

By: Harden

To: Education; Judiciary

SENATE BILL NO. 2522
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 37-11-57, MISSISSIPPI CODE OF 1972,
2 TO ADD SCHOOL COUNSELORS TO THE STATUTORY IMMUNITY OF SCHOOL
3 PERSONNEL FROM LIABILITY FOR ACTIONS WITHIN THE SCOPE OF
4 EMPLOYMENT; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 37-11-57, Mississippi Code of 1972, is
7 amended as follows:[RDD1]

8 37-11-57. (1) Except in the case of excessive force or
9 cruel and unusual punishment, a teacher, assistant teacher,
10 principal, * * * assistant principal or school counselor acting
11 within the course and scope of his employment shall not be liable
12 for any action carried out in conformity with state or federal law
13 or rules or regulations of the State Board of Education or the
14 local school board regarding the control, discipline, suspension
15 and expulsion of students. The local school board shall provide
16 any necessary legal defense to a teacher, assistant teacher,
17 principal, * * * assistant principal or school counselor acting
18 within the course and scope of his employment in any action which
19 may be filed against such school personnel. A school district
20 shall be entitled to reimbursement for legal fees and expenses
21 from its employee if a court finds that the act of the employee
22 was outside the course and scope of his employment, or that the
23 employee was acting with criminal intent. Any action by a school
24 district against its employee and any action by the employee
25 against the school district for necessary legal fees and expenses
26 shall be tried to the court in the same suit brought against the
27 school employee.

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

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