating petitions, demonstrations,
178 protests, and speeches including those by guest speakers.

179 (e) Any person who wishes to engage in noncommercial expressive activity in an
180 unrestricted outdoor area of campus shall be permitted to do so freely, as long as the
181 person's conduct is not unlawful and does not materially and substantially disrupt the
182 functioning of the public institution of higher education, subject to restrictions lawfully
183 imposed under subsections (c) and (d) of this Code section. Nothing in this Code section
184 shall be construed to make the unrestricted areas of campus into a designated public forum
185 for persons who are not members of the campus community.

186 (f) Nothing in this Code section shall be interpreted as preventing public institutions of
187 higher education from prohibiting student-on-student harassment as defined in this Code
188 section; from complying with federal and state laws prohibiting discrimination and
189 harassment; or from prohibiting, limiting, or restricting expression that is not protected
190 under the Georgia Constitution or the First Amendment to the United States Constitution,
191 including, but not limited to, true threats or expressive activity directed to provoke
192 imminent lawless actions and likely to produce it.

193 (g) Nothing in this Code section shall enable individuals to engage in conduct that
194 materially and substantially disrupts another's expressive activity that is occurring in an
195 unrestricted outdoor area of campus or a campus space reserved for that activity under the
196 exclusive use or control of a particular group.

197 (h) Public institutions of higher education shall make public in their handbooks, on their
198 websites, and through their orientation programs for students the policies, regulations, and
199 expectations of students regarding free expressive activity on campus consistent with this
200 Code section.

201 (i) Public institutions of higher education shall develop materials, programs, and
202 procedures to ensure that those persons who have responsibility for discipline or education
203 of students, such as administrators, campus police officers, residence life officials, and
204 professors, understand the policies, regulations, and duties of public institutions of higher
205 education regarding expressive activity on campus consistent with this Code section.

206 (j) The State Board of the Technical College System of Georgia shall make and publish
207 an annual report and provide a copy to the Governor and each chamber of the General
208 Assembly on July 1 of each year addressing the following from the previous calendar year:

209 (1) Any barriers to, or disruptions of, free expression within public institutions of higher
210 education;

211 (2) Administrative response and discipline relating to violation of regulations and
212 policies established pursuant to Code Section 20-3-48;

213 (3) Actions taken by public institutions of higher education, including difficulties,
214 controversies, or successes, in maintaining a posture of administrative and institutional
215 neutrality with regard to political or social issues; and

216 (4) Any assessments, criticisms, commendations, or recommendations the board of
217 regents deems appropriate to further include in the report."

218 **SECTION 5.**

219 This Act shall become effective on July 1, 2022.

220 **SECTION 6.**

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