

By: Representatives King, Warren,
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To: Education

HOUSE BILL NO. 360

1 AN ACT TO AMEND SECTIONS 37-7-301 AND 37-9-71, MISSISSIPPI
2 CODE OF 1972, TO CLARIFY THE AUTHORITY OF SCHOOL SUPERINTENDENTS,
3 PRINCIPALS AND SCHOOL BOARDS TO SUSPEND OR EXPEL PUPILS FOR
4 CONDUCT THAT RENDERS A PUPIL'S PRESENCE IN THE CLASSROOM
5 DETRIMENTAL TO THE SCHOOL'S EDUCATIONAL ENVIRONMENT OR THE BEST
6 INTEREST OF A CLASS AS A WHOLE; TO AMEND SECTION 37-13-92,
7 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE REFERRAL OF SUCH PUPILS
8 TO AN ALTERNATIVE SCHOOL PROGRAM; AND FOR RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 SECTION 1. Section 37-7-301, Mississippi Code of 1972, is
11 amended as follows:

12 37-7-301. The school boards of all school districts shall
13 have the following powers, authority and duties in addition to all
14 others imposed or granted by law, to wit:

15 (a) To organize and operate the schools of the district
16 and to make such division between the high school grades and
17 elementary grades as, in their judgment, will serve the best
18 interests of the school;

19 (b) To introduce public school music, art, manual
20 training and other special subjects into either the elementary or
21 high school grades, as the board shall deem proper;

22 (c) To be the custodians of real and personal school
23 property and to manage, control and care for same, both during the
24 school term and during vacation;

25 (d) To have responsibility for the erection, repairing
26 and equipping of school facilities and the making of necessary
27 school improvements;

28 (e) To suspend or to expel a pupil for misconduct in
29 the school or on school property, as defined in Section 37-11-29,
30 on the road to and from school, or at any school-related activity

31 or event, or for conduct occurring on property other than school
32 property or other than at a school-related activity or event when
33 such conduct by a pupil, in the determination of the school
34 superintendent or principal, renders that pupil's presence in the
35 classroom a disruption to the educational environment of the
36 school or a detriment to the best interest and welfare of the
37 pupils of such class as a whole, and to delegate such authority to
38 the appropriate officials of the school district;

39 (f) To visit schools in the district, in their
40 discretion, in a body for the purpose of determining what can be
41 done for the improvement of the school in a general way;

42 (g) To support, within reasonable limits, the
43 superintendent, administrative superintendent, principal and
44 teachers where necessary for the proper discipline of the school;

45 (h) To exclude from the schools students with what
46 appears to be infectious or contagious diseases; provided,
47 however, such student may be allowed to return to school upon
48 presenting a certificate from a public health officer, duly
49 licensed physician or nurse practitioner that the student is free
50 from such disease;

51 (i) To require those vaccinations specified by the
52 State Health Officer as provided in Section 41-23-37, Mississippi
53 Code of 1972;

54 (j) To see that all necessary utilities and services
55 are provided in the schools at all times when same are needed;

56 (k) To authorize the use of the school buildings and
57 grounds for the holding of public meetings and gatherings of the
58 people under such regulations as may be prescribed by said board;

59 (l) To prescribe and enforce rules and regulations not
60 inconsistent with law or with the regulations of the State Board
61 of Education for their own government and for the government of
62 the schools, and to transact their business at regular and special
63 meetings called and held in the manner provided by law;

64 (m) To maintain and operate all of the schools under
65 their control for such length of time during the year as may be
66 required;

67 (n) To enforce in the schools the courses of study and
68 the use of the textbooks prescribed by the proper authorities;

69 (o) To make orders directed to the superintendent of
70 schools or administrative superintendent for the issuance of pay
71 certificates for lawful purposes on any available funds of the
72 district and to have full control of the receipt, distribution,
73 allotment and disbursement of all funds provided for the support
74 and operation of the schools of such school district whether such
75 funds be derived from state appropriations, local ad valorem tax
76 collections, or otherwise;

77 (p) To select all school district personnel in the
78 manner provided by law, and to provide for such employee fringe
79 benefit programs, including accident reimbursement plans, as may
80 be deemed necessary and appropriate by the board;

81 (q) To provide athletic programs and other school
82 activities and to regulate the establishment and operation of such
83 programs and activities;

84 (r) To join, in their discretion, any association of
85 school boards and other public school-related organizations, and
86 to pay from local funds other than minimum foundation funds, any
87 membership dues;

88 (s) To expend local school activity funds, or other
89 available school district funds, other than minimum education
90 program funds, for the purposes prescribed under this paragraph.
91 "Activity funds" shall mean all funds received by school officials
92 in all school districts paid or collected to participate in any
93 school activity, such activity being part of the school program
94 and partially financed with public funds or supplemented by public
95 funds. The term "activity funds" shall not include any funds
96 raised and/or expended by any organization unless commingled in a
97 bank account with existing activity funds, regardless of whether
98 the funds were raised by school employees or received by school
99 employees during school hours or using school facilities, and
100 regardless of whether a school employee exercises influence over
101 the expenditure or disposition of such funds. Organizations shall
102 not be required to make any payment to any school for the use of

103 any school facility if, in the discretion of the local school
104 governing board, the organization's function shall be deemed to be
105 beneficial to the official or extracurricular programs of the
106 school. For the purposes of this provision, the term
107 "organization" shall not include any organization subject to the
108 control of the local school governing board. Activity funds may
109 only be expended for any necessary expenses or travel costs,
110 including advances, incurred by students and their chaperons in
111 attending any in-state or out-of-state school-related programs,
112 conventions or seminars and/or any commodities, equipment, travel
113 expenses, purchased services or school supplies which the local
114 school governing board, in its discretion, shall deem beneficial
115 to the official or extracurricular programs of the district,
116 including items which may subsequently become the personal
117 property of individuals, including yearbooks, athletic apparel,
118 book covers and trophies. Activity funds may be used to pay
119 travel expenses of school district personnel. The local school
120 governing board shall be authorized and empowered to promulgate
121 rules and regulations specifically designating for what purposes
122 school activity funds may be expended. The local school governing
123 board shall provide (a) that such school activity funds shall be
124 maintained and expended by the principal of the school generating
125 the funds in individual bank accounts, or (b) that such school
126 activity funds shall be maintained and expended by the
127 superintendent of schools in a central depository approved by the
128 board. The local school governing board shall provide that such
129 school activity funds be audited as part of the annual audit
130 required in Section 37-9-18. The State Auditor shall prescribe a
131 uniform system of accounting and financial reporting for all
132 school activity fund transactions;

133 (t) To contract, on a shared savings, lease or
134 lease-purchase basis, for energy efficiency services and/or
135 equipment as provided for in Section 31-7-14, not to exceed ten
136 (10) years;

137 (u) To maintain accounts and issue pay certificates on
138 school food service bank accounts;

139 (v) (i) To lease a school building from an individual,
140 partnership, nonprofit corporation or a private for-profit
141 corporation for the use of such school district, and to expend
142 funds therefor as may be available from any non-minimum program
143 sources. The school board of the school district desiring to
144 lease a school building shall declare by resolution that a need
145 exists for a school building and that the school district cannot
146 provide the necessary funds to pay the cost or its proportionate
147 share of the cost of a school building required to meet the
148 present needs. The resolution so adopted by the school board
149 shall be published once each week for three (3) consecutive weeks
150 in a newspaper having a general circulation in the school district
151 involved, with the first publication thereof to be made not less
152 than thirty (30) days prior to the date upon which the school
153 board is to act on the question of leasing a school building. If
154 no petition requesting an election is filed prior to such meeting
155 as hereinafter provided, then the school board may, by resolution
156 spread upon its minutes, proceed to lease a school building. If
157 at any time prior to said meeting a petition signed by not less
158 than twenty percent (20%) or fifteen hundred (1500), whichever is
159 less, of the qualified electors of the school district involved
160 shall be filed with the school board requesting that an election
161 be called on the question, then the school board shall, not later
162 than the next regular meeting, adopt a resolution calling an
163 election to be held within such school district upon the question
164 of authorizing the school board to lease a school building. Such
165 election shall be called and held, and notice thereof shall be
166 given, in the same manner for elections upon the questions of the
167 issuance of the bonds of school districts, and the results thereof
168 shall be certified to the school board. If at least three-fifths
169 (3/5) of the qualified electors of the school district who voted
170 in such election shall vote in favor of the leasing of a school

171 building, then the school board shall proceed to lease a school
172 building. The term of the lease contract shall not exceed twenty
173 (20) years, and the total cost of such lease shall be either the
174 amount of the lowest and best bid accepted by the school board
175 after advertisement for bids or an amount not to exceed the
176 current fair market value of the lease as determined by the
177 averaging of at least two (2) appraisals by members of the
178 American Institute of Real Estate Appraisers or the Society of
179 Real Estate Appraisers. The term "school building" as used in
180 this item (v) shall be construed to mean any building or buildings
181 used for classroom purposes in connection with the operation of
182 schools and shall include the site therefor, necessary support
183 facilities, and the equipment thereof and appurtenances thereto
184 such as heating facilities, water supply, sewage disposal,
185 landscaping, walks, drives and playgrounds. The term "lease" as
186 used in this item (v)(i) may include a lease/purchase contract;
187 (ii) If two (2) or more school districts propose
188 to enter into a lease contract jointly, then joint meetings of the
189 school boards having control may be held but no action taken shall
190 be binding on any such school district unless the question of
191 leasing a school building is approved in each participating school
192 district under the procedure hereinabove set forth in item (v)(i).
193 All of the provisions of item (v)(i) regarding the term and amount
194 of the lease contract shall apply to the school boards of school
195 districts acting jointly. Any lease contract executed by two (2)
196 or more school districts as joint lessees shall set out the amount
197 of the aggregate lease rental to be paid by each, which may be
198 agreed upon, but there shall be no right of occupancy by any
199 lessee unless the aggregate rental is paid as stipulated in the
200 lease contract. All rights of joint lessees under the lease
201 contract shall be in proportion to the amount of lease rental paid
202 by each;

203 (w) To employ all noninstructional and noncertificated
204 employees and fix the duties and compensation of such personnel

205 deemed necessary pursuant to the recommendation of the
206 superintendent of schools or the administrative superintendent;

207 (x) To employ and fix the duties and compensation of
208 such legal counsel as deemed necessary;

209 (y) Subject to rules and regulations of the State Board
210 of Education, to purchase, own and operate trucks, vans and other
211 motor vehicles, which shall bear the proper identification
212 required by law;

213 (z) To expend funds for the payment of substitute
214 teachers and to adopt reasonable regulations for the employment
215 and compensation of such substitute teachers;

216 (aa) To acquire in its own name by purchase all real
217 property which shall be necessary and desirable in connection with
218 the construction, renovation or improvement of any public school
219 building or structure. If the board shall be unable to agree with
220 the owner of any such real property in connection with any such
221 project, the board shall have the power and authority to acquire
222 any such real property by condemnation proceedings pursuant to
223 Section 11-27-1 et seq., Mississippi Code of 1972, and for such
224 purpose, the right of eminent domain is hereby conferred upon and
225 vested in said board. Provided further, that the local school
226 board is authorized to grant an easement for ingress and egress
227 over sixteenth section land or lieu land in exchange for a similar
228 easement upon adjoining land where the exchange of easements
229 affords substantial benefit to the sixteenth section land;
230 provided, however, the exchange must be based upon values as
231 determined by a competent appraiser, with any differential in
232 value to be adjusted by cash payment. Any easement rights granted
233 over sixteenth section land under such authority shall terminate
234 when the easement ceases to be used for its stated purpose. No
235 sixteenth section or lieu land which is subject to an existing
236 lease shall be burdened by any such easement except by consent of
237 the lessee or unless the school district shall acquire the
238 unexpired leasehold interest affected by the easement;

239 (bb) To charge reasonable fees related to the
240 educational programs of the district, in the manner prescribed in
241 Section 37-7-335;

242 (cc) Subject to rules and regulations of the State
243 Board of Education, to purchase relocatable classrooms for the use
244 of such school district, in the manner prescribed in Section
245 37-1-13;

246 (dd) Enter into contracts or agreements with other
247 school districts, political subdivisions or governmental entities
248 to carry out one or more of the powers or duties of the school
249 board, or to allow more efficient utilization of limited resources
250 for providing services to the public;

251 (ee) To provide for in-service training for employees
252 of the district. Until June 30, 1994, the school boards may
253 designate two (2) days of the minimum school term, as defined in
254 Section 37-19-1, for employee in-service training for
255 implementation of the new statewide testing system as developed by
256 the State Board of Education. Such designation shall be subject
257 to approval by the State Board of Education pursuant to uniform
258 rules and regulations;

259 (ff) The school boards of all school districts, as part
260 of their duties to prescribe the use of textbooks, may provide
261 that parents and legal guardians shall be responsible for the
262 textbooks and for the compensation to the school district for any
263 books which are not returned to the proper schools upon the
264 withdrawal of their dependent child. If a textbook is lost or not
265 returned by any student who drops out of the public school
266 district, the parent or legal guardian shall also compensate the
267 school district for the fair market value of the textbooks;

268 (gg) To conduct fund-raising activities on behalf of
269 the school district that the local school board, in its
270 discretion, deems appropriate or beneficial to the official or
271 extracurricular programs of the district; provided that:

272 (i) Any proceeds of the fund-raising activities

273 shall be treated as "activity funds" and shall be accounted for as
274 are other activity funds under this section; and

275 (ii) Fund-raising activities conducted or
276 authorized by the board for the sale of school pictures, the
277 rental of caps and gowns or the sale of graduation invitations for
278 which the school board receives a commission, rebate or fee shall
279 contain a disclosure statement advising that a portion of the
280 proceeds of the sales or rentals shall be contributed to the
281 student activity fund;

282 (hh) To allow individual lessons for music, art and
283 other curriculum-related activities for academic credit or
284 nonacademic credit during school hours and using school equipment
285 and facilities, subject to uniform rules and regulations adopted
286 by the school board;

287 (ii) To charge reasonable fees for participating in an
288 extracurricular activity for academic or nonacademic credit for
289 necessary and required equipment such as safety equipment, band
290 instruments and uniforms;

291 (jj) To conduct or participate in any fund-raising
292 activities on behalf of or in connection with a tax-exempt
293 charitable organization;

294 (kk) To exercise such powers as may be reasonably
295 necessary to carry out the provisions of this section; and

296 (ll) To expend funds for the services of nonprofit arts
297 organizations or other such nonprofit organizations who provide
298 performances or other services for the students of the school
299 district.

300 SECTION 2. Section 37-9-71, Mississippi Code of 1972, is
301 amended as follows:

302 37-9-71. The superintendent of schools and the principal of
303 a school shall have the power to suspend a pupil for good cause,
304 including misconduct in the school or on school property, as
305 defined in Section 37-11-29, on the road to and from school, or at
306 any school-related activity or event, or for conduct occurring on

307 property other than school property or other than at a
308 school-related activity or event when such conduct by a pupil, in
309 the determination of the superintendent or principal, renders that
310 pupil's presence in the classroom a disruption to the educational
311 environment of the school or a detriment to the best interest and
312 welfare of the pupils of such class as a whole, or for any reason
313 for which such pupil might be suspended, dismissed or expelled by
314 the school board under state or federal law or any rule,
315 regulation or policy of the local school district. However, such
316 action of the superintendent or principal shall be subject to
317 review by and the approval or disapproval of the school board. If
318 the parent, guardian or other person having custody of any child
319 shall feel aggrieved by the suspension or dismissal of that child,
320 then such parent, guardian or other person shall have the right to
321 a due process hearing. The parent or guardian of the child shall
322 be advised of this right to a hearing by the appropriate
323 superintendent or principal and the proper form shall be provided
324 for requesting such a hearing.

325 SECTION 3. Section 37-13-92, Mississippi Code of 1972, is
326 amended as follows:

327 37-13-92. (1) Beginning with the school year 1993-1994, the
328 school boards of all school districts shall establish, maintain
329 and operate, in connection with the regular programs of the school
330 district, an alternative school program for, but not limited to,
331 the following categories of compulsory-school-age students:

332 (a) Any compulsory-school-age child who has been
333 suspended for more than ten (10) days or expelled from school,
334 except for any student expelled for possession of a weapon or
335 other felonious conduct;

336 (b) Any compulsory-school-age child referred to such
337 alternative school based upon a documented need for placement in
338 the alternative school program by the parent, legal guardian or
339 custodian of such child due to disciplinary problems; * * *

340 (c) Any compulsory-school-age child referred to such

341 alternative school program by the dispositive order of a
342 chancellor or youth court judge, with the consent of the
343 superintendent of the child's school district; and

344 (d) Any compulsory-school-age child whose presence in
345 the classroom, in the determination of the school superintendent
346 or principal, is a disruption to the educational environment of
347 the school or a detriment to the best interest and welfare of the
348 students of such class as a whole.

349 (2) The principal or program administrator of any such
350 alternative school program shall require verification from the
351 appropriate guidance counselor of any such child referred to the
352 alternative school program regarding the suitability of such child
353 for attendance at the alternative school program. Before a
354 student may be removed to an alternative school education program,
355 the superintendent of the student's school district must determine
356 that the written and distributed disciplinary policy of the local
357 district is being followed. The policy shall include standards
358 for:

359 (a) The removal of a student to an alternative
360 education program that will include a process of educational
361 review to develop the student's individual instruction plan and
362 the evaluation at regular intervals of the student's educational
363 progress; the process shall include classroom teachers and/or
364 other appropriate professional personnel, as defined in the
365 district policy, to ensure a continuing educational program for
366 the removed student;

367 (b) The duration of alternative placement; and

368 (c) The notification of parents or guardians, and their
369 appropriate inclusion in the removal and evaluation process, as
370 defined in the district policy. Nothing in this paragraph should
371 be defined in a manner to circumvent the principal's or the
372 superintendent's authority to remove a student to alternative
373 education.

374 (3) The local school board or the superintendent shall

375 provide for the continuing education of a student who has been
376 removed to an alternative school program.

377 (4) A school district, in its discretion, may provide a
378 program of general educational development (GED) preparatory
379 instruction in the alternative school program. However, any GED
380 preparation program offered in an alternative school program must
381 be administered in compliance with the rules and regulations
382 established for such programs under Sections 37-35-1 through
383 37-35-11 and by the State Board for Community and Junior Colleges.
384 The school district may administer the General Educational
385 Development (GED) Testing Program under the policies and
386 guidelines of the GED Testing Service of the American Council on
387 Education in the alternative school program or may authorize the
388 test to be administered through the community/junior college
389 district in which the alternative school is situated.

390 (5) Any such alternative school program operated under the
391 authority of this section shall meet all appropriate accreditation
392 requirements of the State Department of Education.

393 (6) The alternative school program may be held within such
394 school district or may be operated by two (2) or more adjacent
395 school districts, pursuant to a contract approved by the State
396 Board of Education. When two (2) or more school districts
397 contract to operate an alternative school program, the school
398 board of a district designated to be the lead district shall serve
399 as the governing board of the alternative school program.

400 Transportation for students attending the alternative school
401 program shall be the responsibility of the local school district.

402 The expense of establishing, maintaining and operating such
403 alternative school program may be paid from funds contributed or
404 otherwise made available to the school district for such purpose
405 or from local district maintenance funds.

406 (7) The State Board of Education shall promulgate minimum
407 guidelines for alternative school programs. The guidelines shall
408 require, at a minimum, the formulation of an individual

409 instruction plan for each student referred to the alternative
410 school program and, upon a determination that it is in a student's
411 best interest for that student to receive general educational
412 development (GED) preparatory instruction, that the local school
413 board assign the student to a GED preparatory program established
414 under subsection (4) of this section. The minimum guidelines for
415 alternative school programs shall also require the following
416 components:

417 (a) Clear guidelines and procedures for placement of
418 students into alternative education programs which at a minimum
419 shall prescribe due process procedures for disciplinary and
420 general educational development (GED) placement;

421 (b) Clear and consistent goals for students and
422 parents;

423 (c) Curricula addressing cultural and learning style
424 differences;

425 (d) Direct supervision of all activities on a closed
426 campus;

427 (e) Full-day attendance with a rigorous workload and
428 minimal time off;

429 (f) Selection of program from options provided by the
430 local school district, Division of Youth Services or the youth
431 court, including transfer to a community-based alternative school;

432 (g) Continual monitoring and evaluation and formalized
433 passage from one step or program to another;

434 (h) A motivated and culturally diverse staff;

435 (i) Counseling for parents and students;

436 (j) Administrative and community support for the
437 program; and

438 (k) Clear procedures for annual alternative school
439 program review and evaluation.

440 (8) On request of a school district, the State Department of
441 Education shall provide the district informational material on
442 developing an alternative school program that takes into

443 consideration size, wealth and existing facilities in determining
444 a program best suited to a district.

445 (9) Any compulsory-school-age child who becomes involved in
446 any criminal or violent behavior shall be removed from such
447 alternative school program and, if probable cause exists, a case
448 shall be referred to the youth court.

449 (10) The State Board of Education, in its discretion, may
450 exempt not more than four (4) school district alternative school
451 programs in the state from any compulsory standard of
452 accreditation for a period of three (3) years. During this
453 period, the State Department of Education shall conduct a study of
454 all alternative school programs in the state, and on or before
455 January 1, 2000, shall develop and promulgate accreditation
456 standards for all alternative school programs, including any
457 recommendations for necessary legislation relating to such
458 alternative school programs.

459 SECTION 4. This act shall take effect and be in force from
460 and after July 1, 1999.