

House Bill 1592

By: Representatives Bonner of the 73rd, Mathiak of the 82nd, Hilton of the 48th, Berry of the 56th, and Olaleye of the 59th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
2 require certain schools and public institutions of higher education to recognize certain rights
3 for student journalists; to provide for protections for student media advisers; to provide for
4 limitations; to provide for written policies; to provide for proceedings and injunctive relief;
5 to provide for legislative findings, declarations, and intent; to provide for definitions; to
6 provide for construction; to provide for a short title; to provide for related matters; to provide
7 for an effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 (a) The General Assembly finds and declares that:

11 (1) Freedom of expression through school sponsored media is a fundamental principle in
12 our democratic society granted under the First Amendment of the United States
13 Constitution and Paragraph V of Section I of Article I of the Georgia Constitution;

14 (2) A robust and free student press is critical to the development of informed and civic
15 minded adults;

H. B. 1592

16 (3) Student journalists are denied the right to free expression guaranteed to other students,
17 and their work is subject to censorship in circumstances where other student speech would
18 not be restricted; and

19 (4) Teachers who defend their students' freedom of expression do so at great professional
20 risk.

21 (b) It is the intent of the General Assembly to restore and protect the freedom of expression
22 through school sponsored media for public school students and institution sponsored media
23 for students at public institutions of higher education in this state. Further, it is the intent of
24 the General Assembly to protect the jobs of the teachers who appropriately support these
25 rights so as to encourage students to become educated, informed, and responsible members
26 of society.

27 **SECTION 2.**

28 This Act shall be known and may be cited as the "Student Journalist Press Freedom
29 Restoration Act."

30 **SECTION 3.**

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

34 "ARTICLE 35

35 20-2-2140.

36 (a) As used in this article the term:

37 (1) 'School' means any public or private school in this state with any of grades six
38 through 12 and which receives state funding.

39 (2) 'School sponsored media' means any material that is prepared, substantially written,
40 published, or broadcast, in any media, by a student journalist under the direction of a
41 student media adviser and distributed or generally made available to members of the
42 student body. Such term does not include media intended for distribution or transmission
43 for classroom purposes only.

44 (3) 'Student journalist' means a student at a school who gathers, compiles, writes, edits,
45 photographs, records, or prepares information for inclusion in school sponsored media.

46 (4) 'Student media adviser' means an individual employed, appointed, or designated by
47 a school to supervise or provide instruction relating to school sponsored media.

48 (b)(1) Except as provided in subsection (d) of this Code section, a student journalist shall
49 have the right to exercise freedom of speech and of the press in school sponsored media
50 regardless of whether the media is supported financially by the student journalist's school,
51 uses the facilities of the school, or is produced in conjunction with a course or class in
52 which the student journalist is enrolled.

53 (2) A student journalist shall be responsible for determining the news, opinion, feature,
54 and advertising content of school sponsored media.

55 (3) Student media advisers may teach professional standards of English and journalism
56 to student journalists consistent with this subsection.

57 (4) A student journalist shall not be disciplined for acting in accordance with this Code
58 section.

59 (5) No expression made by a student journalist in the exercise of the freedom of speech
60 or freedom of the press shall be deemed to be an expression of school policy, and no local
61 school system, school, or any official, administrator, or employee thereof shall be held
62 responsible in any civil or criminal action for any expression made or published by a
63 student journalist.

64 (c) A student media adviser shall not be dismissed, suspended, disciplined, reassigned,
65 transferred, or otherwise retaliated against for:

66 (1) Refusing to infringe on conduct that is protected by this Code section, the First
67 Amendment of the United States Constitution, or Paragraph V of Section I of Article I
68 of the Georgia Constitution; or

69 (2) Acting to protect a student journalist engaged in permissible conduct under
70 subsection (b) of this Code section, the First Amendment of the United States
71 Constitution, or Paragraph V of Section I of Article I of the Georgia Constitution.

72 (d)(1) This Code section shall not authorize or protect expression by a student journalist
73 that:

74 (A) Is libelous or slanderous;

75 (B) Constitutes an unwarranted invasion of privacy;

76 (C) Is obscene;

77 (D) Violates federal or state law; or

78 (E) So incites students to create a clear and present danger of the commission of an
79 unlawful act, the violation of a lawful school district policy, or the material and
80 substantial disruption of the orderly operation of the school.

81 (2) School officials, administrators, and employees shall base a forecast of material and
82 substantial disruption on specific facts, including past experience in the school and
83 current events influencing student behavior, and not on undifferentiated fear or
84 apprehension.

85 (e) Nothing in this Code section shall be construed as authorizing the publication of an
86 advertisement in school sponsored media that promotes the purchase of a product or service
87 that is unlawful for purchase or use.

88 (f) There shall be no prior restraint of material prepared for official school publications,
89 except for material that violates the standards of subsection (d) of this Code section.

90 (g) Each local board of education and other school governing body shall adopt a written
91 policy for the exercise of the right of student journalists to freedom of speech and freedom
92 of the press in school sponsored media in accordance with this Code section, including:

- 93 (1) Reasonable provisions for the time, place, and manner of distribution of student
 94 expression; and
- 95 (2) A provision allowing for the timely appeal within the school's organization of
 96 decisions made pursuant to this Code section.
- 97 (h)(1) Any student, individually or through a parent or guardian, or any student media
 98 adviser, on behalf of himself or herself, may institute proceedings for injunctive or
 99 declaratory relief in any court of competent jurisdiction to enforce the rights provided in
 100 this Code section.
- 101 (2) Nothing in this subsection shall be construed to create any private action other than
 102 to seek injunctive relief allowing the publication of the speech in question.
- 103 (3) A court may award reasonable attorney's fees to a plaintiff that prevails."

104 **SECTION 4.**

105 Said title is further amended in Part 1D of Article 2 of Chapter 3, relating to forming open
 106 and robust university minds in postsecondary education, by adding a new Code section to
 107 read as follows:

108 "20-3-48.05.

109 (a) As used in this Code the term:

- 110 (1) 'Institution sponsored media' means any material that is prepared, substantially
 111 written, published or broadcast, in any media, by a student journalist under the direction
 112 of a student media adviser and distributed or generally made available to members of the
 113 student body. Such term does not include media intended for distribution or transmission
 114 for classroom purposes only.
- 115 (2) 'Public institution of higher education' or 'institution' shall have the same meaning as
 116 set forth in Code Section 20-3-48.

117 (3) 'Student journalist' means a student at an institution of higher education who gathers,
118 compiles, writes, edits, photographs, records, or prepares information for inclusion in
119 institution sponsored media.

120 (4) 'Student media adviser' means an individual employed, appointed, or designated by
121 a public institution of higher education to supervise or provide instruction relating to
122 institution sponsored media.

123 (b)(1) Except as provided in subsection (d) of this Code section, a student journalist shall
124 have the right to exercise freedom of speech and of the press in institution sponsored
125 media regardless of whether the media is supported financially by the public institution
126 of higher education, uses the facilities of the institution, or is produced in conjunction
127 with a course or class in which the student journalist is enrolled.

128 (2) A student journalist shall be responsible for determining the news, opinion, feature,
129 and advertising content of institution sponsored media.

130 (3) Student media advisers may teach professional standards of English and journalism
131 to student journalists consistent with this subsection.

132 (4) A student journalist shall not be disciplined for acting in accordance with this Code
133 section.

134 (5) No expression made by a student journalist in the exercise of the freedom of speech
135 or freedom of the press shall be deemed to be an expression of institution policy, and no
136 institution or its officials, administrators, or employees shall be held responsible in any
137 civil or criminal action for any expression made or published by a student journalist.

138 (c) A student media adviser shall not be dismissed, suspended, disciplined, reassigned,
139 transferred, or otherwise retaliated against for:

140 (1) Refusing to infringe on conduct that is protected by this Code section, the First
141 Amendment of the United States Constitution, or Paragraph V of Section I of Article I
142 of the Georgia Constitution; or

143 (2) Acting to protect a student journalist engaged in permissible conduct under
144 subsection (b) of this Code section, the First Amendment of the United States
145 Constitution, or Paragraph V of Section I of Article I of the Georgia Constitution.

146 (d)(1) This Code section shall not authorize or protect expression by a student journalist
147 that:

148 (A) Is libelous or slanderous;

149 (B) Constitutes an unwarranted invasion of privacy;

150 (C) Is obscene;

151 (D) Violates federal or state law; or

152 (E) So incites students to create a clear and present danger of the commission of an
153 unlawful act, the violation of a lawful institution policy, or the material and substantial
154 disruption of the orderly operation of the institution.

155 (2) Administrators shall base a forecast of material and substantial disruption on specific
156 facts, including past experience in the institution and current events influencing student
157 behavior, and not on undifferentiated fear or apprehension.

158 (e) Nothing in this Code section shall be construed as authorizing the publication of an
159 advertisement in institution sponsored media that promotes the purchase of a product or
160 service that is unlawful for purchase or use.

161 (f) There shall be no prior restraint of material prepared for official institution publications,
162 except for material that violates the standards of subsection (d) of this Code section.

163 (g) Each institution shall adopt a written policy for the exercise of the right of student
164 journalists to freedom of speech and freedom of the press in institution sponsored media
165 in accordance with this Code section, including:

166 (1) Reasonable provisions for the time, place, and manner of distribution of student
167 expression; and

168 (2) A provision allowing for the timely appeal within any institution of decisions made
169 pursuant to this Code section.

170 (h)(1) Any student journalist, individually or through a parent or guardian, or any student
171 media adviser, on behalf of himself or herself, may institute proceedings for injunctive
172 or declaratory relief in any court of competent jurisdiction to enforce the rights provided
173 in this Code section.

174 (2) Nothing in this Code section shall be construed to create any private action other than
175 to seek injunctive relief allowing the publication of the speech in question.

176 (3) A court may award reasonable attorney's fees to a plaintiff that prevails."

177 **SECTION 5.**

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

180 **SECTION 6.**

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