

House Bill 53

By: Representatives Carpenter of the 4th, Cantrell of the 22nd, Tanner of the 9th, Ridley of the 6th, Gravley of the 67th, 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 provide for freedom of religious speech for
3 students and faculty members in public schools; to provide for student protections in student
4 expression, class assignments, organization of religious groups and activities, and limited
5 public forums; to provide for model policies by each local school system on student
6 expression; to provide for freedom of religious expression by faculty and employees of
7 public schools while fulfilling the duties of their jobs; to provide for statutory construction;
8 to provide for related matters; to provide for a short title; to provide for legislative findings;
9 to provide for definitions; to provide for applicability; to repeal conflicting laws; and for
10 other purposes.

11 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

12 **SECTION 1.**

13 This Act shall be known and may be cited as the "Student and Educator Faith Protection
14 Act."

15 **SECTION 2.**

16 The General Assembly finds:

17 (1) As the United States Supreme Court has recognized for almost 50 years, "[n]either
18 students [n]or teachers shed their constitutional rights to freedom of speech or expression
19 at the schoolhouse gate." *Tinker v. Des Moines Independent Community School District*,
20 393 U.S. 503, 506 (1969);
21 (2) Academic freedom derives from the right to free speech under the First Amendment
22 of the United States Constitution, which also guarantees the right to free exercise of
23 religion;
24 (3) The First Amendment guarantees that "private religious speech, far from being a First
25 Amendment orphan, is as fully protected under the Free Speech Clause as secular private

26 expression." Capitol Square Review & Advisory Bd. v. Pinette, 515 U.S. 753, 760
27 (1995);
28 (4) The exercise of First Amendment rights on public school campuses in this state is a
29 critical component of the education experience for students and requires that each public
30 school in this state ensure free, robust, and uninhibited debate and deliberations by
31 students;
32 (5) While performing their assigned job duties, school employees are required to
33 maintain a position of neutrality toward religion; however, when interacting with other
34 school employees or when the context makes clear that the employee is not speaking on
35 behalf of the school, school employees are entitled to robust protections for their religious
36 expression;
37 (6) Public schools are being threatened by out-of-state special interest groups who
38 demand that schools adopt inaccurate interpretations of the First Amendment that
39 unlawfully restrict the freedom of students, teachers, and other public school employees
40 to engage in religious expression or otherwise exercise their freedom of religion, leading
41 to a stifling of constitutional rights; and
42 (7) Clear protection in state law is needed for students, teachers, and other school
43 employees in public schools in order to ensure First Amendment freedoms are protected,
44 to prevent against interference from out-of-state special interest groups, and to safeguard
45 academic freedom.

46 **SECTION 3.**

47 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
48 secondary education, is amended by revising Article 20, which is reserved, as follows:

49 **"ARTICLE 20**

50 20-2-1030.

51 As used in this article, the term:

52 (1) 'Contract time' means the time during which a faculty member or employee is
53 required to be on campus or at another designated location for the purpose of fulfilling
54 the duties of his or her employment, or when a faculty member or employee is otherwise
55 acting as a designated representative of the public elementary or secondary school.
56 (2) 'Model policy' means a policy adopted by a local school system that is substantially
57 similar to the policy provided in subsection (g) of Code Section 20-2-1031. Reserved.

58 20-2-1031.

59 (a) A local school system shall not discriminate against students or parents on the basis of
60 a religious viewpoint or religious expression. A local school system shall treat a student's
61 voluntary expression of a religious viewpoint, if any, on an otherwise permissible subject
62 in the same manner the local school system treats a student's voluntary expression of a
63 secular or other viewpoint on an otherwise permissible subject and may not discriminate
64 against the student based on a religious viewpoint expressed by the student on an otherwise
65 permissible subject.

66 (b) Students may express their beliefs about religion in homework, artwork, and other
67 written and oral assignments free from discrimination based on the religious content of
68 their submissions. Homework and classroom assignments shall be judged by ordinary
69 academic standards of substance and relevance and against other legitimate pedagogical
70 concerns identified by the local school system. Students may not be penalized or rewarded
71 on account of the religious content of their work. If an assignment requires a student's
72 viewpoint to be expressed in coursework or artwork or by other written or oral means, a
73 public school shall not penalize or reward a student on the basis of religious content or a
74 religious viewpoint. In such an assignment, a student's academic work that expresses a
75 religious viewpoint shall be evaluated based on ordinary academic standards of substance
76 and relevance to the course curriculum or requirements of the coursework or assignment.

77 (c) Students in public schools may pray or engage in religious activities or religious
78 expression before, during, and after the school day in the same manner and to the same
79 extent that students may engage in nonreligious activities or expression. Students may
80 organize prayer groups, religious clubs, 'see you at the pole' gatherings, or other religious
81 gatherings before, during, and after school to the same extent that students are permitted
82 to organize other noncurricular student activities and groups. A religious group shall be
83 given the same access to school facilities for assembling as is given to other noncurricular
84 groups without discrimination based on the religious content of the group's expression. If
85 student groups that meet for nonreligious activities are permitted to advertise or announce
86 meetings of the groups, the local school system may not discriminate against groups that
87 meet for prayer or other religious expression. A local school system may disclaim school
88 sponsorship of noncurricular groups and events in a manner that neither favors nor
89 disfavors groups that meet to engage in prayer or religious expression. Students in public
90 schools may wear clothing, accessories, and jewelry that display religious messages or
91 religious symbols in the same manner and to the same extent that other types of clothing,
92 accessories, and jewelry that display messages or symbols are permitted.

93 (d)(1) To ensure that a local school system does not discriminate against a student's
94 publicly stated voluntary expression of a religious viewpoint, if any, and to eliminate any

95 actual or perceived affirmative school sponsorship or attribution to the local school
96 system of a student's expression of a religious viewpoint, if any, a local school system
97 shall adopt a policy which shall include the establishment of a limited public forum for
98 student speakers at all school events at which a student is to publicly speak. The policy
99 regarding the limited public forum shall also require the local school system to:

100 (A) Provide the forum in a manner that does not discriminate against a student's
101 voluntary expression of a religious viewpoint, if any, on an otherwise permissible
102 subject;

103 (B) Provide a method, based on neutral criteria, for the selection of student speakers
104 at school events and graduation ceremonies;

105 (C) Ensure that a student speaker does not engage in obscene, vulgar, offensively lewd,
106 or indecent speech; and

107 (D) State in writing or orally, or both, that a student's speech does not reflect the
108 endorsement, sponsorship, position, or expression of the local school system.

109 (2) The local school system disclaimer required by subparagraph (D) of paragraph (1)
110 of this subsection shall be provided at all graduation ceremonies. The local school
111 system shall also continue to provide the disclaimer at any other event at which a student
112 speaks publicly for as long as a need exists to dispel confusion over the local school
113 system's nonsponsorship of a student's speech.

114 (e) Student expression on an otherwise permissible subject may not be excluded from the
115 limited public forum because the subject is expressed from a religious viewpoint.

116 (f) All local school systems shall adopt and implement a policy regarding a limited public
117 forum and voluntary student expression of religious viewpoints. If a local school system
118 voluntarily adopts and follows the model policy governing voluntary religious expression
119 in public schools as provided by subsection (g) of this Code section, then the local school
120 system is in compliance with the provisions of this article regarding the model policy.

121 (g) Each local school system shall adopt a policy that is substantially similar to the
122 following:

123 'ARTICLE I

124 **STUDENT EXPRESSION OF RELIGIOUS VIEWPOINTS**

125 The local school system shall treat a student's voluntary expression of a religious
126 viewpoint, if any, on an otherwise permissible subject in the same manner the local
127 school system treats a student's voluntary expression of a secular or other viewpoint
128 on an otherwise permissible subject and may not discriminate against the student
129 based on a religious viewpoint expressed by the student on an otherwise permissible
130 subject.

ARTICLE IISTUDENT SPEAKERS AT NONGRADUATION EVENTS

The local school system hereby creates a limited public forum for student speakers at all school events at which a student is to publicly speak. For each speaker, the local school system shall set a maximum time limit reasonable and appropriate to the occasion. Student speakers shall introduce:

- (a) Football games;
- (b) Any other athletic events designated by the local school system;
- (c) Opening announcements and greetings for the school day; and
- (d) Any additional events designated by the local school system, which may include, without limitation, assemblies and pep rallies.

The forum shall be limited in the manner provided by this article.

Only those students in the highest two grade levels of the school and who hold one of the following positions of honor based on neutral criteria are eligible to use the limited public forum: student council officers, class officers of the two highest grade levels in the school, captains of the football team, and other students holding positions of honor as the local school system may designate.

An eligible student shall be notified of the student's eligibility, and a student who wishes to participate as an introducing speaker shall submit his or her name to the student council or other designated body during an announced period of not less than three days. The announced period may be at the beginning of the school year, at the end of the preceding school year so student speakers are in place for the new year, or, if the selection process will be repeated each semester, at the beginning of each semester or at the end of the preceding semester so speakers are in place for the next semester. The names of the volunteering student speakers shall be randomly drawn until all names have been selected, and the names shall be listed in the order drawn. Each selected student will be matched chronologically to the event for which the student will be giving the introduction. Each student may speak for one week at a time for all introductions of events that week, or rotate after each speaking event, or otherwise as determined by the local school system. The list of student speakers shall be chronologically repeated as needed, in the same order. The local school system may repeat the selection process each semester rather than annually.

The subject of a student introduction shall be related to the purpose of the event and to the purpose of marking the opening of the event; honoring the occasion, the participants, and those in attendance; bringing the audience to order; and focusing the audience on the purpose of the event. The subject shall be designated, and a student shall stay on the subject and may not engage in obscene, vulgar, offensively lewd, or

168 indecent speech. The local school system shall treat a student's voluntary expression
169 of a religious viewpoint, if any, on an otherwise permissible subject in the same
170 manner the local school system treats a student's voluntary expression of a secular or
171 other viewpoint on an otherwise permissible subject and may not discriminate against
172 the student based on a religious viewpoint expressed by the student on an otherwise
173 permissible subject.

174 For as long as there is a need to dispel confusion over the nonsponsorship of a
175 student's speech, at each event at which a student will deliver an introduction, a
176 disclaimer shall be stated in written or oral form, or both, such as: "The student giving
177 the introduction for this event is a volunteering student selected on neutral criteria to
178 introduce the event. The content of the introduction is the private expression of the
179 student and does not reflect the endorsement, sponsorship, position, or expression of
180 the local school system."

181 Certain students who have attained special positions of honor in the school have
182 traditionally addressed school audiences from time to time as a tangential component
183 of their achieved positions of honor, such as the captains of various sports teams,
184 student council officers, class officers, homecoming kings and queens, prom kings
185 and queens, and the like, and have attained their positions based on neutral criteria.
186 Nothing in this policy eliminates the continuation of the practice of having these
187 students, irrespective of grade level, address school audiences in the normal course
188 of their respective positions. The local school system shall create a limited public
189 forum for the speakers and shall treat a student's voluntary expression of a religious
190 viewpoint, if any, on an otherwise permissible subject in the same manner the local
191 school system treats a student's voluntary expression of a secular or other viewpoint
192 on an otherwise permissible subject and may not discriminate against the student
193 based on a religious viewpoint expressed by the student on an otherwise permissible
194 subject.

195 ARTICLE III

196 STUDENT SPEAKERS AT GRADUATION CEREMONIES

197 The local school system hereby creates a limited public forum consisting of an
198 opportunity for a student to speak to begin graduation ceremonies and another student
199 to speak to end graduation ceremonies. For each speaker, the local school system
200 shall set a maximum time limit reasonable and appropriate to the occasion.

201 The forum shall be limited in the manner provided by this article.
202 Only students who are graduating and who hold one of the following positions of
203 honor shall be eligible to use the limited public forum: student council officers, class

204 officers of the graduating class, the top three academically ranked graduates, or a
205 shorter or longer list of student leaders as the local school system may designate. A
206 student who will otherwise have a speaking role in the graduation ceremonies is
207 ineligible to give the opening or closing remarks. The names of the eligible
208 volunteering students will be randomly drawn. The first name drawn will give the
209 opening remarks and the second name drawn will give the closing remarks.
210 The topic of the opening and closing remarks shall be related to the purpose of the
211 graduation ceremony and to the purpose of marking the opening and closing of the
212 event; honoring the occasion, the participants, and those in attendance; bringing the
213 audience to order; and focusing the audience on the purpose of the event.
214 In addition to the students giving the opening and closing remarks, certain other
215 students who have attained special positions of honor based on neutral criteria,
216 including, without limitation, the valedictorian, will have speaking roles at graduation
217 ceremonies. For each speaker, the local school system shall set a maximum time limit
218 reasonable and appropriate to the occasion and to the position held by the speaker.
219 For this purpose, the local school system creates a limited public forum for these
220 students to deliver the addresses. The subject of the addresses shall be related to the
221 purpose of the graduation ceremony, marking and honoring the occasion, honoring
222 the participants and those in attendance, and the student's perspective on purpose,
223 achievement, life, school, graduation, and looking forward to the future.
224 The subject shall be designated for each student speaker, and the student shall stay on
225 the subject and may not engage in obscene, vulgar, offensively lewd, or indecent
226 speech. The local school system shall treat a student's voluntary expression of a
227 religious viewpoint, if any, on an otherwise permissible subject in the same manner
228 the local school system treats a student's voluntary expression of a secular or other
229 viewpoint on an otherwise permissible subject and may not discriminate against the
230 student based on a religious viewpoint expressed by the student on an otherwise
231 permissible subject.
232 A written disclaimer shall be printed in the graduation program that states: "The
233 students who will be speaking at the graduation ceremony were selected based on
234 neutral criteria to deliver messages of the students' own choices. The content of each
235 student speaker's message is the private expression of the individual student and does
236 not reflect any position or expression of the local school system or the board of
237 trustees, or the local school system's administration, or employees of the local school
238 system, or the views of any other graduate. The contents of these messages were
239 prepared by the student volunteers, and the local school system refrained from any

240 interaction with student speakers regarding the student speakers' viewpoints on
241 permissible subjects."

242 ARTICLE IV

243 RELIGIOUS EXPRESSION IN CLASS ASSIGNMENTS

244 Students may express their beliefs about religion in homework, artwork, and other
245 written and oral assignments free from discrimination based on the religious content
246 of their submissions. Homework and classroom assignments shall be judged by
247 ordinary academic standards of substance and relevance and against other legitimate
248 pedagogical concerns identified by the school. Students may not be penalized or
249 rewarded on account of religious content. If a teacher's assignment involves writing
250 a poem, the work of a student who submits a poem in the form of a prayer (for
251 example, a psalm) should be judged on the basis of academic standards, including
252 literary quality, and not penalized or rewarded on account of its religious content.

253 ARTICLE V

254 FREEDOM TO ORGANIZE RELIGIOUS GROUPS AND ACTIVITIES

255 Students may organize prayer groups, religious clubs, "see you at the pole"
256 gatherings, and other religious gatherings before, during, and after school to the same
257 extent that students are permitted to organize other noncurricular student activities
258 and groups. Religious groups shall be given the same access to school facilities for
259 assembling as is given to other noncurricular groups without discrimination based on
260 the religious content of the group's expression. If student groups that meet for
261 nonreligious activities are permitted to advertise or announce the groups' meetings,
262 for example, by advertising in a student newspaper, putting up posters, making
263 announcements on a student activities bulletin board or public address system, or
264 handing out leaflets, school authorities may not discriminate against groups that meet
265 for prayer or other religious expression. School authorities may disclaim sponsorship
266 of noncurricular groups and events, provided they administer the disclaimer in a
267 manner that does not favor or disfavor groups that meet to engage in prayer or other
268 religious expression.'

269 20-2-1032.

270 (a) During contract time, faculty and employees at public elementary and secondary
271 schools may:

(1) Engage in religious expression and discussions and share religious materials with other faculty and employees at the same times and in the same manner that faculty and employees are permitted to engage in nonreligious expression and discussions;

(2) Discuss religious topics and use religious materials in the classroom when presented in a neutral manner and when serving a valid, secular educational purpose;

(3) Serve as a sponsor of student religious clubs and assist students in planning meetings, activities, and events to the same extent that faculty sponsors of nonreligious clubs are permitted to do so;

(4) Permit and be present for student-initiated, student-led religious expression;

(5) Participate in voluntary student-initiated, student-led prayer, such as prayer before a sporting event, when invited to do so by the students, provided that the participation is in the faculty's or employee's personal capacity and not as a representative of the school;

(6) Wear religious clothing, symbols, or jewelry, provided that such items otherwise comply with any dress code implemented by the public elementary or secondary school; and

(7) Decorate their desk and other personal space in their office or classroom with items that reflect their religious beliefs to the same extent that other faculty and employees are permitted to decorate their desk and other personal space.

b) During noncontract time, faculty and employees at public elementary and secondary schools may engage in religious expression and share religious materials to the same extent that other individuals are permitted to do so.

20-2-1033.

(a) This article shall not be construed to authorize this state or any of its political subdivisions to:

- (1) Require any person to participate in prayer or any other religious activity; or
- (2) Violate the constitutional rights of any person.

(b) This article shall not be construed to limit the authority of any public school to:

- (1) Maintain order and discipline on the campus of the public school in a content-neutral and viewpoint-neutral manner;
- (2) Protect the safety of students, employees, and visitors of the public school; or
- (3) Adopt and enforce policies and procedures regarding student speech at school, provided that the policies and procedures do not violate the rights of students as guaranteed by the United States and Georgia Constitutions and laws."

SECTION 4.

306 This Act shall apply beginning with the 2019-2020 school year.

307

SECTION 5.

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