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## EDUCATION Elementary and Secondary Education: Allow Local Boards of Education to Permit or Prohibit Possession of Electronic Communication Devices by Students in Georgia Schools

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## EDUCATION

### ***Elementary and Secondary Education: Allow Local Boards of Education to Permit or Prohibit Possession of Electronic Communication Devices by Students in Georgia Schools***

CODE SECTION:	O.C.G.A. § 20-2-1183 (amended)
BILL NUMBER:	SB 29
ACT NUMBER:	55
GEORGIA LAWS:	2003 Ga. Laws 307
SUMMARY:	The Act allows local school boards to decide whether students may use electronic communication devices at school during non-instructional time.
EFFECTIVE DATE:	July 1, 2003

#### *History*

Senator Valencia Seay of the 34th district sponsored SB 29.<sup>1</sup> However, the idea of drafting this legislation was not her own.<sup>2</sup> Numerous parents contacted her about revising the existing statute prohibiting students from carrying electronic communication devices at public schools.<sup>3</sup> Each parent voiced the same concern, expressing a desire to stay connected with his child.<sup>4</sup>

As the parents explained to Senator Seay, they were not seeking to change the law to allow their children to use electronic communication devices during instructional time.<sup>5</sup> Rather, the parents were concerned with their inability to stay in touch with their children during non-instructional times, such as after school.<sup>6</sup> Three parents explained to the Senator that their children participated in extracurricular activities, and by the time the students finished their

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1. *See* Telephone Interview with Sen. Valencia Seay, Senate District No. 34 (Apr. 13, 2003) [hereinafter Seay Interview].

2. *See id.*

3. *See id.*; *see also* 1989 Ga. Laws 1395 (formerly found at O.C.G.A. § 20-2-1183 (2001)).

4. *See* Seay Interview, *supra* note 1.

5. *See id.* Electronic devices include cell phones, pagers, or text messengers. *See id.*

6. *See id.*

afternoon practices, the schools were locked.<sup>7</sup> This left parents with two legal options: (1) They could go to the school and wait for practice to end, or (2) The student could wait for the parent after practice.<sup>8</sup> Neither option satisfied the parents.<sup>9</sup> When faced with those options, some parents provided their children with electronic communication devices even though this violated the law.<sup>10</sup>

Senator Seay understood a parent's ability to "stay in touch" using the means available in our "wireless communication society" was of utmost importance.<sup>11</sup> She thought that she could make a valid argument that it was time to "provide an opportunity for local boards to have the option of allowing easier communications between parents and children."<sup>12</sup>

Senator Seay "initially wanted to write legislation that just permitted school systems to allow student access to cellphones and pagers."<sup>13</sup> After receiving some negative feedback from school districts, she "drew up a bill that [would give local school boards] the choice of either allowing or banning electronic devices on campus."<sup>14</sup> In drafting the bill, she intended to give these boards the opportunity to establish rules and policies concerning students' use of electronic communication devices at school "that would fit their district."<sup>15</sup> Senator Joey Brush of the 24th district, who supported the bill as amended by the Senate Committee on Education, noted that the bill was a "fair compromise [that] allows local control to set up policies necessary for their counties [while] still protect[ing] the schoolteachers and bus drivers."<sup>16</sup> The Georgia Association of Educators ("GAE") also supported the bill.<sup>17</sup>

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7. *See id.*

8. *See id.*

9. *See Seay* interview, *supra* note 1.

10. *See* Audio Recording of Senate Proceedings, Feb. 17, 2003 (remarks by Valencia Seay), at <http://www.state.ga.us/services/leg/audio/2003archive.html> [hereinafter Senate Audio].

11. *See id.*

12. *See Seay* Interview, *supra* note 1.

13. Add Seymour, Jr., *Bill Would Give Schools Control Over Cellphones*, ATLANTA J. CONST., Feb. 20, 2003, available at 2003 WL 13241776.

14. *Id.*

15. *See* Senate Audio, *supra* note 10 (remarks by Sen. Valencia Seay).

16. *See id.* (remarks by Sen. Joey Brush).

17. *See* Electronic Mail Interview with Bob Cribbs, GAE Lobbyist (Apr. 23, 2003) [hereinafter GAE Interview].

*SB 29*

Senators Valencia Seay, Terrell Starr, Charles Clay, Don Balfour, and Regina Thomas of the 34th, 44th, 37th, 9th, and 2nd districts, respectively, sponsored SB 29.<sup>18</sup> Upon introduction of SB 29 on January 28, 2003, the bill was assigned to the Senate Committee on Education.<sup>19</sup> The Senate Committee favorably reported the bill to the full Senate on February 12, 2003, with an amendment.<sup>20</sup>

The Senate Committee's amendment clarified that local school boards were not permitted to allow the use of electronic communication devices during "classroom instructional time or when a student is being transported in a school operated vehicle."<sup>21</sup> Much of the debate on the Senate floor focused on the prohibition of the use of electronic communication devices on school buses.<sup>22</sup> The concerns were twofold: (1) There was concern about students' inability to use an electronic communication device to alert parents of their return from an extracurricular activity, and (2) There was concern about the need to give bus drivers "all the tools they need" to drive "school buses as safely as they do."<sup>23</sup> A Senate floor substitute incorporated the Committee's amendment but subtly clarified the language.<sup>24</sup> The Senate passed the bill, as substituted, unanimously on February 18, 2003, by a vote of 49 to 0.<sup>25</sup>

On February 26, 2003, the Speaker assigned the bill to the House Committee on Education.<sup>26</sup> The House Committee favorably reported the bill without change on March 28, 2003.<sup>27</sup> The House amended the bill on the floor on April 14, 2003.<sup>28</sup> Representative Chuck Martin of the 37th district offered the floor amendment to remove the portion relating to school-operated vehicles so that students may call parents

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18. See SB 29, as introduced, 2003 Ga. Gen. Assem.

19. See State of Georgia Final Composite Status Sheet, SB 29, Apr. 25, 2003.

20. See *id.* Compare SB 29, as introduced, 2003 Ga. Gen. Assem., with SB 29 (SCA), 2003 Ga. Gen. Assem.

21. See SB 29 (SCA), 2003 Ga. Gen. Assem.

22. See Senate Audio, *supra* note 10.

23. See *id.*

24. See *id.* Compare SB 29 (SCA), 2003 Ga. Gen. Assem., with SB 29 (SFS), 2003 Ga. Gen. Assem.

25. See Georgia Senate Voting Record, SB 29 (Feb. 18, 2003).

26. See State of Georgia Final Composite Status Sheet, SB 29, Apr. 25, 2003.

27. See *id.*

28. See *id.* Compare SB 29 (SFS), 2003 Ga. Gen. Assem., with SB 29 (HFA), 2003 Ga. Gen. Assem. The floor amendment added a period to the text of the bill and struck lines 23 and 24. See SB 29 (HFA), 2003 Ga. Gen. Assem.

from these vehicles when returning from extracurricular activities.<sup>29</sup> On the same day, the House unanimously passed the bill, as amended, by a vote of 164 to 0 and sent it back to the Senate for concurrence.<sup>30</sup> The GAE was confident that the “bill [would] be agreed to by the Senate.”<sup>31</sup> The Senate unanimously agreed to the House’s amendments on April 25, 2003, the last day of the legislative session.<sup>32</sup> Governor Sonny Perdue signed the bill on May 29, 2003.<sup>33</sup>

### *The Act*

The Act amends Code section 20-2-1183 to allow local school boards the option of permitting students to have electronic communication devices at school.<sup>34</sup> Local school boards remain in control of electronic communication devices within their school systems and are not required to allow the devices.<sup>35</sup> However, even if permitted, the Act does not authorize local school boards to permit the use of electronic communication devices during classroom instructional time.<sup>36</sup> Local school boards may permit the use of electronic communication devices during any other time as the school board deems appropriate.<sup>37</sup> This includes the authority to permit the use of electronic communication devices during school bus rides.<sup>38</sup>

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29. See SB 29 (HFA), 2003 Ga. Gen. Assem.; Audio Recording of House Proceedings, Apr. 14, 2003 (remarks by Rep. Carolyn Hugley), at <http://www.state.ga.us/services/leg/audio/2003archive.html> [hereinafter House Audio].

30. See State of Georgia Final Composite Status Sheet, SB 29, Apr. 25, 2003; Georgia House of Representatives Voting Record, SB 29 (Apr. 14, 2003).

31. See GAE Interview, *supra* note 17.

32. See State of Georgia Final Composite Status Sheet, SB 29, Apr. 25, 2003; Georgia Senate Voting Record, SB 29 (Apr. 25, 2003).

33. See 2003 Ga. Laws 307, § 2, at 308.

34. Compare 2000 Ga. Laws 618, § 75, at 720 (formerly found at O.C.G.A. § 20-2-1183 (2002)), with O.C.G.A. § 20-2-1183 (Supp. 2003).

35. See also Senate Audio, *supra* note 10 (remarks by Sen. Valencia Seay). Compare 2000 Ga. Laws 618, § 75, at 720 (formerly found at O.C.G.A. § 20-2-1183 (2002)), with O.C.G.A. § 20-2-1183 (Supp. 2003).

36. See O.C.G.A. § 20-2-1183 (Supp. 2003); see also Senate Audio, *supra* note 10 (remarks by Sen. Valencia Seay).

37. See O.C.G.A. § 20-2-1183 (Supp. 2003); see also GAE Interview, *supra* note 17.

38. See O.C.G.A. § 20-2-1183 (Supp. 2003); see also House Audio, *supra* note 29 (remarks by Rep. Carolyn Hugley).