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EDUCATION

General Provisions: Provide Sanctions Against Students in Postsecondary Educational Institutions for Drug Convictions

CODE SECTIONS:	O.C.G.A. §§ 20-1-20 to -27 (new)
BILL NUMBER:	HB 1231
ACT NUMBER:	1447
SUMMARY:	The Act provides for suspension of students for one term from postsecondary state educational institutions and denial of state funds for one term to students in postsecondary private educational institutions for felony drug convictions. The Act requires the institutions to promulgate rules for appeal mechanisms.
EFFECTIVE DATE:	July 1, 1990

HB 1231

In the House of Representatives, interest in the eradication of drugs from college and university campuses was channeled to the chair of the University System of Georgia Committee.[1] The Committee authored the original HB 1231.[2] As part of their drug package, the Governor's staff proposed HB 1265,[3] with provisions similar to HB 1231.[4] Both bills were aimed at producing a drug-free arena in Georgia's higher educational institutions, public and private.[5]

HB 1231, as introduced, was assigned to a subcommittee of the University System of Georgia Committee charged with holding hearings and discussions for input from all interested parties.[6] HB 1265, as introduced, was recommitted[7] and referred to the subcommittee to be

1. Telephone interview with Representative Thomas B. Buck, III, Chairman, University System of Georgia Committee, House District No. 95 (Mar. 20, 1990) [hereinafter Buck Interview].

2. HB 1231, as introduced, 1990 Ga. Gen. Assem. The Office of Legislative Counsel assisted the committee in drafting the bill. Buck Interview, *supra* note 1.

3. HB 1265, as introduced, 1990 Ga. Gen. Assem.

4. Telephone interview with Bill Norman, House Research Office (Mar. 20, 1990) [hereinafter Norman Interview].

5. Buck Interview, *supra* note 1.

6. *Id.*

7. Final Composite Status Sheet, Mar. 9, 1990.

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considered with HB 1231.[8] The subcommittee merged the two bills into a draft of the amended HB 1231, using primarily the language and provisions from HB 1265.[9] The draft was submitted to student government organizations, the Georgia University System Board of Regents, representatives from individual private postsecondary institutions, and the Georgia Association of Private Colleges and Universities. Their advice was incorporated into the new House committee substitute for HB 1231.[10]

In new Code section 20-1-21, the General Assembly recognizes the severity of the threat to the public and student academic achievement posed by unlawful drug manufacture, distribution, sale, possession, and use in Georgia.[11] In keeping with the State's goal to eradicate such unlawful drug activity, the General Assembly's intent in this Act is to free postsecondary educational institutions from persons who participate in unlawful drug activity.[12]

In the original versions, HB 1231 addressed only public colleges and universities,[13] and HB 1265 additionally addressed public postsecondary technical schools.[14] The Act applies to students engaged in unlawful drug activity in both public and private institutions.[15] This amendment to the original versions resulted from concern expressed by student groups in public institutions that the bill discriminated against public institutions and from a desire by subcommittee members to broaden the coverage of the bill to include private institutions.[16]

New Code section 20-1-23 provides for suspension of any student in a public educational institution who is convicted of a felony drug offense.[17] The suspension is for the remainder of the term and is coupled with forfeiture of academic credit for that term.[18] Only when the institution has already sanctioned the student for the same offense does the suspension and forfeiture not apply.[19] This latter provision was added in the committee substitute, after student groups and the Board of Regents explained existing in-house procedures for handling drug

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8. Norman Interview, *supra* note 4.
9. *Id.*
10. *Id.*; Buck Interview, *supra* note 1.
11. O.C.G.A. § 20-1-21 (Supp. 1990).
12. *Id.*
13. HB 1231, as introduced, 1990 Ga. Gen. Assem.
14. HB 1265, as introduced, 1990 Ga. Gen. Assem.
15. O.C.G.A. § 20-1-21 (Supp. 1990).
16. Norman Interview, *supra* note 4; Telephone interview with Rusty Sewell, Executive Counsel, Governor's Office (Mar. 19, 1990).
17. O.C.G.A. § 20-1-23 (Supp. 1990).
18. *Id.*
19. *Id.*

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infractions, which often included penalties more severe than those imposed by the Act.[20]

As part of the compromise bill, the Committee declined to include suggestions from the student groups for harsher penalties, fearing that suspension of students for longer than one term would encourage them to drop out of higher education.[21] The Committee also struck sections in HB 1231, as originally proposed, that provided a one-year suspension for the first conviction for possession or use of illegal drugs and permanent expulsion for the second conviction for possession or use of illegal drugs or for any conviction for their manufacture or distribution.[22]

The Act provides, under new Code section 20-1-24(a), that any student in a private postsecondary educational institution convicted of a felony drug offense will be denied state funds in the form of scholarships, loans, and grants during the next term after the conviction.[23] This provision evolved from the Legislature's concern for fairness in imposing sanctions against convicted students in both private and public institutions.[24]

Concern was also expressed in subcommittee discussions that convicted students suspended from public schools might try to transfer to private schools if sanctions applied only to public schools.[25] The Legislature, realizing that it could not reach private school students with suspension sanctions, elected less severe financial penalties[26] but provided, under new Code section 20-1-25, that any educational institution may impose more stringent sanctions.[27]

Under new Code section 21-1-24(b), private institutions that receive state funds must comply with this Act or lose eligibility for their students to receive state loans, scholarships, and grants.[28] The Legislature left the task of resolving how compliance will be monitored to the Georgia Student Finance Authority and the institutions.[29]

As originally proposed, HB 1231 provided elaborate mechanisms for notice, faculty hearing committees, administrative review procedures, and appeals to the institutions and to the courts.[30] Under new Code

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20. Norman Interview, *supra* note 4; Buck Interview, *supra* note 1; Telephone interview with Michael F. Vollmer, Executive Director, The Governor's Commission on Drug Awareness and Prevention (Mar. 20, 1990) [hereinafter Vollmer Interview].

21. Norman Interview, *supra* note 4; Vollmer Interview, *supra* note 20.

22. HB 1231, as introduced, 1990 Ga. Gen. Assem.

23. O.C.G.A. § 20-1-24(a) (Supp. 1990).

24. Norman Interview, *supra* note 4.

25. Vollmer Interview, *supra* note 20.

26. Norman Interview, *supra* note 4.

27. O.C.G.A. § 20-1-25 (Supp. 1990).

28. O.C.G.A. § 20-1-24(b) (Supp. 1990).

29. Norman Interview, *supra* note 4.

30. HB 1231, as introduced, 1990 Ga. Gen. Assem. The original HB 1231 provided for detailed, written, advance notice to convicted students before suspension, advising

section 20-1-26, the Act authorizes the Board of Regents, the State Board of Technical and Adult Education, or the private institutions to promulgate their own appeal and relief mechanisms.[31] The original bill was amended after the University System of Georgia Committee learned that the Board of Regents and the private institutions already had due process systems in operation.[32] The Act applies to felony offenses committed after July 1, 1990, but institutions are not prohibited from implementing retroactive sanctions.[33]

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them of their rights to a hearing and appeals. *Id.* The bill allowed a convicted student to request a hearing before a faculty committee and a deferral of the suspension until the institutional decision. *Id.* Additionally, the bill required the Board of Regents to promulgate procedural rules for hearings and appeals, and provided for appeal to the institution's president and to the Board of Regents. *Id.* Finally, the bill established an appeal route to the county superior court. *Id.*

31. O.C.G.A. § 20-1-26 (Supp. 1990).

32. Norman Interview, *supra* note 4.

33. O.C.G.A. § 20-1-27 (Supp. 1990).

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