

House Bill 338 (COMMITTEE SUBSTITUTE)

By: Representatives Erwin of the 32nd, Jones of the 47th, Dubnik of the 29th, Mathiak of the 74th, Smith of the 70th, and others

A BILL TO BE ENTITLED

AN ACT

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

H. B. 338 (SUB)

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 **SECTION 1.**

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

21 **SECTION 2.**

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

26 "20-2-145.

27 (a) The State Board of Education shall develop by the start of the 1997-1998 school year
28 a comprehensive character education program for levels K-12. This comprehensive
29 character education program shall be known as the 'character curriculum' and shall focus
30 on the students' development of the following character traits: courage, patriotism,
31 citizenship, honesty, fairness, respect for others, kindness, cooperation, self-respect,
32 self-control, courtesy, compassion, tolerance, diligence, generosity, punctuality,
33 cleanliness, cheerfulness, school pride, respect for the environment, respect for the creator,
34 patience, creativity, sportsmanship, loyalty, perseverance, and virtue. Such program shall
35 also address, by the start of the ~~1999-2000~~ 2023-2024 school year, methods of discouraging
36 bullying and violent acts against fellow students and methods of promoting the safe and
37 appropriate use of technology and responsible digital citizenship. Local boards shall
38 implement such a program in all grade levels at the beginning of the ~~2000-2001~~ 2023-2024
39 school year and shall provide opportunities for parental involvement in establishing
40 expected outcomes of the character education program.

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

SECTION 3.

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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 appropriate school governing body 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, when:

(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:

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

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

70 (C) Taken as a whole, is lacking in serious literary, artistic, political, or scientific value
71 for minors.

72 (4) 'Identifiable minor' means a person:

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

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

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

79 ~~(4)(5) 'Internet' means a global network that connects computers via telephone lines,~~
80 ~~fiber networks, or both to electronic information~~ the global information system that is
81 logically linked together by a globally unique address space based on the Internet
82 Protocol or its subsequent extensions; that is able to support encrypted and unencrypted
83 communications using the Transmission Control Protocol/Internet Protocol suite, its
84 subsequent extensions, or other Internet Protocol compatible protocols; and that provides,
85 uses, or makes accessible, either publicly or privately, high level services layered on the
86 communications and related infrastructure described in this paragraph.

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

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

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

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

94 (C) The material depicts or describes, in a patently offensive way, sexual conduct as
95 follows:

- 96 (i) Acts of sexual intercourse, heterosexual or homosexual, normal or perverted,
 97 actual or simulated;
- 98 (ii) Acts of masturbation;
- 99 (iii) Acts involving excretory functions or lewd exhibition of the genitals;
- 100 (iv) Acts of bestiality or the fondling of sex organs of animals; or
- 101 (v) Sexual acts of flagellation, torture, or other violence indicating a sadomasochistic
 102 sexual relationship.
- 103 ~~(6) 'Sexually explicit conduct' has the meaning given to such term in Code~~
 104 ~~Section 16-12-100.~~
- 105 (7) 'Technology protection measure' means a technology that inspects and analyzes
 106 encrypted and unencrypted internet traffic for malware and that blocks or filters
 107 electronic access to obscene materials, child pornography, or material that is harmful to
 108 minors.
- 109 (b)(1) No later than January 1, 2007 October 1, 2023, each local board of education and
 110 appropriate school governing body shall adopt an acceptable-use policy for its school
 111 system. At a minimum, an acceptable-use policy shall contain provisions which are
 112 reasonably designed to:
- 113 ~~(1)(A) Prevent and prohibit students and employees of the school system from using~~
 114 ~~any computer or computer networking equipment, technology or technology related~~
 115 ~~service, and or communication services system or service operated, owned, or leased~~
 116 ~~by the school or local school system from being used for accessing, sending, receiving,~~
 117 ~~viewing, or downloading visual depictions of obscenity~~ obscene materials, child
 118 pornography, or material that is harmful to minors;
- 119 ~~(2)(B) Establish appropriate measures to be taken by the school or local school system~~
 120 ~~in response to:~~
- 121 (i) Students against students and school employees who willfully intentionally violate
 122 the acceptable-use policy, whether or not such student or school employee was, at the

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

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

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

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

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

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

144 (3) Each local board of education and appropriate school governing body shall provide
145 reasonable opportunities and procedures for a parent or guardian of current students to
146 confer and collaborate with school administrators and teachers regarding appropriate
147 internet access for their students.

148 (c) ~~A~~ Each local board of education, appropriate school governing body, and local school
149 superintendent shall take such steps as it ~~deems~~ appropriate as are necessary and

150 appropriate to implement and enforce the acceptable-use policy, which shall include, but
151 shall not be limited to:, providing for the adoption, use, and routine upgrading of
152 technology protection measures which meet or exceed compliance standards and
153 specifications established by the department.

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

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

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

162 (e)(1)(A) By April 1 of each year, the department shall establish compliance standards
163 and specifications for technology protection measures to be used by schools and local
164 school systems. To the extent practicable, such compliance standards and
165 specifications for technology protection measures shall include measures and controls
166 for a parent or guardian of current students to supervise and manage appropriate
167 internet access by their students who are using a school issued device while not on
168 school property, a school bus or other school vehicle, or not at a school related function.
169 In addition to establishing such compliance standards and specifications, the department
170 shall recommend technology protection measures to be installed by schools and local
171 school systems on each computer or other electronic device issued to students for
172 off-campus use.

173 (B) The department is authorized, in collaboration with the Department of
174 Administrative Services, to identify a nonexclusive list of providers of technology
175 protection measures that meet or exceed such standards and specifications; provided,
176 however, that the department shall no less than annually require each such provider to

177 verify that the technology protection measures it provides meet or exceed such
178 standards and specifications. The department is authorized to provide information to
179 schools and local school systems regarding state contracts with such providers of
180 technology protection measures. The department shall prioritize the identification of
181 providers of technology protection measures that include parental measures and
182 controls as provided for in subparagraph (A) of this paragraph.

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

185 (B) No later than December 1, 2023, the department shall develop guidelines for the
186 training of school personnel. The training guidelines shall include instruction in:

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

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

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

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

196 (f)(1) No later than January 31, 2007, Beginning with the 2023-2024 school year and
197 each school year thereafter, by October 1 each local board of education and appropriate
198 school governing body shall submit a copy of the acceptable-use policy adopted pursuant
199 to subsection (b) of this Code section to the State Board of Education. Such submission
200 shall also include the identification of any software program or online server ~~the~~
201 technology protection measures that ~~is~~ are being ~~utilized~~ used to block access to material
202 in accordance with subsection (c) of this Code section.

- 203 (2) The State Board of Education shall review each acceptable-use policy and technology
 204 protection measure and any subsequent revisions submitted pursuant to paragraph (3) of
 205 this subsection. If the state board determines after review that a policy, technology
 206 protection measure, or revision is not reasonably designed to achieve the requirements
 207 of this Code section, the state board shall provide written notice to the local board of
 208 education or appropriate school governing body explaining the nature of such
 209 noncompliance, and the local board of education or appropriate school governing body
 210 shall have 30 days from the receipt of written notice to correct such noncompliance. The
 211 state board may provide an extension to the 30 day period on a showing of good cause.
- 212 (3) No revision of an acceptable-use policy submission which has been approved by the
 213 state board pursuant to paragraph (2) of this subsection shall be implemented until such
 214 revision is approved by the state board. If the state board fails to disapprove the revision
 215 within 60 days after the submission is received, the local board of education or
 216 appropriate school governing body may proceed with the implementation of the revision.
- 217 (4) The state board shall be authorized to withhold a portion of the state funding
 218 allotment for a school or to a local school system if the local board of education that:
- 219 (A) Fails to timely submit an acceptable-use policy or technology protection measure
 220 in accordance with paragraph (1) of this subsection;
 - 221 (B) Submits an acceptable-use policy that is not reasonably designed to achieve the
 222 requirements of this Code section; ~~or~~
 - 223 (C) Is not enforcing or is substantially disregarding its acceptable-use policy;:
 - 224 (D) Is using technology protection measures which do not meet or exceed standards
 225 and specifications established by the department to block access to material in
 226 accordance with subsection (c) of this Code section; or
 - 227 (E) Is not using any technology protection measures to block access to material in
 228 accordance with subsection (c) of this Code section.

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

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

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

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

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

251 (i) This Code section shall not be subject to waivers pursuant to Code Section 20-2-82 for
252 a strategic waivers school system, Code Section 20-2-244 for a local board of education,
253 Code Section 20-2-2063.2 for a charter system, or Code Section 20-2-2065 for a charter
254 school established pursuant to Article 31 or Article 31A of this chapter, a charter system,
255 or schools within a charter system, or any state special school. ~~A local board of education~~

256 ~~which is fulfilling the requirements of the federal Children's Internet Protection Act, P.L.~~
257 ~~106-554, is not required to comply with this Code section."~~

258

SECTION 4.

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