

By: Representative Fleming

To: Education

## HOUSE BILL NO. 76

1 AN ACT TO AMEND SECTION 37-11-53, MISSISSIPPI CODE OF 1972,  
2 TO PROHIBIT SCHOOL DISTRICTS FROM MAINTAINING ZERO TOLERANCE  
3 DISCIPLINE PLANS; TO AMEND SECTION 37-11-18, MISSISSIPPI CODE OF  
4 1972, TO CLARIFY THAT THE LAW AUTHORIZING AUTOMATIC EXPULSION FOR  
5 CERTAIN OFFENSES DOES NOT ALLOW SCHOOL DISTRICTS TO IMPLEMENT AND  
6 MAINTAIN ZERO TOLERANCE DISCIPLINE PLANS; AND FOR RELATED  
7 PURPOSES.

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

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

11 37-11-53. (1) A copy of the school district's discipline  
12 plan shall be distributed to each student enrolled in the  
13 district, and the parents, guardian or custodian of such student  
14 shall sign a statement verifying that they have been given notice  
15 of the discipline policies of their respective school district.  
16 The school board shall have its official discipline plan and code  
17 of student conduct legally audited on an annual basis to insure  
18 that its policies and procedures are currently in compliance with  
19 applicable statutes, case law and state and federal constitutional  
20 provisions. As part of the first legal audit occurring after July  
21 1, 2001, the provisions of this section, Section 37-11-55 and  
22 Section 37-11-18.1 shall be fully incorporated into the school  
23 district's discipline plan and code of student conduct.

24 (2) The school board of a school district may not implement  
25 a zero tolerance discipline plan. Any school district that has a  
26 zero tolerance discipline plan in force before July 1, 2005, must  
27 discontinue the use of the zero tolerance discipline plan before  
28 that date.

29       (3) All discipline plans of school districts shall include,  
30 but not be limited to, the following:

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

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

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

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

54       (4) Any parent, guardian or custodian of a  
55 compulsory-school-age child who \* \* \* fails to attend a discipline  
56 conference to which such parent, guardian or custodian has been  
57 summoned under the provisions of this section or \* \* \* refuses or  
58 willfully fails to perform any other duties imposed upon him or  
59 her under the provisions of this section, shall be guilty of a  
60 misdemeanor and, upon conviction, shall be fined not to exceed Two  
61 Hundred Fifty Dollars (\$250.00).

62       (5) Any public school district shall be entitled to recover  
63 damages in an amount not to exceed Twenty Thousand Dollars  
64 (\$20,000.00), plus necessary court costs, from the parents of any  
65 minor under the age of eighteen (18) years and over the age of six  
66 (6) years, who maliciously and willfully damages or destroys  
67 property belonging to such school district. However, this section  
68 shall not apply to parents whose parental control of such child  
69 has been removed by court order or decree. The action authorized  
70 in this subsection shall be in addition to all other actions which  
71 the school district is entitled to maintain, and nothing in this  
72 section shall preclude recovery in a greater amount from the minor  
73 or from a person, including the parents, for damages to which such  
74 minor or other person would otherwise be liable.

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

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

87       37-11-18. (1) Any student in any school who possesses any  
88 controlled substance in violation of the Uniform Controlled  
89 Substances Law, a knife, handgun, other firearm or any other  
90 instrument considered to be dangerous and capable of causing  
91 bodily harm or who commits a violent act on educational property,  
92 as defined in Section 97-37-17, shall be subject to automatic  
93 expulsion for a calendar year by the superintendent or principal  
94 of the school in which the student is enrolled; \* \* \*

95 however, \* \* \* the superintendent of the school shall be  
96 authorized to modify the period of time for such expulsion on a  
97 case by case basis. Such expulsion shall take effect immediately  
98 subject to the constitutional rights of due process, which shall  
99 include the student's right to appeal to the local school board.

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

102 **SECTION 3.** This act shall take effect and be in force from  
103 and after July 1, 2005.