

By: Davis

To: Education

HOUSE BILL NO. 74

1 AN ACT TO AMEND SECTION 37-9-59, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY SCHOOL SUPERINTENDENTS' AUTHORITY TO DISMISS OR SUSPEND
3 LICENSED EMPLOYEES WHO ARE CONVICTED OF A FELONY; TO AMEND SECTION
4 37-9-17, MISSISSIPPI CODE OF 1972, TO AUTHORIZE SCHOOL BOARDS TO
5 REFUSE EMPLOYMENT TO APPLICANTS WHO HAVE BEEN CONVICTED OF A
6 FELONY; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 37-9-59, Mississippi Code of 1972, is
9 amended as follows:

10 37-9-59. For incompetence, neglect of duty, immoral conduct,
11 intemperance, brutal treatment of a pupil, conviction of or entry
12 of a guilty plea or a plea of nolo contendere to a felony, or
13 other good cause, the superintendent of schools may dismiss or
14 suspend any licensed employee in any school district. Before
15 being so dismissed or suspended, any licensed employee shall be
16 notified of the charges against him and he shall be advised that
17 he is entitled to a public hearing upon the charges. In the event
18 the continued presence of the employee on school premises poses a
19 potential threat or danger to the health, safety or general
20 welfare of the students, or, in the discretion of the
21 superintendent, may interfere with or cause a disruption of normal
22 school operations, the superintendent may immediately release the
23 employee of all duties pending a hearing if one is requested by

24 the employee. In the event a licensed employee is arrested,
25 indicted or otherwise charged with a felony by a recognized law
26 enforcement official, the continued presence of the licensed
27 employee on school premises shall be deemed to constitute a
28 disruption of normal school operations. The school board, upon a
29 request for a hearing by the person so suspended or removed shall
30 set a date, time and place for such hearing which shall be not
31 sooner than five (5) days nor later than thirty (30) days from the
32 date of the request. The procedure for such hearing shall be as
33 prescribed for hearings before the board or hearing officer in
34 Section 37-9-111. From the decision made at the hearing, any
35 licensed employee shall be allowed an appeal to the chancery court
36 in the same manner as appeals are authorized in Section 37-9-113.
37 Any party aggrieved by action of the chancery court may appeal to
38 the Mississippi Supreme Court as provided by law. In the event
39 that a licensed employee is immediately relieved of duties pending
40 a hearing, as provided in this section, the employee shall be
41 entitled to compensation for a period up to and including the date
42 that the initial hearing is set by the school board, in the event
43 that there is a request for such a hearing by the employee. In
44 the event that an employee does not request a hearing within five
45 (5) calendar days of the date of the notice of discharge or
46 suspension, it shall constitute a waiver of all rights by the
47 employee, and such discharge or suspension shall be effective on
48 the date set out in the notice to the employee.

49 The school board of every school district in this state
50 is * * * prohibited from denying employment or reemployment to any
51 person as a superintendent, principal or licensed employee, as
52 defined in Section 37-19-1, or as a noninstructional personnel, as
53 defined in Section 37-9-1, for the single reason that any eligible
54 child of such person does not attend the school system in which

55 such superintendent, principal, licensed employee or
56 noninstructional personnel is employed.

57 SECTION 2. Section 37-9-17, Mississippi Code of 1972, is
58 amended as follows:

59 37-9-17. On or before April 1 of each year, the principal of
60 each school shall recommend to the superintendent of the school
61 district the licensed employees or noninstructional employees to
62 be employed for the school involved except those licensed
63 employees or noninstructional employees who have been previously
64 employed and who have a contract valid for the ensuing scholastic
65 year. If such recommendations meet with the approval of the
66 superintendent, the superintendent shall recommend the employment
67 of such licensed employees or noninstructional employees to the
68 school board, and, unless good reason to the contrary exists, the
69 board shall elect the employees so recommended. The school board,
70 in its discretion, may decline to employ any person as a licensed
71 employee or noninstructional employee if the board has knowledge
72 that the person has been convicted of or entered a guilty plea or
73 plea of nolo contendere to a felony. If, for any reason, the
74 school board shall decline to elect any employee so recommended,
75 additional recommendations for the places to be filled shall be
76 made by the principal to the superintendent and then by the
77 superintendent to the school board as provided above. The school
78 board of any school district shall be authorized to designate a
79 personnel supervisor or another principal employed by the school
80 district to recommend to the superintendent licensed employees;
81 however, this authorization shall be restricted to no more than
82 two (2) positions for each employment period for each school in

83 the school district. The school board of any school district
84 shall be authorized to designate a personnel supervisor or another
85 principal employed by the school district to accept the
86 recommendations of principals or their designees for licensed
87 employees and to transmit approved recommendations to the board;
88 however, this authorization shall be restricted to no more than
89 two (2) positions for each employment period for each school in
90 the school district.

91 When the licensed employees have been elected as provided in
92 the preceding paragraph, the superintendent of the district shall
93 enter into a contract with such persons in the manner provided in
94 this chapter.

95 If, at the commencement of the scholastic year, any licensed
96 employee shall present to the superintendent a license of a higher
97 grade than that specified in such individual's contract, such
98 individual may be paid, if funds are available from minimum
99 education program funds of the district, or from district
100 funds, * * * from such funds the amount to which such higher grade
101 license would have entitled the individual, had the license been
102 held at the time the contract was executed.

103 SECTION 3. This act shall take effect and be in force from
104 and after its passage.