The Senate Committee on Science and Technology offered the following substitute to HB 1217:

A BILL TO BE ENTITLED
AN ACT

To amend Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, the "Quality Basic Education Act," so as to provide for the inclusion of methods for the promotion of the safe and appropriate use of technology and responsible digital citizenship in the comprehensive character education program; to revise requirements for internet safety polices in public schools; to revise existing definitions and provide for new definitions; to require local boards of education and governing bodies of charter schools to annually submit acceptable-use policies and technology protection measures for review by the State Board of Education; to provide for compliance standards and specifications for technology protection measures to be used in public schools; to provide for the identification of providers of technology protection measures which meet or exceed such standards and specifications; to provide for the Department of Education to provide guidance and develop training programs to assist public schools; to provide for the withholding of state funds allotted for public schools that have not provided for adequate technology protection measures; to prohibit certain waivers; to repeal a provision regarding applicability; to provide for implementation; to provide for a short title; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

SECTION 2.

Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, the "Quality Basic Education Act," is amended in Part 2, relating to competencies and core curriculum, by revising Code Section 20-2-145, relating to the comprehensive character education program, as follows:

"20-2-145.

(a) The State Board of Education shall develop by the start of the 1997-1998 school year a comprehensive character education program for levels K-12. This comprehensive character education program shall be known as the 'character curriculum' and shall focus on the students' development of the following character traits: courage, patriotism, citizenship, honesty, fairness, respect for others, kindness, cooperation, self-respect, self-control, courtesy, compassion, tolerance, diligence, generosity, punctuality, cleanliness, cheerfulness, school pride, respect for the environment, respect for the creator, patience, creativity, sportsmanship, loyalty, perseverance, and virtue. Such program shall also address, by the start of the ~~1999-2000~~ 2022-2023 school year, methods of discouraging bullying and violent acts against fellow students and methods of promoting the safe and appropriate use of technology and responsible digital citizenship. Local boards shall implement such a program in all grade levels at the beginning of the ~~2000-2001~~ 2022-2023 school year and shall provide opportunities for parental involvement in establishing expected outcomes of the character education program.

(b) The Department of Education shall develop character education program workshops designed for employees of local school systems."

SECTION 3.

Said article is further amended in Part 15, relating to miscellaneous provisions under the "Quality Basic Education Act," by revising Code Section 20-2-324, relating to internet safety policies in public schools, as follows:

"20-2-324.

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

(1) 'Acceptable-use policy' means a policy for ~~Internet usage~~ internet use adopted by a local board of education or governing body of a charter school that meets the requirements of this Code section.

(2) 'Child pornography' means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, as such term is defined in Code Section 16-12-100, where:

(A) The production of the visual depiction involves a minor engaging in sexually explicit conduct;

(B) The visual depiction is of a minor engaging in sexually explicit conduct; or

(C) The visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct. ~~computer depiction or other material depicting a child under the age of 18 years engaging in sexually explicit conduct or in the simulation of such conduct.~~

(3) 'Harmful to minors' ~~has the meaning given to such term in Code Section 16-12-100.1~~ means that quality of description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it:

(A) Taken as a whole, predominantly appeals to the prurient, shameful, or morbid interest of minors;

(B) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

(C) Is, when taken as a whole, lacking in serious literary, artistic, political, or scientific value for minors.

(4) 'Identifiable minor' means a person:

(A)(i) Who was a minor at the time the visual depiction was created, adapted, or modified; or

(ii) Whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

(B) Who is recognizable as an actual person by such person's face, likeness, or other distinguishing physical characteristic or other recognizable physical feature.

~~(4)~~(5) 'Internet' means ~~a global network that connects computers via telephone lines, fiber networks, or both to electronic information~~ the global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions; that is able to support encrypted and unencrypted communications using the Transmission Control Protocol/Internet Protocol suite, its subsequent extensions, or other Internet Protocol compatible protocols; and that provides, uses, or makes accessible, either publicly or privately, high level services layered on the communications and related infrastructure described in this paragraph.

~~(5) 'Obscene' has the meaning given to such term in Code Section 16-12-80.~~

(6) 'Obscene material' means material which meets the following requirements:

(A) To the average person, applying contemporary community standards, taken as a whole, it predominantly appeals to the prurient interest, that is, a shameful or morbid interest in nudity, sex, or excretion;

(B) The material taken as a whole lacks serious literary, artistic, political, or scientific value; and

(C) The material depicts or describes, in a patently offensive way, sexual conduct specifically defined in divisions (i) through (v) of this subparagraph:

(i) Acts of sexual intercourse, heterosexual or homosexual, normal or perverted, actual or simulated;

(ii) Acts of masturbation;

(iii) Acts involving excretory functions or lewd exhibition of the genitals;

(iv) Acts of bestiality or the fondling of sex organs of animals; or

(v) Sexual acts of flagellation, torture, or other violence indicating a sadomasochistic sexual relationship.

~~(6) 'Sexually explicit conduct' has the meaning given to such term in Code Section 16-12-100.~~

(7) 'Technology protection measure' means a technology that inspects and analyzes encrypted and unencrypted internet traffic for malware and that blocks or filters electronic access to obscene materials, child pornography, or material that is harmful to minors.

(b)(1) No later than ~~January 1, 2007~~ October 1, 2022, each local board of education and governing body of a charter school shall adopt an acceptable-use policy for its school system. At a minimum, an acceptable-use policy shall contain provisions which are reasonably designed to:

~~(1)~~(A) Prevent and prohibit ~~students and employees of the school system from using~~ any computer or computer networking equipment, technology or technology related service, ~~and~~ or communication ~~services~~ system or service operated, owned, or leased by the school or local school system from being used for accessing, sending, receiving, viewing, or downloading ~~visual depictions of obscenity~~ obscene materials, child pornography, or material that is harmful to minors;

~~(2)~~(B) Establish appropriate measures to be taken by the school or local school system in response to:

(i) Students ~~against students~~ and school employees who ~~willfully~~ intentionally violate the acceptable-use policy, whether or not such student or school employee was, at the

time of such violation, on school property, on a school bus, at a school related function, or elsewhere; provided, however, that such measures shall include disciplinary measures; and

(ii) Any person who is not a student or school employee who violates the acceptable-use policy, whether or not such person was, at the time of such violation, on school property, on a school bus, at a school related function, or elsewhere;

(C) Provide for administrative procedures to enforce the acceptable-use policy;

(D) Provide for administrative procedures to address complaints regarding possible violations of the acceptable-use policy which, at a minimum, require that each complaint is responded to in writing by an appropriate school or local school system official; and

~~(3)~~(E) Provide for expedited review and resolution of a claim that the application of the acceptable-use policy is denying a student or school employee access to material that is not within the ~~prohibition~~ prohibitions of the acceptable-use policy.

(2) The acceptable-use policy provided for in paragraph (1) of this subsection may include terms, conditions, and requirements deemed appropriate by the local board of education or governing body of a charter school to differentiate acceptable uses among elementary, middle, and high school students and among different age groups; provided, however, that the rationale for each method of differentiation such board or governing body chooses to include in its acceptable-use policy shall be articulated in the policy.

(3) Each local board of education and governing body of a charter school shall provide reasonable opportunities and procedures for parents of current students to confer and collaborate with school administrators and teachers regarding appropriate internet access for their children.

(c) ~~A~~ Each local board of education, governing body of a charter school, and local school superintendent shall take such steps ~~as it deems appropriate~~ as are necessary and appropriate to implement and enforce the acceptable-use policy, which shall include, but

shall not be limited to:, providing for the adoption, use, and routine upgrading of technology protection measures which meet or exceed compliance standards and specifications established by the department.

~~(1) Use of software programs reasonably designed to block access to visual depictions of obscenity, child pornography, and material that is harmful to minors; or~~

~~(2) Selection of online servers that block access to visual depictions of obscenity, child pornography, and material that is harmful to minors.~~

(d) Each school and local school system shall provide, upon written request of a parent or guardian, a copy of the acceptable-use policy adopted pursuant to subsection (b) of this Code section and information regarding the administrative procedures in effect to enforce such acceptable-use policy and to address complaints about such enforcement.

(e)(1)(A) By April 1 of each year, the department shall establish compliance standards and specifications for technology protection measures to be used by schools and local school systems. In addition to establishing such compliance standards and specifications, the department shall recommend technology protection measures to be installed by schools and local school systems on each computer or other electronic device issued to students for off-campus use.

(B) The department is authorized, in collaboration with the Department of Administrative Services, to identify a non-exclusive list of providers of technology protection measures that meet or exceed such standards and specifications; provided, however, that the department shall no less than annually require each such provider to verify that the technology protection measures it provides meet or exceed such standards and specifications. The department is authorized to provide information to schools and local school systems regarding state contracts with such providers of technology protection measures.

(2)(A) The department shall provide guidance and technical assistance to assist schools and local school systems in complying with the requirements of this Code section.

(B) No later than December 1, 2022, the department shall develop guidelines for the training of school personnel. The training guidelines shall include instruction in:

(i) Implementing and complying with acceptable-use policies required by this Code section;

(ii) Basic cyber security issues pertinent to schools, students, and educators, including, but not limited to, phishing and multifactor authentication; and

(iii) Other current and emerging issues and topics which address the safe and secure use of technology by students and educators.

~~The Attorney General and the department shall consult with and assist any local board of education in the development and implementation of an acceptable-use policy pursuant to this Code section.~~

(f)(1) ~~No later than January 31, 2007,~~ Beginning with the 2022-2023 school year and each school year thereafter, by October 1 each local board of education and governing body of a charter school shall submit a copy of the acceptable-use policy adopted pursuant to subsection (b) of this Code section to the State Board of Education. Such submission shall also include the identification of ~~any software program or online server~~ the technology protection measures that ~~is~~ are being ~~utilized~~ used to block access to material in accordance with subsection (c) of this Code section.

(2) The State Board of Education shall review each acceptable-use policy and technology protection measure and any subsequent revisions submitted pursuant to paragraph (3) of this subsection. If the state board determines after review that a policy, technology protection measure, or revision is not reasonably designed to achieve the requirements of this Code section, the state board shall provide written notice to the local board of education or governing body of a charter school explaining the nature of such noncompliance, and the local board of education or governing body of a charter school shall have 30 days from the receipt of written notice to correct such noncompliance. The state board may provide an extension to the 30 day period on a showing of good cause.

(3) No revision of an acceptable-use policy submission which has been approved by the state board pursuant to paragraph (2) of this subsection shall be implemented until such revision is approved by the state board. If the state board fails to disapprove the revision within 60 days after the submission is received, the local board of education or governing body of a charter school may proceed with the implementation of the revision.

(4) The state board shall be authorized to withhold a portion of the state funding allotment for a school or ~~to a~~ local school system ~~if the local board of education~~ that:

(A) Fails to timely submit an acceptable-use policy or technology protection measure in accordance with paragraph (1) of this subsection;

(B) Submits an acceptable-use policy that is not reasonably designed to achieve the requirements of this Code section; ~~or~~

(C) Is not enforcing or is substantially disregarding its acceptable-use policy~~.~~;

(D) Is using technology protection measures which do not meet or exceed standards and specifications established by the department to block access to material in accordance with subsection (c) of this Code section; or

(E) Is not using any technology protection measures to block access to material in accordance with subsection (c) of this Code section.

(5) If the state board disapproves an acceptable-use policy ~~of a local board of education~~ or any revision thereof or notifies ~~the~~ a local board of education or governing body of a charter school that it is subject to the withholding of funding pursuant to paragraph (4) of this subsection, the local board of education or governing body of a charter school may appeal the decision to the superior court of the county where ~~the local board of education~~ such board or governing body is situated.

(g)(1) The state board shall be responsible for conducting investigations and making written determinations as to whether a local board of education or governing body of a charter school has violated the requirements of this Code section.

(2) If the state board determines that a local board of education or governing body of a charter school is in violation of the requirements of this Code section, it shall direct ~~the local board of education~~ such board or governing body to acknowledge and correct the violation within 30 days and to develop a corrective plan for preventing future recurrences.

(h)(1) Notwithstanding any other provision of this Code section to the contrary, an administrator or supervisor of a school or local school system, or designee thereof, may disable the ~~software program or online server that is being utilized~~ technology protection measure that is being used to block access to material or take other reasonable steps for an adult or for a minor who provides written consent from his or her parent or guardian to enable access to the ~~Internet~~ internet for bona fide research or other lawful purpose.

(2) Nothing in paragraph (1) of this subsection shall be construed to permit any person to have access to material the character of which is illegal under federal or state law.

(i) This Code section shall not be subject to waivers pursuant to Code Section 20-2-82 for a strategic waivers school system, Code Section 20-2-244 for a local board of education, Code Section 20-2-2063.2 for a charter system, or Code Section 20-2-2065 for a charter school established pursuant to Article 31 or Article 31A of this chapter, a charter system, or schools within a charter system. ~~A local board of education which is fulfilling the requirements of the federal Children's Internet Protection Act, P.L. 106-554, is not required to comply with this Code section.~~"

SECTION 4.

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