

By: Representative Dixon

To: Education; Youth and Family Affairs

HOUSE BILL NO. 1063

1 AN ACT TO AMEND SECTION 37-13-92, MISSISSIPPI CODE OF 1972,
 2 TO REQUIRE THE IMPOSITION OF A FINE AGAINST TEACHERS, COUNSELORS
 3 AND SCHOOL DISTRICTS ADMINISTRATORS WHO FALSIFY WRITTEN DOCUMENTS
 4 OR OTHERWISE FABRICATE EVIDENCE TO SUPPORT A DECISION TO REMOVE A
 5 STUDENT TO AN ALTERNATIVE SCHOOL PROGRAM; TO REQUIRE EACH SCHOOL
 6 DISTRICT'S WRITTEN DISCIPLINARY POLICY TO INCLUDE PROVISIONS
 7 NOTIFYING PARENTS OF THEIR RIGHT TO REVIEW EVIDENCE USED TO
 8 SUPPORT A DECISION TO REMOVE A CHILD TO AN ALTERNATIVE SCHOOL
 9 PROGRAM; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 37-13-92, Mississippi Code of 1972, is
 12 amended as follows:

13 37-13-92. (1) Beginning with the school year 2004-2005, the
 14 school boards of all school districts shall establish, maintain
 15 and operate, in connection with the regular programs of the school
 16 district, an alternative school program or behavior modification
 17 program as defined by the State Board of Education for, but not
 18 limited to, the following categories of compulsory-school-age
 19 students:

20 (a) Any compulsory-school-age child who has been
 21 suspended for more than ten (10) days or expelled from school,



22 except for any student expelled for possession of a weapon or
23 other felonious conduct;

24 (b) Any compulsory-school-age child referred to such
25 alternative school based upon a documented need for placement in
26 the alternative school program by the parent, legal guardian or
27 custodian of such child due to disciplinary problems;

28 (c) Any compulsory-school-age child referred to such
29 alternative school program by the dispositive order of a
30 chancellor or youth court judge, with the consent of the
31 superintendent of the child's school district;

32 (d) Any compulsory-school-age child whose presence in
33 the classroom, in the determination of the school superintendent
34 or principal, is a disruption to the educational environment of
35 the school or a detriment to the interest and welfare of the
36 students and teachers of such class as a whole; and

37 (e) No school district is required to place a child
38 returning from out-of-home placement in the mental health,
39 juvenile justice or foster care system in alternative school.
40 Placement of a child in the alternative school shall be done
41 consistently, and for students identified under the Individuals
42 with Disabilities Education Act (IDEA), shall adhere to the
43 requirements of the Individuals with Disabilities Education
44 Improvement Act of 2004. If a school district chooses to place a
45 child in alternative school, the district will make an individual



46 assessment and evaluation of that child in the following time
47 periods:

48 (i) Five (5) days for a child transitioning from a
49 group home, mental health care system, and/or the custody of the
50 Department of Human Services, Division of Youth and Family
51 Services;

52 (ii) Ten (10) days for a child transitioning from
53 a dispositional placement order by a youth court pursuant to
54 Section 43-21-605; and

55 (iii) An individualized assessment for youth
56 transitioning from out-of-home placement to the alternative school
57 shall include:

58 1. A strength needs assessment.

59 2. A determination of the child's academic
60 strengths and deficiencies.

61 3. A proposed plan for transitioning the
62 child to a regular education placement at the earliest possible
63 date.

64 (2) The principal or program administrator of any such
65 alternative school program shall require verification from the
66 appropriate guidance counselor of any such child referred to the
67 alternative school program regarding the suitability of such child
68 for attendance at the alternative school program. Before a
69 student may be removed to an alternative school education program,
70 the superintendent of the student's school district must determine



71 that the written and distributed disciplinary policy of the local
72 district is being followed. The policy shall include standards
73 for:

74 (a) The removal of a student to an alternative
75 education program that will include a process of educational
76 review to develop the student's individual instruction plan and
77 the evaluation at regular intervals of the student's educational
78 progress; the process shall include classroom teachers and/or
79 other appropriate professional personnel, as defined in the
80 district policy, to ensure a continuing educational program for
81 the removed student;

82 (b) The duration of alternative placement; and

83 (c) The notification of parents or guardians, before a
84 student is removed to an alternative education program, of their
85 right to review all evidence used to support or justify the
86 removal and * * * to be included in the removal and evaluation
87 process, as defined in the district policy. Nothing in this
88 paragraph should be defined in a manner to circumvent the
89 principal's or the superintendent's authority to remove a student
90 to alternative education.

91 (3) A teacher, counselor, principal, superintendent or other
92 employee of a school district may not falsify a document or other
93 written evidence, or otherwise fabricate any evidence, to support
94 or justify a decision to remove a student to an alternative school
95 program. A person determined to have violated this subsection is



96 subject to the imposition of an administrative fine in the amount
97 of Two Thousand Dollars (\$2,000.00) for each referral to an
98 alternative school program which is based, in whole or in part,
99 upon a falsified document or fabricated evidence.

100 (* * *4) The local school board or the superintendent shall
101 provide for the continuing education of a student who has been
102 removed to an alternative school program.

103 (* * *5) A school district, in its discretion, may provide
104 a program of High School Equivalency Diploma preparatory
105 instruction in the alternative school program. However, any High
106 School Equivalency Diploma preparation program offered in an
107 alternative school program must be administered in compliance with
108 the rules and regulations established for such programs under
109 Sections 37-35-1 through 37-35-11 and by the Mississippi Community
110 College Board. The school district may administer the High School
111 Equivalency Diploma Testing Program under the policies and
112 guidelines of the Testing Service of the American Council on
113 Education in the alternative school program or may authorize the
114 test to be administered through the community/junior college
115 district in which the alternative school is situated.

116 (* * *6) Any such alternative school program operated under
117 the authority of this section shall meet all appropriate
118 accreditation requirements of the State Department of Education.

119 (* * *7) The alternative school program may be held within
120 such school district or may be operated by two (2) or more



121 adjacent school districts, pursuant to a contract approved by the
122 State Board of Education. When two (2) or more school districts
123 contract to operate an alternative school program, the school
124 board of a district designated to be the lead district shall serve
125 as the governing board of the alternative school program.
126 Transportation for students attending the alternative school
127 program shall be the responsibility of the local school district.
128 The expense of establishing, maintaining and operating such
129 alternative school program may be paid from funds contributed or
130 otherwise made available to the school district for such purpose
131 or from local district maintenance funds.

132 (* * *8) The State Board of Education shall promulgate
133 minimum guidelines for alternative school programs. The
134 guidelines shall require, at a minimum, the formulation of an
135 individual instruction plan for each student referred to the
136 alternative school program and, upon a determination that it is in
137 a student's best interest for that student to receive High School
138 Equivalency Diploma preparatory instruction, that the local school
139 board assign the student to a High School Equivalency Diploma
140 preparatory program established under subsection (* * *5) of this
141 section. The minimum guidelines for alternative school programs
142 shall also require the following components:

143 (a) Clear guidelines and procedures for placement of
144 students into alternative education programs which at a minimum



145 shall prescribe due process procedures for disciplinary and High
146 School Equivalency Diploma placement;

147 (b) Clear and consistent goals for students and
148 parents;

149 (c) Curricula addressing cultural and learning style
150 differences;

151 (d) Direct supervision of all activities on a closed
152 campus;

153 (e) Attendance requirements that allow for educational
154 and workforce development opportunities;

155 (f) Selection of program from options provided by the
156 local school district, Division of Youth Services or the youth
157 court, including transfer to a community-based alternative school;

158 (g) Continual monitoring and evaluation and formalized
159 passage from one (1) step or program to another;

160 (h) A motivated and culturally diverse staff;

161 (i) Counseling for parents and students;

162 (j) Administrative and community support for the
163 program; and

164 (k) Clear procedures for annual alternative school
165 program review and evaluation.

166 (* * *9) On request of a school district, the State
167 Department of Education shall provide the district informational
168 material on developing an alternative school program that takes



169 into consideration size, wealth and existing facilities in
170 determining a program best suited to a district.

171 (* * *10) Any compulsory-school-age child who becomes
172 involved in any criminal or violent behavior shall be removed from
173 such alternative school program and, if probable cause exists, a
174 case shall be referred to the youth court.

175 (* * *11) The State Board of Education shall promulgate
176 guidelines for alternative school programs which provide broad
177 authority to school boards of local school districts to establish
178 alternative education programs to meet the specific needs of the
179 school district.

180 (* * *12) Each school district having an alternative school
181 program shall submit a report by July 31 of each calendar year to
182 the State Department of Education describing the results of its
183 annual alternative school program review and evaluation undertaken
184 pursuant to subsection (* * *8)(k). The report shall include a
185 detailed account of any actions taken by the school district
186 during the previous year to comply with substantive guidelines
187 promulgated by the State Board of Education under subsection
188 (* * *8)(a) through (j). In the report to be implemented under
189 this section, the State Department of Education shall prescribe
190 the appropriate measures on school districts that fail to file the
191 annual report. The report should be made available online via the
192 department's website to ensure transparency, accountability and
193 efficiency.



194 **SECTION 2.** This act shall take effect and be in force from
195 and after July 1, 2018.

