

The Senate Committee on Judiciary offered the following substitute to SB 57:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,  
2 relating to deceptive or unfair practices, so as to protect the exercise of constitutional rights;  
3 to prohibit discrimination in the provision of essential services; to provide for public and  
4 private enforcement; to provide for definitions; to provide a short title; to provide legislative  
5 findings and declarations; to provide for related matters; to repeal conflicting laws; and for  
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the "Freedom of Speech and Belief Act."

10 **SECTION 2.**

11 The General Assembly finds and declares that:

12 (1) The freedoms enshrined in the Bill of Rights are fundamental to our nation;

13 (2) Among such rights is the freedom of association, which businesses and citizens of  
14 this state may ordinarily exercise in choosing to engage or not to engage in business with  
15 others;

16 (3) However, when the exercise of this freedom of association by businesses that provide  
17 essential goods and services would threaten the ability of citizens of this state to freely  
18 exercise their own constitutional rights, it is imperative that the General Assembly act to  
19 ensure that the spirit and intent of the Bill of Rights is respected and that the freedoms  
20 protected therein are preserved for the citizens of this state;

21 (4) The ability to obtain financial and utility services is essential to the citizens of this  
22 state and to modern day life;

23 (5) Today, citizens of this state are at risk of being deprived the ability to obtain financial  
24 and utility services due to such citizens' lawful exercise of their constitutional rights;

25 (6) Depriving citizens of this state financial and utility services would put such citizens  
26 at an extreme disadvantage in carrying out the duties of daily life and would deprive such  
27 citizens of the enjoyment of life, liberty, and the pursuit of happiness; and

28 (7) It is, therefore, incumbent on the General Assembly to preserve the ability of the  
29 citizens of this state to obtain financial and utility services by prohibiting financial  
30 institutions and utility service providers from depriving such citizens the provision of  
31 such services based on such citizens' lawful exercise of their constitutional rights.

32

### SECTION 3.

33 Article 15 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to  
34 deceptive or unfair practices, is amended by adding a new part to read as follows:

35

#### "Part 10

36 10-1-439.20.

37 As used in this part, the term:

38 (1) 'Discriminate in the provision of essential services' means, directly or indirectly,  
39 restricting or terminating the provision of essential services to a person based on such

40 person's social credit score or such person's exercise of any constitutional right protected  
41 by the first ten amendments to the United States Constitution, including, without  
42 limitation, such person's speech, association, religious exercise, or ownership of firearms.

43 (2) 'Essential services' means financial services or utility services.

44 (3) 'Essential services provider' means a financial institution or a utility services  
45 provider.

46 (4) 'Established business relationship' means an open account or other existing agreement  
47 for the provision of essential services.

48 (5) 'Financial institution' means:

49 (A) A bank or credit union that has more than \$1 billion in assets and any affiliate or  
50 subsidiary of such a bank or credit union; or

51 (B) A payment processor, credit card company, credit card network, payment network,  
52 payment service provider, or payment gateway that has processed more than \$1 billion  
53 in transactions in the most recent calendar year and any affiliate or subsidiary of such  
54 an entity.

55 (6) 'Financial services' means any financial product or service offered by a financial  
56 institution.

57 (7) 'Person' means any individual, partnership, association, joint stock company, trust,  
58 corporation, nonprofit organization, or other business or legal entity.

59 (8) 'Social credit score' means a score or rating determined by an analysis or evaluation  
60 of one or more the following:

61 (A) A person's exercise of any constitutional right protected by the first ten  
62 amendments to the United States Constitution, including, without limitation, a person's  
63 speech, association, religious exercise, or ownership of firearms;

64 (B) A person's failure or refusal to adopt any policy or make any disclosure relating to  
65 emissions of greenhouse gases, as defined in Code Section 12-6-221, beyond what is  
66 required by applicable state or federal law;

67 (C) A person's failure or refusal to conduct any type of racial, diversity, or gender audit  
68 or disclosure or to implement any quota or give any preference or benefit based in  
69 whole or in part on race, diversity, or gender;

70 (D) A person's failure or refusal to facilitate or assist employees in obtaining abortions  
71 or gender reassignment services; or

72 (E)(i) Except as provided in division (ii) of this subparagraph, a person's participation  
73 in any lawful business associations or business activities, including, without  
74 limitation, business associations or business activities relating to firearms,  
75 ammunition, oil, or natural gas.

76 (ii) For the purpose of this subparagraph only, the term 'social credit score' shall not  
77 include a financial institution's evaluation of the quantifiable financial risk of a person  
78 based on impartial, financial risk based standards concerning the activities described  
79 in division (i) of this subparagraph, provided that such standards are established in  
80 advance by the financial institution and publicly disclosed to its customers and  
81 potential customers. Nothing in this division shall:

82 (I) Require the public disclosure of any information relating to investigations that  
83 is prohibited from being publicly disclosed under applicable federal laws, including,  
84 but not limited to, the federal Bank Secrecy Act, the federal Right to Financial  
85 Privacy Act, and the federal USA PATRIOT Act; provided, however, that any court  
86 of competent jurisdiction may review such information in camera if permitted under  
87 applicable law; or

88 (II) Limit or restrict the protections afforded under Code Section 7-1-360.

89 (9) 'Utility services' means, as it relates to this Code section herein, one or more of the  
90 following services:

91 (A) Electric services;

92 (B) Water and sewer services;

93 (C) Natural gas services; and

94 (D) Broadband services.

95 (10) 'Utility services provider' means any private business entity or enterprise that  
96 provides utility services to retail customers.

97 10-1-439.21.

98 An essential services provider shall not:

99 (1) Discriminate in the provision of essential services against a person that has an  
100 established business relationship with such essential services provider; or

101 (2) Agree, conspire, or coordinate, directly or indirectly, including through any  
102 intermediary or third party, with another person or group of persons to engage in activity  
103 that is prohibited by paragraph (1) of this Code section.

104 10-1-439.22.

105 (a) A violation of any provision of this part shall constitute an unfair or deceptive act or  
106 practice under, and shall be subject to the provisions of, Part 2 of this article, the 'Fair  
107 Business Practices Act of 1975'; provided, however, that enforcement against a violation  
108 of this part through a private action shall only be brought pursuant to subsection (b) of this  
109 Code section.

110 (b) Any person harmed by a violation of this part may bring an action against the essential  
111 services provider that committed or is committing such violation to:

112 (1) Recover, for each violation, actual damages caused by such violation or \$50,000.00,  
113 whichever is greater; provided, however, that, if the trier of fact determines that the  
114 violation was willful, it may increase the award of damages to an amount up to three  
115 times the actual damages caused by such violation or \$150,000.00, whichever is greater;

116 (2) Obtain declaratory and injunctive relief; and

117 (3) Recover any costs and reasonable attorney's fees incurred in bringing such action."

118

**SECTION 4.**

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