

By: Representatives Staples, Aldridge,
Eaton, Arinder, Brown, Janus, Robinson
(84th), Shows, Turner, Warren, Whittington

To: Education

HOUSE BILL NO. 1147

1 AN ACT TO AMEND SECTION 37-9-17, MISSISSIPPI CODE OF 1972, TO
2 EXTEND THE DEADLINE FOR PRINCIPALS TO MAKE EMPLOYMENT
3 RECOMMENDATIONS TO THE SUPERINTENDENT OF THE LOCAL SCHOOL DISTRICT
4 FOR THE 2003-2004 SCHOOL YEAR; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 37-9-17, Mississippi Code of 1972, is
7 amended as follows:

8 37-9-17. (1) On or before April 1 of each year, the
9 principal of each school shall recommend to the superintendent of
10 the local school district the licensed employees or
11 noninstructional employees to be employed for the school involved
12 except those licensed employees or noninstructional employees who
13 have been previously employed and who have a contract valid for
14 the ensuing scholastic year. However, for the 2003-2004 school
15 year, the principal of each school shall make those
16 recommendations on or before May 1. If such recommendations meet
17 with the approval of the superintendent, the superintendent shall
18 recommend the employment of such licensed employees or
19 noninstructional employees to the local school board, and, unless
20 good reason to the contrary exists, the board shall elect the
21 employees so recommended. If, for any reason, the local school
22 board shall decline to elect any employee so recommended,
23 additional recommendations for the places to be filled shall be
24 made by the principal to the superintendent and then by the
25 superintendent to the local school board as provided above. The
26 school board of any local school district shall be authorized to
27 designate a personnel supervisor or another principal employed by
28 the school district to recommend to the superintendent licensed

29 employees or noninstructional employees; however, this
30 authorization shall be restricted to no more than two (2)
31 positions for each employment period for each school in the local
32 school district. Any noninstructional employee employed upon the
33 recommendation of a personnel supervisor or another principal
34 employed by the local school district must have been employed by
35 the local school district at the time the superintendent was
36 elected or appointed to office; a noninstructional employee
37 employed under this authorization may not be paid compensation in
38 excess of the statewide average compensation for such
39 noninstructional position with comparable experience, as
40 established by the State Department of Education. The school
41 board of any local school district shall be authorized to
42 designate a personnel supervisor or another principal employed by
43 the school district to accept the recommendations of principals or
44 their designees for licensed employees or noninstructional
45 employees and to transmit approved recommendations to the local
46 school board; however, this authorization shall be restricted to
47 no more than two (2) positions for each employment period for each
48 school in the local school district.

49 When the licensed employees have been elected as provided in
50 the preceding paragraph, the superintendent of the district shall
51 enter into a contract with such persons in the manner provided in
52 this chapter.

53 If, at the commencement of the scholastic year, any licensed
54 employee shall present to the superintendent a license of a higher
55 grade than that specified in such individual's contract, such
56 individual may, if funds are available from minimum education
57 program funds of the district, or from district funds, be paid
58 from such funds the amount to which such higher grade license
59 would have entitled the individual, had the license been held at
60 the time the contract was executed.

61 (2) Superintendents/directors of schools under the purview
62 of the State Board of Education and the superintendent of the
63 local school district shall require that current criminal records
64 background checks and current child abuse registry checks are
65 obtained, and that such criminal record information and registry
66 checks are on file for any new hires applying for employment as a
67 licensed or nonlicensed employee at a school and not previously
68 employed in such school under the purview of the State Board of
69 Education or at such local school district prior to July 1, 2000.
70 In order to determine the applicant's suitability for employment,
71 the applicant shall be fingerprinted. If no disqualifying record
72 is identified at the state level, the fingerprints shall be
73 forwarded by the Department of Public Safety to the FBI for a
74 national criminal history record check. The fee for such
75 fingerprinting and criminal history record check shall be paid by
76 the applicant, not to exceed Fifty Dollars (\$50.00); however, the
77 State Board of Education or the school board of the local school
78 district, in its discretion, may elect to pay the fee for the
79 fingerprinting and criminal history record check on behalf of any
80 applicant. Under no circumstances shall a member of the State
81 Board of Education, superintendent/director of schools under the
82 purview of the State Board of Education, local school district
83 superintendent, local school board member or any individual other
84 than the subject of the criminal history record checks disseminate
85 information received through any such checks except insofar as
86 required to fulfill the purposes of this section. Any nonpublic
87 school which is accredited or approved by the State Board of
88 Education may avail itself of the procedures provided for herein
89 and shall be responsible for the same fee charged in the case of
90 local public schools of this state.

91 (3) If such fingerprinting or criminal record checks
92 disclose a felony conviction, guilty plea or plea of nolo
93 contendere to a felony of possession or sale of drugs, murder,

94 manslaughter, armed robbery, rape, sexual battery, sex offense
95 listed in Section 45-33-23(g), child abuse, arson, grand larceny,
96 burglary, gratification of lust or aggravated assault which has
97 not been reversed on appeal or for which a pardon has not been
98 granted, the new hire shall not be eligible to be employed at such
99 school. Any employment contract for a new hire executed by the
100 superintendent of the local school district or any employment of a
101 new hire by a superintendent/director of a new school under the
102 purview of the State Board of Education shall be voidable if the
103 new hire receives a disqualifying criminal record check. However,
104 the State Board of Education or the school board may, in its
105 discretion, allow any applicant aggrieved by the employment
106 decision under this section to appear before the respective board,
107 or before a hearing officer designated for such purpose, to show
108 mitigating circumstances which may exist and allow the new hire to
109 be employed at the school. The State Board of Education or local
110 school board may grant waivers for such mitigating circumstances,
111 which shall include, but not be limited to: (a) age at which the
112 crime was committed; (b) circumstances surrounding the crime; (c)
113 length of time since the conviction and criminal history since the
114 conviction; (d) work history; (e) current employment and character
115 references; (f) other evidence demonstrating the ability of the
116 person to perform the employment responsibilities competently and
117 that the person does not pose a threat to the health or safety of
118 the children at the school.

119 (4) No local school district or local school district
120 employee or members of the State Board of Education or employee of
121 a school under the purview of the State Board of Education shall
122 be held liable in any employment discrimination suit in which an
123 allegation of discrimination is made regarding an employment
124 decision authorized under this Section 37-9-17.

125 **SECTION 2.** This act shall take effect and be in force from
126 and after its passage.