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EDUCATION Elementary and Secondary Education: Require Local School Boards to Implement a Comprehensive Character Education Program for All Grade Levels; Provide for the Adoption of Local School Board Policies to Improve Student Behavior and Discipline; Require State Board of Education to Establish Minimum Standards for Such Policies; Provide for the Distribution and Availability of Student Codes of Conduct; Provide for the Authority of Teachers and Principals with Respect to Classroom Management and Student Discipline; Provide for

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# Grants to Local School Systems for Alternative Education Programs

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## EDUCATION

*Elementary and Secondary Education: Require Local School Boards to Implement a Comprehensive Character Education Program for All Grade Levels; Provide for the Adoption of Local School Board Policies to Improve Student Behavior and Discipline; Require State Board of Education to Establish Minimum Standards for Such Policies; Provide for the Distribution and Availability of Student Codes of Conduct; Provide for the Authority of Teachers and Principals with Respect to Classroom Management and Student Discipline; Provide for Grants to Local School Systems for Alternative Education Programs*

CODE SECTIONS:	O.C.G.A. §§ 20-2-145, -210 (amended), -735 to -740 (new), -751, -769 (amended)
BILL NUMBER:	HB 605
ACT NUMBER:	302
GEORGIA LAWS:	1999 Ga. Laws 438
SUMMARY:	The Act requires local school boards to create student codes of conduct, which define standards of behavior and contain a progressive discipline process. The State Board of Education will create model codes which schools may choose to follow. However, the local boards should provide opportunities for parental involvement when they develop their own codes. Teachers will have the authority to remove disruptive students from the classroom. Local school boards must establish reporting procedures that require teachers to submit a report describing why the teacher removed the student. The principal must send copies of the report and an account of any action taken to the parents or guardians of the student. In addition, the Act creates procedures for a placement review committee to determine where the disruptive student should be placed, and it

gives principals a wide range of acceptable methods of punishment. Schools must file discipline reports with the Department of Education so that trends in discipline may be determined. Further, the State Board of Education shall provide grants to local school systems that create alternative education programs for grades six through twelve.

EFFECTIVE DATE: July 1, 1999

### *History*

School violence has become a growing concern across the state, and it is a priority on Governor Roy Barnes's agenda.<sup>1</sup> It is estimated that in 1997, among the 1.4 million students enrolled in public schools, 600,000 student discipline cases arose across the state.<sup>2</sup> In 1997, a panel on school violence recommended giving schools money to buy bullhorns, surveillance cameras, and other safety equipment.<sup>3</sup> However, the Governor believes that funds can be better spent by sending disruptive students to alternative schools; this would improve the learning environment at all schools.<sup>4</sup>

### *HB 605*

Governor Barnes's House Floor Leaders, Representatives Charlie Smith, Jr. of the 175th District, Henrietta E. Turnquest of the 73rd District, and Winfred Dukes of the 161st District, introduced the bill in the House on February 12, 1999.<sup>5</sup> The House passed the bill, as introduced, on March 3, 1999 and sent it to the Senate.<sup>6</sup> The Senate Education Committee offered a substitute to the bill, which the Senate passed by a vote of fifty to two on March 22, 1999.<sup>7</sup> The House passed

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1. See Doug Cumming, *Views Differ on School Safety*, ATLANTA J. & CONST., Feb. 5, 1999, at C8.

2. See Susan Laccetti Meyers, *Should Schools' Disruptive Influences be Nurtured or Removed?*, ATLANTA J. & CONST., Feb. 13, 1999, at A18.

3. See Cumming, *supra* note 1.

4. See *id.*

5. See HB 605, as introduced, 1999 Ga. Gen. Assem.; State of Georgia Final Composite Status Sheet, May 3, 1999.

6. See State of Georgia Final Composite Status Sheet, May 3, 1999.

7. See *id.*

the substituted bill on March 24, 1999 by a vote of 163 to 10, and the Governor signed the Act on April 23, 1999.<sup>8</sup>

### *Section 1*

Section 1 names the Act the "Improved Student Learning Environment and Discipline Act of 1999."<sup>9</sup>

### *Section 2*

Section 2 of the Act amends Code section 20-2-145 by requiring local school boards to implement a comprehensive character education program in all grade levels by the beginning of the 2000-2001 school year and to provide opportunities for parents to help establish the expected outcomes of the program.<sup>10</sup> Further, it requires the Department of Education to develop character education program workshops designed for employees of local school systems.<sup>11</sup> When introduced, the bill required these programs to be implemented at the beginning of the 1999-2000 school year.<sup>12</sup> However, a Senate Education Committee substitute changed the implementation date to the 2000-2001 school year.<sup>13</sup>

### *Section 3*

The Act amends Code section 20-2-210 by adding a new subsection on annual performance evaluations.<sup>14</sup> It provides that any teacher who removes more than two students from the classroom under this Act who are later returned to the classroom by a placement review committee, may be required to complete professional development training to improve classroom management and other instructional skills.<sup>15</sup> The sponsors believed that if a teacher makes more than two

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8. *See id.*

9. *See* 1999 Ga. Laws 438, § 1, at 439.

10. *Compare* 1997 Ga. Laws 1386, § 1, at 1386 (formerly found at O.C.G.A. § 20-2-145 (Supp. 1998)), *with* O.C.G.A. § 20-2-145 (Supp. 1999).

11. *See* O.C.G.A. § 20-2-145 (Supp. 1999).

12. *See* HB 605, as introduced, 1999 Ga. Gen. Assem.

13. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., *with* HB 605 (SCS), 1999 Ga. Gen. Assem.

14. *Compare* 1995 Ga. Laws 1072, § 1, at 1072-73 (formerly found at O.C.G.A. § 20-2-210 (1996)), *with* O.C.G.A. § 20-2-210 (Supp. 1999).

15. *See* O.C.G.A. § 20-2-210(b) (Supp. 1999).

mistakes of this kind, the teacher likely needs additional professional development in these areas.<sup>16</sup>

#### *Section 4*

##### *Local School Policies*

The Act adds a new Code section, which requires local boards of education to adopt policies designed to improve the student learning environment by controlling student behavior through discipline.<sup>17</sup> The policies should provide for the development of student codes of conduct that set out standards of behavior, a student support process, a progressive discipline process, and a process for parental involvement.<sup>18</sup> The Senate Education Committee substitute added an additional requirement that school boards adopt such policies no later than July 1, 2000.<sup>19</sup> The substitute also included the provision of age-appropriate student codes of conduct.<sup>20</sup>

As introduced, the bill provided that student codes of conduct developed pursuant to this Code section would be designed to create the expectation that students will behave in such a way so as to facilitate a learning environment for themselves and other students.<sup>21</sup> The Senate Education Committee changed the language to require that student standards of behavior be developed according to these criteria, rather than student codes of conduct.<sup>22</sup>

##### *Code Development and Distribution*

Section 4 of the Act also adds Code section 20-2-736.<sup>23</sup> As introduced, the bill merely required that schools distribute student codes of conduct to all students when they enroll, make them available in each school and classroom, and provide them to parents and guardians

16. See E-mail Interview with Rep. Charlie Smith, Jr., House District No. 175 (May 31, 1999) [hereinafter Smith Interview].

17. See O.C.G.A. § 20-2-735 (Supp. 1999).

18. See *id.*

19. Compare HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

20. Compare HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

21. See HB 605, as introduced, 1999 Ga. Gen. Assem.

22. Compare HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

23. See O.C.G.A. § 20-2-736 (Supp. 1999).

upon request.<sup>24</sup> The Senate Education Committee substitute significantly expanded these requirements to allow schools to distribute the codes in a manner that best fits the grade level of the student.<sup>25</sup> This section allows the local boards to solicit signatures from students, parents, or guardians, acknowledging receipt of the code.<sup>26</sup> This section also requires the local boards to provide opportunities for parents to help develop and update the student codes of conduct.<sup>27</sup> This provides the opportunity for parental involvement without mandating it.<sup>28</sup> However, whether these opportunities will change anything is yet to be seen; some argue that many parents do not take advantage of the opportunities they already have.<sup>29</sup>

### *Reporting Procedures*

The Act creates Code section 20-2-737, which requires teachers to file a report regarding students whom they have known to exhibit behavior that “repeatedly or substantially interferes with the teacher’s ability to communicate effectively with the students in his or her class or with the ability of such student’s classmates to learn.”<sup>30</sup> The Senate Education Committee substitute added a requirement that teachers file such a report “where such behavior is in violation of the student code of conduct.”<sup>31</sup>

The substitute also changed the reporting deadlines for both the teacher to the principal and the principal to the parents from two school days to one school day.<sup>32</sup> Further, it added the requirement that schools send information to the student’s parents or guardians on how

24. See HB 605, as introduced, 1999 Ga. Gen. Assem.

25. Compare HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

26. See O.C.G.A. § 20-2-736 (Supp. 1999).

27. See *id.*

28. See Telephone Interview with Rep. Anne Mueller, House District No. 152 (June 21, 1999) [hereinafter Mueller Interview]; see also Smith Interview, *supra* note 16. The General Assembly wanted to encourage parental involvement, but it is limited by court decisions that prevent schools from punishing students for their parents’ acts. See Smith Interview, *supra* note 16.

29. See Mueller Interview, *supra* note 28.

30. O.C.G.A. § 20-2-737 (Supp. 1999).

31. Compare HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

32. Compare HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

they may contact the principal or principal's designee; the substitute also required schools to send parents or guardians a copy of the report on the student's behavior or disciplinary action taken.<sup>33</sup>

### *Disciplinary Authority*

New Code section 20-2-738 sets forth the circumstances under which a teacher can immediately remove a student from the classroom.<sup>34</sup> The bill, as introduced, would have granted teachers the authority to "send a student to the principal's office" to maintain discipline.<sup>35</sup> The Senate Education Committee substitute altered this authority by granting the teacher the authority to "refer a student to the principal or the principal's designee."<sup>36</sup> Further, the substitute limited the authority to actions teachers take on and after July 1, 2000.<sup>37</sup>

As introduced, the bill would have allowed a teacher to remove a student from the classroom if the student's behavior "[was] sufficiently disruptive that immediate removal is necessary."<sup>38</sup> The Committee substitute changed this language to allow for removal only when the student's behavior "poses an immediate threat to the safety of the student's classmates or the teacher."<sup>39</sup> This makes it more difficult for a teacher to remove a student, and one sponsor believes it is the result of a last-minute compromise.<sup>40</sup>

Further, as introduced, the bill would have required a teacher to submit a report about the removal "as soon as practicable, but in any event, within two school days of removal."<sup>41</sup> Again, the Committee substitute shortened the reporting requirements by requiring that teachers file reports "by the end of the school day on which such removal occurs or at the beginning of the next school day."<sup>42</sup> In

33. Compare HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

34. See O.C.G.A. § 20-2-738 (Supp. 1999).

35. HB 605, as introduced, 1999 Ga. Gen. Assem.

36. Compare HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

37. Compare HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

38. HB 605, as introduced, 1999 Ga. Gen. Assem.

39. Compare HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

40. See Smith Interview, *supra* note 16.

41. HB 605, as introduced, 1999 Ga. Gen. Assem.

42. Compare HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.



addition, the Committee substitute added a requirement that the principal or the principal's designee send parents or guardians notification of the student's removal from class, a copy of the teacher's report, and information on how to contact the principal or the principal's designee.<sup>43</sup>

As introduced, the bill required the principal or the principal's designee to discuss the matter of the student's removal with the teacher "as soon as practicable."<sup>44</sup> The Committee substitute added the requirement that the principal or designee also hold discussions with the student regarding the matter; it also required that these discussions take place "by the end of the school day on which such removal occurs or at the beginning of the next school day."<sup>45</sup> Further, the Committee added a requirement that schools give students oral or written notice of the grounds for removal from the classroom and give the student an opportunity to explain his or her behavior.<sup>46</sup>

The Committee also added provisions that would allow a principal to return the student to the classroom after these discussions with teacher consent.<sup>47</sup> If the principal or principal's designee seeks to return the student to the classroom and the teacher does not consent, returning the student to the classroom is not an appropriate temporary remedy.<sup>48</sup> The Committee did not remove language of the bill that set forth an appropriate temporary placement for the student.<sup>49</sup> Instead, the substitute added the definition of what constitutes an appropriate temporary placement for the student and added a requirement that the school find an appropriate temporary placement for the student by the end of the first school day following the student's removal from the classroom.<sup>50</sup>

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43. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

44. HB 605, as introduced, 1999 Ga. Gen. Assem.

45. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

46. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

47. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

48. *See* O.C.G.A. § 20-2-738(c) (Supp. 1999).

49. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with O.C.G.A. § 20-2-738(c) (Supp. 1999).

50. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

*Placement Review Committee*

The substituted bill added provisions for a meeting of the placement review committee by the end of the second school day after the teacher removed the student; the substitute requires the Committee to issue a decision by the end of the third school day following the student's removal.<sup>51</sup> The substitute also added the provisions for the duration of temporary placement.<sup>52</sup> In addition, the Senate Education Committee substitute required local boards of education to train members of placement review committees.<sup>53</sup>

Subsection (e) of Code section 20-2-738 outlines the authority of the principal or the principal's designee when the placement review committee decides whether to return the student to the classroom.<sup>54</sup> The Committee substitute further changed subsection (e)(1)(B) to provide that suspension for ten school days includes any time the student was subject to out-of-school suspension after his or her removal from the classroom.<sup>55</sup> Also, the substitute revised subsection (e)(1)(C) to allow the principal or designee to make another disciplinary decision or recommendation consistent with local board policy.<sup>56</sup>

The Committee substitute changed subsection (e)(2) to require the principal or designee to implement the decision of the placement review committee.<sup>57</sup> However, the substitute also altered the

51. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

52. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

53. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem. The placement review committee is currently made up of two teachers chosen by the school faculty and one member of the school professional staff chosen by the principal. *See* O.C.G.A. § 20-2-738(d) (Supp. 1999). There was some discussion about adding a fourth person to the review committee to represent parents. However, the Governor's representative argued that it is the job of the review committee to evaluate the actions and skills of the teacher and that parents do not generally have the training and skills necessary to make such an evaluation. *See* Remarks at the Meeting of the House Education Subcommittee, 1999 Ga. Gen. Assem. (Feb. 22, 1999) (transcript available in Georgia State University College of Law Library); *see also* *Lawmakers '99* (GPTV broadcast, Feb. 22, 1999) (remarks by Rep. Winfred Dukes, House District No. 161) (available in Georgia State University College of Law Library).

54. *See* O.C.G.A. § 20-2-738(e) (Supp. 1999).

55. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

56. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

57. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999

subsection to allow the principal to take action in addition to implementing the decision of the placement review committee by allowing the principal or designee to determine an appropriate placement for the student and to take disciplinary action consistent with the Code section.<sup>58</sup> This additional authority is apparently the product of heavy lobbying by education groups.<sup>59</sup>

### *Miscellaneous*

The substitute changed the proposed definition of ten school days of suspension to include time for out-of-school suspension and revised subsection (e)(2)(C) to allow the principal or designee to make another recommendation consistent with local board policy.<sup>60</sup> In addition, the substitute modified subsection (e)(2)(D) to allow the principal or designee to "return the student to the class from which he or she was removed upon completion of any disciplinary or placement action taken" pursuant to this section.<sup>61</sup>

Finally, the Senate Education Committee substitute completely changed Code section 20-2-738(h).<sup>62</sup> The bill, as introduced, required the Department of Education to conduct a study on students who are removed from classrooms pursuant to this Code section to gather statistical data and identify trends in discipline.<sup>63</sup> This Committee substitute eliminated the requirement and replaced it with the current language, which states that nothing in this Code section limits the authority of the local boards of education to establish additional procedural requirements.<sup>64</sup>

The provisions now found in Code section 20-2-741 regarding state funding originally appeared under Code section 20-2-740 in the bill as introduced.<sup>65</sup> The Senate Education Committee substitute moved

Ga. Gen. Assem.

58. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

59. *See* Interview with Rep. Charlie Smith, Jr., House District No. 175 (June 3, 1999).

60. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

61. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

62. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

63. *See* HB 605, as introduced, 1999 Ga. Gen. Assem.

64. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

65. *Compare* O.C.G.A. § 20-2-741 (Supp. 1999), with HB 605, as introduced, 1999 Ga.

these provisions and replaced them with the provisions, which require annual reports by local school boards with the Department of Education.<sup>66</sup> The Committee substitute also added subsection (d) to Code section 20-2-741, which provides that nothing in this section shall be construed to affect the requirements of the Public School Disciplinary Tribunal Act or the provisions regarding students with chronic disciplinary problems.<sup>67</sup>

### *Section 5*

Section 5 of the Act strikes the former Code section 20-2-751.3.<sup>68</sup>

### *Section 6*

Section 6 amends Code section 20-2-769 and replaces the term "alternative school program" with "alternative education programs."<sup>69</sup> The Act requires local boards of education to establish an alternative education program, and the State Board of Education must provide grants to local systems for such programs.<sup>70</sup> The Act removes the requirement that the programs enable students to seek post-secondary education and ensures that students can transfer credit earned in the alternative program to either a home school or another public school.<sup>71</sup>

Further, since grants are now mandatory, the Act requires the state board to establish criteria and procedures for alternative education program grants.<sup>72</sup> The Act also removes the requirement that the state board review petitions for alternative education status from local boards of education.<sup>73</sup> The Act requires local boards to submit annual progress reports for each alternative education program.<sup>74</sup> Also, the requirement that the report include the process by which students

Gen. Assem.

66. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

67. *Compare* HB 605, as introduced, 1999 Ga. Gen. Assem., with HB 605 (SCS), 1999 Ga. Gen. Assem.

68. *See* 1999 Ga. Laws 438, § 5, at 447.

69. *Compare* 1997 Ga. Laws 1436, § 9, at 1441 (formerly found at O.C.G.A. § 20-2-769 (Supp. 1998)), *with* O.C.G.A. § 20-2-769 (Supp. 1999).

70. *See* O.C.G.A. § 20-2-769 (Supp. 1999).

71. *Compare* 1997 Ga. Laws 1436, § 9, at 1441 (formerly found at O.C.G.A. § 20-2-769 (Supp. 1998)), *with* O.C.G.A. § 20-2-769 (Supp. 1999).

72. *See* O.C.G.A. § 20-2-769 (Supp. 1999).

73. *Compare* 1997 Ga. Laws 1436, § 9, at 1441 (formerly found at O.C.G.A. § 20-2-769 (Supp. 1998)), *with* O.C.G.A. § 20-2-769 (Supp. 1999).

74. *See* O.C.G.A. § 20-2-769 (Supp. 1999).

have been returned to their home school or another public school was changed to the process by which students have been returned to the "regular school program."<sup>75</sup>

In addition, the Act revokes the authority of the State Board of Education to withdraw alternative school status designation.<sup>76</sup> Instead, if the local school system fails to meet the requirements of this Code section, the local system is not eligible for state funding under certain Code sections.<sup>77</sup> Finally, the Act revokes the requirement that if a school district is granted alternative school status and fails to comply with the annual reporting requirements, state funding could be withheld.<sup>78</sup>

### *Opposition to HB 605*

Critics say the Act shifts emphasis from prevention and intervention to punishment.<sup>79</sup> They claim it is "preoccupied with punishment and isolation, rather than identification of solutions."<sup>80</sup> Some worry that, although classrooms may become more disciplined, students with chronic behavior problems will not get the help they need.<sup>81</sup> Alternative education programs can stigmatize children from dysfunctional families and children who do not get the supervision they need at home.<sup>82</sup> Brian Kintisch from the Center for Children and Education argues that the vast majority of the targeted children do not need discipline; rather, they need counseling for problems at home, they have unidentified special education needs, or they just need tutoring.<sup>83</sup> These critics instead advocate student and family counseling, conflict resolution teachings, and workplace mentoring.<sup>84</sup>

75. Compare 1997 Ga. Laws 1436, § 9, at 1441 (formerly found at O.C.G.A. § 20-2-769 (Supp. 1998)), with O.C.G.A. § 20-2-769 (Supp. 1999).

76. Compare 1997 Ga. Laws 1436, § 9, at 1441 (formerly found at O.C.G.A. § 20-2-769 (Supp. 1998)), with O.C.G.A. § 20-2-769 (Supp. 1999).

77. See O.C.G.A. § 20-2-769 (Supp. 1999).

78. Compare 1997 Ga. Laws 1436, § 9, at 1441 (formerly found at O.C.G.A. § 20-2-769 (Supp. 1998)), with O.C.G.A. § 20-2-769 (Supp. 1999).

79. See Telephone interview with Sen. Vincent D. Fort, Senate District No. 39 (June 15, 1999) [hereinafter Fort Interview].

80. Editorial, *Preventative Discipline*, ATLANTA J. & CONST., Feb. 9, 1999, at A10.

81. See *id.*

82. See Meyers, *supra* note 2.

83. See *id.*

84. See Editorial, *supra* note 80. Some say one benefit of the Act is that it allows the teacher to keep a detailed record of the student's behavior. This allows for intervention before removal from the classroom becomes necessary. After the student is written up, a student support team can address the problem. The issue of prevention and

Others, such as Senator Vincent Fort, believe the Act will punish a disproportionate number of minority students because they are more likely to be perceived as having behavior problems than white students.<sup>85</sup> This would exacerbate the already disproportionate number of minorities in alternative schools and in-school suspension programs.<sup>86</sup> Senator Fort claims that the Act gives the teacher too much discretion to interpret student behavior.<sup>87</sup> In addition, he argues that the criteria for disciplinary actions is so loose that it invites discrimination.<sup>88</sup>

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intervention simply needs to be primary, rather than secondary. *See* Fort Interview, *supra* note 79.

85. *See* Meyers, *supra* note 2.

86. *See* Barbara Christmas, *Teachers Must Balance Individual Class Needs*, ATLANTA J. & CONST., Feb. 17, 1999, at A13.

87. *See* Fort Interview, *supra* note 79. This creates a situation where white teachers are interpreting the behavior of black male students, and it allows the law to be applied differently depending on the race of the student. *See id.*

88. *See id.*