

By: Representatives Tullos, Miles, Sanford

To: Education

HOUSE BILL NO. 1429

1 AN ACT TO AMEND SECTION 37-11-57, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE AN EXCEPTION TO SCHOOL DISTRICTS THAT HAVE ADOPTED A
3 POLICY PROHIBITING THE USE OF CORPORAL PUNISHMENT, TO ADMINISTER
4 CORPORAL PUNISHMENT UPON RECEIPT OF A WRITTEN STATEMENT FROM THE
5 PARENT OR LEGAL GUARDIAN OF A CHILD OPTING IN FOR THE USE OF
6 CORPORAL PUNISHMENT AS A DISCIPLINARY MEASURE FOR THEIR CHILD; TO
7 REQUIRE THE STATEMENT BE MAINTAINED BY THE SCHOOL PRINCIPAL; TO
8 REQUIRE A SEPARATE WRITTEN STATEMENT FROM THE PARENT OR LEGAL
9 GUARDIAN REVOKING THE PERMISSION TO USE CORPORAL PUNISHMENT; AND
10 FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 37-11-57, Mississippi Code of 1972, is
13 amended as follows:

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



23 teacher, assistant teacher, principal, or assistant principal in
24 the school district who was acting within the course and scope of
25 his employment in any action which may be filed against such
26 school personnel. A school district or charter school, as the
27 case may be, shall be entitled to reimbursement for legal fees and
28 expenses from its employee if a court finds that the act of the
29 employee was outside the course and scope of his employment, or
30 that the employee was acting with criminal intent. Any action by
31 a school district or charter school against its employee and any
32 action by the employee against the school district or charter
33 school for necessary legal fees and expenses shall be tried to the
34 court in the same suit brought against the school employee.

35 (2) (a) Corporal punishment administered in a reasonable
36 manner, or any reasonable action to maintain control and
37 discipline of students taken by a public school teacher, assistant
38 teacher, principal or assistant principal acting within the scope
39 of his employment or function and in accordance with any state or
40 federal laws or rules or regulations of the State Board of
41 Education or the local school board or governing board of a
42 charter school does not constitute negligence or child abuse. No
43 public school teacher, assistant teacher, principal or assistant
44 principal so acting shall be held liable in a suit for civil
45 damages alleged to have been suffered by a student as a result of
46 the administration of corporal punishment, or the taking of action
47 to maintain control and discipline of a student, unless the court



determines that the teacher, assistant teacher, principal or assistant principal acted in bad faith or with malicious purpose or in a manner exhibiting a wanton and willful disregard of human rights or safety. For the purposes of this subsection, "corporal punishment" means the reasonable use of physical force or physical contact by a teacher, assistant teacher, principal or assistant principal, as may be necessary to maintain discipline, to enforce a school rule, for self-protection or for the protection of other students from disruptive students.

(b) Notwithstanding paragraph (a) of this subsection, a public school teacher, assistant teacher, principal, assistant principal or other school personnel employed by a school district that has adopted a policy prohibiting the use of corporal punishment against any student shall refrain from administering corporal punishment as a disciplinary action, unless the parent or legal guardian of a child permits, in writing, the use of corporal punishment against the parent or legal guardian's child. The written permission must state the type of corporal punishment that may be used and the circumstances in which the use of corporal punishment is permitted. The school's principal must keep the written permission on file at the school. The school's principal must notify the parent any time corporal punishment is used. The school's principal must inform the parent, when the written permission for the use of corporal punishment is submitted, that the parent may revoke the permission to use corporal punishment at



73 any time by giving written notice to the school's principal that
74 corporal punishment may no longer be used against the parent or
75 legal guardian's child.

76 (3) Notwithstanding subsection (2) of this section a public
77 school teacher, assistant teacher, principal, assistant principal
78 or other school personnel is prohibited from using corporal
79 punishment, as defined in subsection (2) of this section, on any
80 student with a disability. No school personnel shall be granted
81 immunity from liability under subsection (2) of this section for
82 the use of corporal punishment on a student with a disability.
83 For purposes of this subsection, the term "student with a
84 disability" means a student who has an individualized education
85 plan (IEP) under the Individuals with Disabilities Education Act
86 (IDEA) or a Section 504 plan under the Rehabilitation Act of 1973.
87 The term "school personnel" includes all individuals employed on a
88 full-time or part-time basis by a public school.

89 **SECTION 2.** This act shall take effect and be in force from
90 and after July 1, 2020.

