

By: Warren

To: Education

HOUSE BILL NO. 353

1 AN ACT TO AMEND SECTION 37-11-57, MISSISSIPPI CODE OF 1972,
2 TO EXTEND THE IMMUNITY PROVIDED TO CERTAIN SCHOOL PERSONNEL FROM
3 LIABILITY FOR ACTIONS TAKEN TO MAINTAIN CONTROL AND DISCIPLINE OF
4 STUDENTS TO SCHOOL COUNSELORS AND SCHOOL ATTENDANCE OFFICERS; AND
5 FOR RELATED PURPOSES.

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

7 SECTION 1. Section 37-11-57, Mississippi Code of 1972, is
8 amended as follows:[HS1]

9 37-11-57. (1) Except in the case of excessive force or
10 cruel and unusual punishment, a teacher, assistant teacher,
11 principal, * * * assistant principal, school counselor or school
12 attendance officer acting within the course and scope of his
13 employment shall not be liable for any action carried out in
14 conformity with state or federal law or rules or regulations of
15 the State Board of Education or the local school board regarding
16 the control, discipline, suspension and expulsion of students.
17 The local school board shall provide any necessary legal defense
18 to a teacher, assistant teacher, principal, * * * assistant
19 principal or school counselor acting within the course and scope
20 of his employment in any action which may be filed against such
21 school personnel, and the State Board of Education shall provide
22 any necessary legal defense to a school attendance officer acting

23 within the course and scope of his employment in any action that
24 may be filed against the school attendance officer. A school
25 district shall be entitled to reimbursement for legal fees and
26 expenses from the employee if a court finds that the act of the
27 employee was outside the course and scope of his employment, or
28 that the employee was acting with criminal intent. Any action by
29 a school district or the State Board of Education against an
30 employee and any action by an employee against a school district
31 or the State Board of Education for necessary legal fees and
32 expenses shall be tried to the court in the same suit brought
33 against the * * * employee.

34 (2) Corporal punishment administered in a reasonable manner,
35 or any reasonable action to maintain control and discipline of
36 students taken by a teacher, assistant teacher, principal,
37 assistant principal, school counselor or school attendance officer
38 acting within the scope of his employment or function and in
39 accordance with any state or federal laws or rules or regulations
40 of the State Board of Education or the local school board does not
41 constitute negligence or child abuse. No teacher, assistant
42 teacher, principal, assistant principal, school counselor or
43 school attendance officer so acting shall be held liable in a suit
44 for civil damages alleged to have been suffered by a student as a
45 result of the administration of corporal punishment, or the taking
46 of action to maintain control and discipline of a student, unless
47 the court determines that the teacher, assistant teacher,
48 principal, assistant principal, school counselor or school
49 attendance officer acted in bad faith or with malicious purpose or
50 in a manner exhibiting a wanton and willful disregard of human
51 rights or safety. For the purposes of this subsection, "corporal
52 punishment" means the reasonable use of physical force or physical
53 contact by a teacher, assistant teacher, principal, assistant

54 principal, school counselor or school attendance officer as may be
55 necessary to maintain discipline, to enforce a school rule, for
56 self-protection or for the protection of other students from
57 disruptive students.

58 SECTION 2. This act shall take effect and be in force from
59 and after July 1, 2000.