HOUSE BILL NO. 149

AN ACT TO AMEND SECTION 37-11-53, MISSISSIPPI CODE OF 1972, TO PROHIBIT SCHOOL DISTRICTS FROM MAINTAINING ZERO TOLERANCE DISCIPLINE PLANS; TO AMEND SECTION 37-11-18, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE LAW AUTHORIZING AUTOMATIC EXPULSION FOR CERTAIN OFFENSES DOES NOT ALLOW SCHOOL DISTRICTS TO IMPLEMENT AND MAINTAIN ZERO TOLERANCE DISCIPLINE PLANS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 37-11-53, Mississippi Code of 1972, is amended as follows:

37-11-53. (1) A copy of the school district's discipline plan shall be distributed to each student enrolled in the district, and the parents, guardian or custodian of such student shall sign a statement verifying that they have been given notice of the discipline policies of their respective school district. The school board shall have its official discipline plan and code of student conduct legally audited on an annual basis to insure that its policies and procedures are currently in compliance with applicable statutes, case law and state and federal constitutional provisions. As part of the first legal audit occurring after July 1, 2001, the provisions of this section, Section 37-11-55 and Section 37-11-18.1 shall be fully incorporated into the school district's discipline plan and code of student conduct.

(2) The school board of a school district may not implement a zero tolerance discipline plan. Any school district that has a zero tolerance discipline plan in force before July 1, 2003, must discontinue the use of the zero tolerance discipline plan before that date.
All discipline plans of school districts shall include, but not be limited to, the following:

(a) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible financially for his or her minor child's destructive acts against school property or persons;

(b) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district may be requested to appear at school by the school attendance officer or an appropriate school official for a conference regarding acts of the child specified in paragraph (a) of this subsection, or for any other discipline conference regarding the acts of the child;

(c) Any parent, guardian or custodian of a compulsory-school-age child enrolled in a school district who refuses or willfully fails to attend such discipline conference specified in paragraph (b) of this subsection may be summoned by proper notification by the superintendent of schools or the school attendance officer and be required to attend such discipline conference; and

(d) A parent, guardian or custodian of a compulsory-school-age child enrolled in a public school district shall be responsible for any criminal fines brought against such student for unlawful activity occurring on school grounds or buses.

Any parent, guardian or custodian of a compulsory-school-age child who fails to attend a discipline conference to which such parent, guardian or custodian has been summoned under the provisions of this section or refuses or willfully fails to perform any other duties imposed upon him or her under the provisions of this section, shall be guilty of a misdemeanor and, upon conviction, shall be fined not to exceed Two Hundred Fifty Dollars ($250.00).
Any public school district shall be entitled to recover damages in an amount not to exceed Twenty Thousand Dollars ($20,000.00), plus necessary court costs, from the parents of any minor under the age of eighteen (18) years and over the age of six years, who maliciously and willfully damages or destroys property belonging to such school district. However, this section shall not apply to parents whose parental control of such child has been removed by court order or decree. The action authorized in this subsection shall be in addition to all other actions which the school district is entitled to maintain, and nothing in this section shall preclude recovery in a greater amount from the minor or from a person, including the parents, for damages to which such minor or other person would otherwise be liable.

A school district's discipline plan may provide that as an alternative to suspension, a student may remain in school by having the parent, guardian or custodian, with the consent of the student's teacher or teachers, attend class with the student for a period of time specifically agreed upon by the reporting teacher and school principal. If the parent, guardian or custodian does not agree to attend class with the student or fails to attend class with the student, the student shall be suspended in accordance with the code of student conduct and discipline policies of the school district.

SECTION 2. Section 37-11-18, Mississippi Code of 1972, is amended as follows:

37-11-18. (1) Any student in any school who possesses any controlled substance in violation of the Uniform Controlled Substances Law, a knife, handgun, other firearm or any other instrument considered to be dangerous and capable of causing bodily harm or who commits a violent act on educational property, as defined in Section 97-37-17, shall be subject to automatic expulsion for a calendar year by the superintendent or principal of the school in which the student is enrolled; * * *
however, * * * the superintendent of the school shall be authorized to modify the period of time for such expulsion on a case by case basis. Such expulsion shall take effect immediately subject to the constitutional rights of due process, which shall include the student's right to appeal to the local school board. 

(2) This section does not authorize a public school district to implement and maintain a zero tolerance discipline plan.

SECTION 3. This act shall take effect and be in force from and after July 1, 2003.