

House Bill 1128

By: Representatives Lott of the 131<sup>st</sup>, Hagan of the 156<sup>th</sup>, New of the 64<sup>th</sup>, Houston of the 170<sup>th</sup>, Ballard of the 147<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 1 of the Official Code of Georgia Annotated, relating to general provisions,  
2 so as to enact the "Georgia Women's Bill of Rights"; to provide for legislative findings; to  
3 provide for definitions; to provide a specification for the gathering of vital statistics; to  
4 amend Titles 15, 17, 20, 40, 44, 49, and 50 of the Official Code of Georgia Annotated,  
5 relating to courts, criminal procedure, education, motor vehicles and traffic, property, social  
6 services, and state government, respectively, so as to provide for conforming changes; to  
7 provide for severability; to provide for related matters; to repeal conflicting laws; and for  
8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Title 1 of the Official Code of Georgia Annotated, relating to general provisions, is amended  
12 by adding a new Code section to read as follows:

13 "1-2-7.1.

14 (a) This Code section shall be known and may be cited as the 'Georgia Women's Bill of  
15 Rights.'

16 (b) The General Assembly finds the following with respect to the application of an  
17 individual's sex pursuant to any state law or rules and regulations:

18 (1) The term 'sex' means the biological state of being male or female, in the context of  
19 reproductive potential or capacity, based on the individual's sex organs, chromosomes,  
20 naturally occurring sex hormones, gonads, and unambiguous internal and external  
21 genitalia present at birth, including secondary sex characteristics;

22 (2) An individual's sex can be observed or clinically verified at or before birth and in no  
23 case is an individual's sex determined by stipulation or self-identification;

24 (3) The term 'female' means an individual who has, had, will have, or would have, but  
25 for a developmental or genetic anomaly or historical accident, the reproductive system  
26 that at some point produces, transports, and utilizes eggs for fertilization;

27 (4) The term 'male' means an individual who has, had, will have, or would have, but for  
28 a developmental or genetic anomaly or historical accident, the reproductive system that  
29 at some point produces, transports, and utilizes sperm for fertilization;

30 (5) The term 'woman' means an adult human female;

31 (6) The term 'girl' means a minor human female;

32 (7) The term 'man' means an adult human male;

33 (8) The term 'boy' means a minor human male;

34 (9) The term 'mother' means a parent of the female sex;

35 (10) The term 'father' means a parent of the male sex;

36 (11) With respect to sex, the term 'equal' does not mean same or identical;

37 (12) With respect to sex, separate accommodations are not inherently unequal;

38 (13) An individual born with a medically verifiable diagnosis of disorder or differences  
39 in sex development shall be provided any available legal protections and  
40 accommodations afforded under the federal Americans with Disabilities Act of 1990 and  
41 any applicable state law;

42 (14) Laws, rules, and regulations that distinguish between the sexes are subject to  
 43 intermediate constitutional scrutiny. Intermediate constitutional scrutiny forbids unfair  
 44 discrimination against similarly situated male and female individuals but allows the law  
 45 to distinguish between the sexes where such distinctions are substantially related to  
 46 important governmental objections; and

47 (15) Notwithstanding any provision of state law to the contrary, distinctions between the  
 48 sexes with respect to athletics, living facilities, locker rooms, domestic violence shelters,  
 49 rape crisis centers, restrooms, and other areas where biology, safety, or privacy are  
 50 implicated that result in separate accommodations are substantially related to the  
 51 important governmental objections of protecting the health, safety, and privacy of  
 52 individuals in such circumstances.

53 (c) Any local school system, or public school thereof, and any state agency, department,  
 54 or political subdivision that collects vital statistics for the purpose of complying with  
 55 antidiscrimination laws or for the purpose of gathering accurate public health, crime,  
 56 economic, or other data shall identify each individual who is part of the collected data set  
 57 as either male or female at birth."

## 58 SECTION 2.

59 Said title is further amended by revising paragraphs (4) through (6) of subsection (d) of Code  
 60 Section 1-3-1, relating to construction of statutes generally, as follows:

61 ~~"(4) **Gender.** The masculine gender includes the feminine and the neuter.~~

62 ~~(5)~~(4) **Joint authority.** A joint authority given to any number of persons or officers may  
 63 be executed by a majority of them, unless it is otherwise declared.

64 ~~(6)~~(5) **Number.** The singular or plural number each includes the other, unless the other  
 65 is expressly excluded.

66 (6) **Sex.** The masculine sex includes the feminine and the neuter."

67 **SECTION 3.**

68 Title 15 of the Official Code of Georgia Annotated, relating to courts, is amended by revising  
69 subsection (b) of Code Section 15-9-90, relating to forms for probate court and location  
70 alternation, as follows:

71 "(b) The rules adopted pursuant to subsection (a) of this Code section shall provide that the  
72 forms so adopted may be altered locally in a particular petition or proceeding in such items  
73 as grammar, ~~gender usage~~ sexual terminology, the use of singular and plural nouns and  
74 pronouns, the omission of optional or alternate language, the inclusion of variable  
75 information such as names and addresses, and other nonmaterial ways."

76 **SECTION 4.**

77 Title 17 of the Official Code of Georgia Annotated, relating to criminal procedure, is  
78 amended by revising subsection (a) of Code Section 17-4-20.2, relating to Bias Crime  
79 Report, requirements, use of reports, and publication, as follows:

80 "(a) Whenever a law enforcement officer investigates an incident of a crime in which it  
81 appears that the defendant intentionally selected any victim or group of victims or any  
82 property as the object of the offense because of such victim's or group of victims' actual or  
83 perceived race, color, religion, national origin, sex, ~~sexual orientation, gender~~, mental  
84 disability, or physical disability, whether or not an arrest is made, the officer shall prepare  
85 and submit to the law enforcement officer's supervisor or other designated person a written  
86 report of the incident entitled 'Bias Crime Report.' Forms for such reports shall be designed  
87 and provided by the Georgia Bureau of Investigation. The report shall include:

- 88 (1) Names of the parties;  
89 (2) Relationship of the parties;  
90 (3) Sex ~~and gender~~ of the parties;  
91 (4) Race of the parties;  
92 (5) Religion of the parties;

- 93 (6) Dates of birth of the parties;  
94 (7) Time, place, and date of the incident;  
95 (8) Whether there is evidence to indicate that the incident occurred because of a person's  
96 actual or perceived attributes as specified by subsection (a) of this Code section;  
97 (9) Type and extent of the alleged violation;  
98 (10) Existence of any objects or symbols associated with the terrorizing of persons based  
99 upon actual or perceived race, religion, or sex;  
100 (11) Number and types of weapons involved, if any;  
101 (12) Existence of any prior difficulties between the parties;  
102 (13) Type of police action taken in disposition of case;  
103 (14) Whether the victim was apprised of available remedies and services; and  
104 (15) Any other information the officer deems pertinent."

105 **SECTION 5.**

106 Said title is further amended by revising subsection (b) of Code Section 17-10-17, relating  
107 to sentencing of defendants guilty of crimes involving bias or prejudice and identification of  
108 increased sentenced, as follows:

109 "(b) Subject to the notice requirement provided in Code Section 17-10-18 and in  
110 enhancement of the penalty imposed, if the trier of fact determines beyond a reasonable  
111 doubt that the defendant intentionally selected any victim or group of victims or any  
112 property as the object of the offense because of such victim's or group of victims' actual or  
113 perceived race, color, religion, national origin, sex, ~~sexual orientation, gender,~~ mental  
114 disability, or physical disability, the judge imposing sentence shall:

- 115 (1) If the offense for which the defendant was convicted is a designated misdemeanor,  
116 impose a sentence of imprisonment for a period of not less than six nor more than 12  
117 months, and a fine not to exceed \$5,000.00; or

118 (2) If the offense for which the defendant was convicted is a felony, impose a sentence  
119 of imprisonment for a period of not less than two years, and a fine not to exceed  
120 \$5,000.00."

121 **SECTION 6.**

122 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
123 replacing "genders" with "sexes", wherever the former appears in Code Section 20-2-315,  
124 relating to gender discrimination prohibited, authorized separate gender teams, equal athletic  
125 opportunity, physical education classes, employee designated to monitor compliance,  
126 grievance procedures, and reporting requirements.

127 **SECTION 7.**

128 Said title is further amended by replacing the term "gender" with "sexual" wherever the  
129 former appears in Code Section 20-2-316, relating to involvement of athletic association in  
130 high school athletics.

131 **SECTION 8.**

132 Title 40 of the Official Code of Georgia Annotated, relating to motor vehicles and traffic, is  
133 amended by revising paragraph (2) of subsection (d) of Code Section 40-5-25, relating to  
134 applications, fees, and provisions for voluntary participation in various programs, as follows:

135 "(2) The department shall make available to procurement organizations or secure data  
136 centers maintained and managed at the direction of a procurement organization  
137 information provided for in Article 6 of Chapter 5 of Title 44, the 'Georgia Revised  
138 Uniform Anatomical Gift Act,' including the name, license number, date of birth, ~~gender~~  
139 sex, and most recent address of any person eligible pursuant to Code Section 44-5-142  
140 who obtains an organ donor driver's license; provided, however, that the ~~gender~~  
141 information sexual category information of either male or female shall be made available

142 only to a procurement organization or secure data center if such organization or center  
143 has sufficient funds to cover the associated costs of providing such information.  
144 Information so obtained by such organizations and centers shall be used for a state-wide  
145 organ donor registry accessible to organ tissue and eye banks authorized to function as  
146 such in this state and shall not be further disseminated."

147 **SECTION 9.**

148 Said title is further amended by revising paragraph (2) of subsection (e) of Code Section  
149 40-5-100, relating to personal identification cards, contents, possession of more than one card  
150 prohibited, and optional contributions to and participation in voluntary programs, as follows:

151 "(2) The department shall make available to procurement organizations or secure data  
152 centers maintained and managed at the direction of a procurement organization  
153 information provided for in Article 6 of Chapter 5 of Title 44, the 'Georgia Revised  
154 Uniform Anatomical Gift Act,' including the name, personal identification card number,  
155 date of birth, ~~gender~~ sex, and most recent address of any person who obtains an organ  
156 donor identification card; provided, however, that the ~~gender~~ information with respect to  
157 one's sex shall be made available only to a procurement organization or secure data center  
158 if such organization or center has sufficient funds to cover the associated costs of  
159 providing such information. Information so obtained by such organizations and centers  
160 shall be used for a state-wide organ donor registry accessible to organ tissue and eye  
161 banks authorized to function as such in this state and shall not be further disseminated."

162 **SECTION 10.**

163 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by  
164 revising subsection (a) of Code Section 44-5-158, relating to donor registry, as follows:

165 "(a) The Department of Driver Services shall make available to procurement organizations  
166 or secure data centers maintained and managed at the direction of a procurement

167 organization the name, license number, date of birth, ~~gender~~ sex, and most recent address  
168 of any person who obtains an organ donor's license; provided, however, that the ~~gender~~  
169 information with respect to one's sex shall only be made available to a procurement  
170 organization or secure data center if such organization or center has sufficient funds to  
171 cover the associated costs with providing such information. Information so obtained by  
172 such organizations shall be used for the purpose of establishing a state-wide organ donor  
173 registry accessible to organ tissue and eye banks authorized to function as such in this state  
174 and shall not be further disseminated."

175 **SECTION 11.**

176 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
177 by revising Code Section 49-5-22, relating to voluntary pre-kindergarten programs to provide  
178 toilet facilities screened for privacy, as follows:

179 "(a) The General Assembly finds that just as ~~gender-separated~~ toileting separated by one's  
180 sex among nonrelatives is the norm among adults, children should be allowed the same  
181 opportunity to practice modesty when independent toileting behavior is well established  
182 among the majority of their age group. Standardized adherence to this policy would  
183 provide privacy, injury control, and sanitation.

184 (b) Each public or private voluntary pre-kindergarten program in this state which receives  
185 state funding shall provide toilet facilities for the four-year-old pre-kindergarten age  
186 children which it serves which are suitably screened for privacy. Nothing contained in this  
187 Code section shall be construed to require a pre-kindergarten program to provide separately  
188 constructed toilet facilities.

189 (c) The provisions of subsection (b) of this Code section shall not apply to any voluntary  
190 pre-kindergarten program which provides separate ~~and gender-specific~~ male and female  
191 toilet facilities for the children which it serves."



192 **SECTION 12.**

193 Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended  
194 by revising paragraph (2) of subsection (b) of Code Section 50-12-22, relating to  
195 membership, appointment, terms, chairperson, and meetings, as follows:

196 "(2) The council should be a balanced representation of the entire state, accounting for,  
197 but not limited to, minority and ethnic groups, ~~gender~~ male and female diversity,  
198 geographic diversity, large and small organizations, and the public and private sectors;"

199 **SECTION 13.**

200 The Official Code of Georgia Annotated is amended by replacing "gender" with "sex",  
201 wherever the former appears in:

- 202 (1) Code Section 11-1-106, relating to use of singular and plural and gender;  
203 (2) Code Section 12-5-287, relating to leasing of state owned marshland or water bottoms;  
204 (3) Code Section 13-10-91, relating to verification of new employee eligibility,  
205 applicability, and rules and regulations;  
206 (4) Code Section 15-11-341, relating to written report to court and review hearing and  
207 findings;  
208 (5) Code Section 15-12-1, relating to definitions;  
209 (6) Code Section 15-12-40.1, relating to state-wide master jury list, driver's license  
210 information, list of registered voters, and random list of persons to comprise venire;  
211 (7) Code Section 16-12-214, relating to study on minority and women participation;  
212 addressing discrimination;  
213 (8) Code Section 16-13-59, relating to information to include for each Schedule II, III, IV,  
214 or V controlled substance prescription and compliance;  
215 (9) Code Section 19-13-30, relating to State Commission on Family Violence;

- 216 (10) Code Section 20-2-315, relating to gender discrimination prohibited, authorized  
217 separate gender teams, equal athletic opportunity, physical education classes, employee  
218 designated to monitor compliance, grievance procedures, and reporting requirements;
- 219 (11) Code Section 20-2-316, relating to involvement of athletic association in high school  
220 athletics;
- 221 (12) Code Section 20-2-740, relating to annual report by local boards of education  
222 regarding disciplinary and placement actions and annual study by the Department of  
223 Education;
- 224 (13) Code Section 20-3-681, relating to compensation of athlete for use of name, image,  
225 or likeness, scholarships are not compensation, and requirements for schools and athletes;
- 226 (14) Code Section 26-4-83, relating to patient record systems;
- 227 (15) Code Section 27-2-2, relating to issuance and sale of hunting, fishing and trapping  
228 licenses, identification required, withdrawal of agents' authority to sell licenses, online  
229 licensing system to allow making of anatomical gifts, and anatomical gift education and  
230 awareness;
- 231 (16) Code Section 31-10-33, relating to procedure for stillbirth;
- 232 (17) Code Section 33-20C-4, relating to information and searchable format for directories  
233 and exclusion of dental plans;
- 234 (18) Code Section 33-24-59.7, relating to coverage for the treatment of morbidly obese  
235 patients, short title, legislative findings, and adoption of rules and regulations by the  
236 Commissioner;
- 237 (19) Code Section 33-24-91, relating to use of credit information to underwrite or rate  
238 risks;
- 239 (20) Code Section 33-30A-4, relating to membership, cooperative's powers, duties and  
240 responsibilities, fees, and annual reports;
- 241 (21) Code Section 35-3-161, relating to time and procedure for withdrawal of blood  
242 samples;

- 243 (22) Code Section 37-2-5, relating to regional advisory councils - establishing policy and  
244 direction for disability services, membership, bylaws, meetings, and expenses;
- 245 (23) Code Section 37-2-6, relating to community mental health, developmental disabilities,  
246 and addictive diseases service boards - community service board creation, membership,  
247 participation of counties, transfer of powers and duties, alternate method of establishment,  
248 bylaws, and reprisals prohibited;
- 249 (24) Code Section 37-2-11, relating to allocation of available funds for services, recipients  
250 to meet minimum standards, accounting for fees generated by providers, and discrimination  
251 in providing services prohibited;
- 252 (25) Code Section 40-5-2, relating to keeping of records of applications for licenses and  
253 information on licenses and furnishing of information;
- 254 (26) Code Section 43-11-11, relating to gathering of census data on practicing dentists and  
255 dental hygienists and standard form;
- 256 (27) Code Section 43-18-46, relating to grounds for denial or revocation of license or  
257 registration and other discipline;
- 258 (28) Code Section 49-3-2, relating to appointment of county board members, terms,  
259 vacancies, per diem and expenses, and role of county board;
- 260 (29) Code Section 49-3-3.1, relating to annual report from county director of department  
261 of family and children services and personal appearance;
- 262 (30) Code Section 49-5-281, relating to bill of rights for foster parents and filing of  
263 grievance for violations;
- 264 (31) Code Section 49-10-1, relating to the Board of Health Care Workforce, composition,  
265 expense allowances, staffing, and advisory committees;
- 266 (32) Code Section 50-18-72, relating to when public disclosure is not required;
- 267 (33) Code Section 50-36-1, relating to verification requirements, procedures, and  
268 conditions, exceptions, regulations, and criminal and other penalties for violations; and
- 269 (34) Code Section 51-14-3, relating to definitions.

270

**SECTION 14.**

271 If any provision of this Act, an amendment made by this Act, or the application of such  
272 provision or amendment to any person or circumstance is held to be unconstitutional, the  
273 remainder of this Act, the amendments made by this Act, and the application of the  
274 provisions of such to any person or circumstance shall not be affected thereby.

275

**SECTION 15.**

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