

## House Bill 1045

By: Representatives Clark of the 100<sup>th</sup>, Jones of the 25<sup>th</sup>, Jasperse of the 11<sup>th</sup>, Barrett of the 24<sup>th</sup>, Ridley of the 6<sup>th</sup>, and others

## A BILL TO BE ENTITLED

## AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to  
2 elementary and secondary education, so as to require each school in this state that receives  
3 state funding for education to give notice and receive written consent prior to providing  
4 students in kindergarten through grade 12 with sexual orientation or gender identity  
5 instruction; to require public and private schools in this state to maintain an official record  
6 of certain information regarding each enrolled student, including, but not limited to, such  
7 student's legal name; to provide for requirements for changing the legal name of a student  
8 in his or her official school records; to prohibit nurses, counselors, teachers, administrators,  
9 and other school personnel employed by schools in this state that receive state funding for  
10 education from knowingly encouraging or coercing a student under the age of 18 years to  
11 withhold from his or her parent or legal guardian that his or her perception of his or her  
12 gender is inconsistent with his or her sex or from knowingly withholding from the parent or  
13 legal guardian of a student under the age of 18 years information related to his or her  
14 perception that his or her gender is inconsistent with his or her sex; to provide for definitions;  
15 to provide for construction; to provide for applicability; to provide for cause of action; to  
16 provide for remedies; to provide for related matters; to repeal conflicting laws; and for other  
17 purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

19 SECTION 1.

20 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
21 secondary education, is amended in Part 15 of Article 6, relating to miscellaneous provisions  
22 under the "Quality Basic Education Act," by adding a new Code section to read as follows:  
23 "20-2-324.7.

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

25 (1) 'School' means any public or private school in this state which enrolls students in  
26 kindergarten or one or more grades one through 12 and receives state funding in any  
27 amount pursuant to this chapter.

28 (2) 'Sexual orientation or gender identity instruction' means the delivery of instruction  
29 of any kind related to sexual orientation or gender identity and includes without  
30 limitation the content and distribution of materials of any kind related to sexual  
31 orientation or gender identity and the content and administration of tests, assessments,  
32 surveys, or questionnaires of any kind related to sexual orientation or gender identity.

33 (b) No less than 30 calendar days prior to providing sexual orientation or gender identity  
34 instruction, regardless of whether such instruction is provided as part of a family life  
35 program, sex education program, or other program, each school shall notify the parent or  
36 legal guardian of each student who is anticipated to attend such instruction that:

37 (1) The school is providing sexual orientation or gender identity instruction; and

38 (2) The parent or legal guardian shall be permitted prior to such instruction being  
39 provided to review the instructional materials and confer with the student's teacher, a  
40 school counselor, or other school personnel designated by the school principal regarding  
41 any or all portions of such instruction.

42 (c)(1) Prior to providing sexual orientation or gender identity instruction, regardless of  
43 whether such instruction is provided as part of a family life program, sex education

44 program, or other program, each school shall obtain written consent to attend such  
45 instruction from:

46 (A) The parent or legal guardian of each student under the age of 18 years who is  
47 anticipated to attend such instruction; or

48 (B) Each student who has reached the age of 18 years and who is anticipated to attend  
49 such instruction.

50 (2) Any person who provides a school with written consent as provided in paragraph (1)  
51 of this subsection shall have the right to withdraw such consent at any time.

52 (d) Each student who is not the subject of current written consent as provided for in  
53 subsection (c) of this Code section shall be excused from sexual orientation or gender  
54 identity instruction and shall not be subjected to any academic, disciplinary, or other  
55 penalty by the school or any school personnel.

56 (e) No school shall be required to notify a student's parent or legal guardian before a  
57 teacher, school administrator, or other school personnel:

58 (1) Responds to a question from a student during class regarding sexual orientation or  
59 gender identity as it relates to any topic of instruction; or

60 (2) Refers to the sexual orientation or gender identity of any historic person, group, or  
61 public figure, where such reference provides necessary context in relation to a topic of  
62 instruction.

63 (f) No school shall be required to provide sexual orientation or gender identity instruction,  
64 and nothing in this Code section shall be construed to provide for such a requirement.

65 (g) In addition to any other rights or remedies otherwise provided by law, any aggrieved  
66 student or aggrieved parent or legal guardian of a student shall have a private right of  
67 action to enforce the provisions of this Code section through injunctive or declaratory relief  
68 in the superior court of the county in which the relevant public or private school is located.  
69 If an aggrieved student or aggrieved parent or legal guardian of a student is the prevailing  
70 party in such action, such student, parent, or legal guardian shall be entitled to an award of

71 reasonable attorney fees, court costs, and expenses of litigation, but shall not be entitled to  
72 any monetary damages."

73 **SECTION 2.**

74 Said chapter is further amended in Article 15, relating to student data privacy, accessibility,  
75 and transparency, by adding a new Code section to read as follows:

76 "20-2-667.1.

77 (a) Each public and private school in this state which enrolls students in kindergarten or  
78 one or more grades one through 12 shall maintain an official record for each student  
79 currently enrolled in such school, and such official record shall include, at a minimum:

80 (1) The student's legal name;

81 (2) The student's date of birth;

82 (3) The student's dates of enrollment;

83 (4) A transcript of the student's grades;

84 (5) The student's home address;

85 (6) The name of each of the student's parents or legal guardians; and

86 (7) The addresses of each of the student's parents or legal guardians.

87 (b) Each request to change the legal name of a student included in such student's official  
88 record required under subsection (a) of this Code section shall be made in writing and  
89 accompanied by a copy of a court order providing for the change in the student's legal  
90 name; provided, however, that if the student who is the subject of such request is under the  
91 age of 18 years, the request shall also be accompanied by a written consent form signed by  
92 each of the student's parents or legal guardians.

93 (c) In addition to any other rights or remedies otherwise provided by law, any aggrieved  
94 student or aggrieved parent or legal guardian of a student shall have a private right of  
95 action to enforce the provisions of this Code section through injunctive or declaratory relief  
96 in the superior court of the county in which the relevant public or private school is located.

97 If an aggrieved student or aggrieved parent or legal guardian of a student is the prevailing  
98 party in such action, such student, parent, or legal guardian shall be entitled to an award of  
99 reasonable attorney fees, court costs, and expenses of litigation, but shall not be entitled to  
100 any monetary damages."

101 **SECTION 3.**

102 Said chapter is further amended in Part 3 of Article 16, relating to health of elementary and  
103 secondary school students, by adding a new Code section to read as follows:

104 "20-2-779.5.

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

106 (1) 'School' means any public or private school in this state which enrolls students in  
107 kindergarten or one or more grades one through 12 and receives state funding in any  
108 amount pursuant to this chapter.

109 (2) 'Sex' means the biological indications of male and female, including sex  
110 chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and  
111 external genitalia present at birth, without regard to an individual's psychological, chosen,  
112 or subjective experience of gender.

113 (b) No school nurse, counselor, teacher, administrator, or other school personnel shall  
114 knowingly:

115 (1) Encourage or coerce a student under the age of 18 years to withhold from his or her  
116 parent or legal guardian that his or her perception of his or her gender is inconsistent with  
117 his or her sex; or

118 (2) Withhold from the parent or legal guardian of a student under the age of 18 years  
119 information related to his or her perception that his or her gender is inconsistent with his  
120 or her sex.

121 (c) In addition to any other rights or remedies otherwise provided by law, any aggrieved  
122 student or aggrieved parent or legal guardian of a student shall have a private right of

123 action to enforce the provisions of this Code section through injunctive or declaratory relief  
124 in the superior court of the county in which the relevant public or private school is located.  
125 If an aggrieved student or aggrieved parent or legal guardian of a student is the prevailing  
126 party in such action, such student, parent, or legal guardian shall be entitled to an award of  
127 reasonable attorney fees, court costs, and expenses of litigation, but shall not be entitled to  
128 any monetary damages."

129 **SECTION 4.**

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