

1 HB299
2 174110-1
3 By Representative Henry
4 RFD: Education Policy
5 First Read: 24-FEB-16

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8 SYNOPSIS: Under existing law, at the beginning of each
9 school year local boards of education are required
10 to adopt and make available codes of student
11 conduct that describe specific grounds for
12 disciplinary action and explain the
13 responsibilities and rights of students with regard
14 to attendance, conduct, and other matters.

15 Also under existing law, local boards of
16 education are required to develop and implement
17 local policies and procedures requiring the
18 one-year expulsion of students who have brought to
19 school or have in their possession a firearm in a
20 school building, on school grounds, on school
21 buses, or at other school-sponsored functions.

22 This bill would require local boards of
23 education to impose punishment in an offense
24 appropriate manner on a case-by-case basis and
25 would prohibit any local board of education from
26 adopting and enforcing any so-called "zero

1 tolerance" policies relating to rules of student
2 conduct.

3 This bill would also provide that the
4 one-year expulsion for possession of a firearm on
5 school property is not a zero tolerance policy and
6 would clarify that the definition of firearm should
7 be narrowly construed.

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9 A BILL
10 TO BE ENTITLED
11 AN ACT

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13 To amend Sections 16-1-24.1 and 16-1-24.3, Code of
14 Alabama 1975, relating to safe school and drug-free school
15 policies and firearm-free schools; to provide legislative
16 intent; to prohibit a local board of education from adopting
17 or enforcing a zero tolerance policy; to require any
18 punishment imposed to be on a case-by-case basis and
19 appropriate for the offense committed; to provide that the
20 one-year expulsion for possession of a firearm on school
21 property is not a zero tolerance policy; and to clarify the
22 definition of firearm.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. The Legislature finds that so-called
25 "zero tolerance" policies adopted by local boards of education
26 can result in unfair, unjust, and unconscionable punishment.
27 The Legislature further finds that the administration of such

1 policies frequently disregards the traditional concepts of
2 American justice and sends the wrong message to students, and
3 that in the application of zero tolerance policies, victims
4 are sometimes punished equally with their offenders, and that
5 too much weight is given to the letter of the law rather than
6 the spirit of the law. The Legislature encourages local boards
7 of education, administrators, principals, and teachers to
8 thoroughly investigate alleged wrongful conduct and to mete
9 out punishment appropriate to the offense, taking into
10 consideration the gravity of the offense, the intentions of
11 the offending student, and the prior disciplinary record of
12 the offending student.

13 Section 2. Sections 16-1-24.1 and 16-1-24.3 of the
14 Code of Alabama 1975, are amended to read as follows:

15 "§16-1-24.1.

16 "(a) The Legislature finds a compelling public
17 interest in ensuring that schools are made safe and drug-free
18 for all students and school employees. The Legislature finds
19 the need for a comprehensive safe school and drug-free school
20 policy to be adopted by the State Board of Education. This
21 policy should establish minimum standards for classes of
22 offenses and prescribe uniform minimum procedures and
23 penalties, to be imposed on a case-by-case basis, for those
24 who violate the policies. It is the intent of the Legislature
25 that our schools remain safe and drug-free for all students
26 and school employees. The State Board of Education shall adopt
27 and all local boards of education shall uniformly enforce

1 policies that protect all students and school employees. The
2 State Board of Education shall require local school systems to
3 modify their policies, practices or procedures so as to ensure
4 a safe school environment free of illegal drugs, alcohol, or
5 weapons. Any rules and regulations adopted by the State Board
6 of Education pursuant to this section shall be exempt from
7 subdivision (3) of Section 41-22-3(3). These modifications
8 shall include the formulation of a discipline plan setting
9 forth policies, practices, and procedures dealing with
10 students or other persons who bring illegal drugs, alcohol, or
11 weapons on a school campus. The discipline plan shall also
12 include uniform drug-free school policies with uniform
13 penalties, to be imposed on a case-by-case basis.

14 " (b) The principal shall notify appropriate law
15 enforcement officials when any person violates local board of
16 education policies concerning drugs, alcohol, weapons,
17 physical harm to a person, or threatened physical harm to a
18 person. If any criminal charge is warranted arising from the
19 conduct, the principal is authorized to sign the appropriate
20 warrant. If that person is a student enrolled in any public
21 school in the State of Alabama, the local school system shall
22 immediately suspend that person from attending regular classes
23 and schedule a hearing at the earliest possible date, which
24 shall not be later than five school days. The decision to
25 suspend or initiate criminal charges against a student, or
26 both, shall include a review and consideration of the

1 student's exceptional status, if applicable, under Chapter 39,
2 or appropriate federal statutory or case law.

3 "(c) If a person is found to have violated a local
4 board of education policy concerning drugs, alcohol, weapons,
5 physical harm to a person, or threatened physical harm to a
6 person, the person may not be readmitted to the public schools
7 of this state until each of the following requirements have
8 been satisfied:

9 "(1) ~~criminal~~ Criminal charges or offenses arising
10 from the conduct, if any, have been disposed of by appropriate
11 authorities ~~and~~.

12 "(2) ~~the~~ The person has satisfied all other
13 requirements imposed by the local board of education as a
14 condition for readmission.

15 "(d) Any person determined to be guilty of an
16 offense involving drugs, alcohol, weapons, physical harm to a
17 person, or threatened physical harm to a person, may be
18 readmitted to the public schools of this state upon such
19 conditions as the local board of education shall prescribe for
20 preservation of the safety or security of students and
21 employees of the local school board, which may include, but
22 are not limited to, psychiatric or psychological evaluation
23 and counseling.

24 "(e) (1) A copy of the ~~school system's~~ discipline
25 plan of the school system shall be distributed to all students
26 enrolled in the system and their parents, guardians, or
27 custodians shall read the plan and sign a statement verifying

1 that they have been given notice of the discipline policies of
2 their respective school system. The school board shall have
3 its official discipline plan reviewed on an annual basis to
4 ensure that its policies and procedures are currently in
5 compliance with applicable statutes, case law, and state and
6 federal constitutional provisions.

7 "(2) All discipline plans of school systems shall
8 include, but not be limited to, all of the following:

9 "a. A parent, guardian, custodian, or person,
10 excluding a foster parent, responsible for the care or control
11 of a minor child enrolled in a public school system shall be
12 responsible financially for ~~such child's~~ the destructive acts
13 of the child against school property or persons.

14 "b. A parent, guardian, custodian, or person,
15 excluding a foster parent, responsible for the care or control
16 of a minor child enrolled in a public school system may be
17 requested to appear at school by an appropriate school
18 official for a conference regarding acts of the child
19 specified in paragraph a.

20 "c. A parent, guardian, custodian, or person,
21 excluding a foster parent, responsible for the care or control
22 of a minor child enrolled in a school system who has been
23 summoned by proper notification by an appropriate school
24 official shall be required ~~under this provision~~ to attend such
25 discipline conference specified in paragraph b.

26 "(3) Any public school system shall be entitled to
27 recover actual damages, plus necessary court costs, from the

1 parent or guardian, or both, of any minor who maliciously and
2 willfully damages or destroys property belonging to the school
3 system. However, this section shall not apply to parents whose
4 parental control of any child has been removed by court order
5 or decree or to parents of exceptional children with specific
6 mental and physical impairments if the damage is determined to
7 result from the impairments. The action authorized in this
8 section shall be in addition to all other actions which the
9 school system is entitled to maintain and nothing in this
10 section shall preclude recovery in a greater amount from the
11 minor or from a person, including the parents or guardian, or
12 both, for damages to which such minor other person would
13 otherwise be liable.

14 "(4) This section shall apply only to acts committed
15 on or after August 1, 1992.

16 "(f) The local school board shall adopt and make
17 available to all teachers, school personnel, students, and
18 parents or guardians, at the beginning of ~~the 1992-93 school~~
19 ~~year and each school year thereafter~~, a code of student
20 conduct developed in consultation with teachers, school
21 personnel, students, and parents or guardians. The code shall
22 be based on the rules governing student conduct and discipline
23 adopted by the school board and may be made available at the
24 school level in the student handbook or similar publication.
25 The code shall include, but not be limited to, all of the
26 following:

27 "(1) Specific grounds for disciplinary action.

1 "(2) Procedures to be followed for acts requiring
2 discipline.

3 "(3) An explanation of the responsibilities and
4 rights of students with regard to attendance, respect for
5 persons and property, knowledge and observation of rules of
6 conduct, the right to learn, free speech and student
7 publications, assembly, privacy, and participation in school
8 programs and activities.

9 "(g) Except in the case of excessive force or cruel
10 and unusual punishment, no certified or noncertified employee
11 of the State Board of Education or any local board of
12 education shall be civilly liable for any action carried out
13 in conformity with state law and system or school rules
14 regarding the control, discipline, suspension, and expulsion
15 of students.

16 "(h) Nothing in this section shall be construed to
17 prevent a local board of education from promulgating more
18 stringent rules and regulations than those adopted on the
19 state level, in order to foster and maintain a safe and
20 drug-free environment in the public schools.

21 "(i) Notwithstanding any other provision of state
22 law, a local board of education may not promulgate, adopt, or
23 enforce a zero tolerance policy relating to drugs, alcohol,
24 weapons, physical harm to a person, or threatened physical
25 harm to a person. In all school safety and disciplinary
26 matters, punishment shall be imposed based on requirements of
27 federal law and the particular facts and circumstances of the

1 case, on a case-by-case basis, pursuant to a policy or
2 discipline plan that provides flexibility in crafting
3 punishment that is appropriate for the offense committed.

4 "§16-1-24.3.

5 "(a) All city and county boards of education shall
6 develop and implement local policies and procedures requiring
7 the expulsion of students, for a period of one year, who are
8 determined to have brought to school or have in their
9 possession a firearm in a school building, on school grounds,
10 on school buses, or at other school-sponsored functions.

11 ~~Notwithstanding the foregoing,~~ This subsection may not be
12 construed as creating a zero tolerance policy regarding
13 firearms and city and county boards of education and the local
14 superintendent of education of each board may modify the
15 expulsion requirement for a student on a case-by-case basis.
16 Students who are expelled for violation of this section shall
17 not be allowed to attend regular school classes in any public
18 school in the state during the expulsion period. Students who
19 are expelled from schools for firearm possession may be
20 permitted to attend alternative schools designed to provide
21 education services. Discipline of students with disabilities
22 who violate the firearm possession policies of city and county
23 boards of education shall be determined on a case-by-case
24 basis in accordance with the requirements of the Individuals
25 with Disabilities Education Act (IDEA) and Section 504 of the
26 Rehabilitation Act.

1 "(b) For the purposes of this section, the term
2 "firearm" has the same meaning as defined in Section 921 of
3 Title 18 of the United States Code and may not be expanded to
4 include any other weapon or object.

5 "(c) When there are violations of the prohibition on
6 firearms being brought to school or the possession of firearms
7 by students, the school principal shall notify the appropriate
8 law enforcement authority which may include city police,
9 county sheriffs, and the local district attorney. In addition
10 to notification of law enforcement officials, the school
11 principal shall notify the parents of students who violate the
12 firearm-free school environment provided for in this section.

13 "Law enforcement authorities involved with students
14 charged with firearm violations shall refer the violators of
15 this section to the appropriate authority in the judicial
16 system when the action is feasible.

17 "(d) Local education agencies submitting
18 applications for federal funds to the State Department of
19 Education shall include in the application:

20 "(1) An affidavit to affirm that the local education
21 agency has developed and implemented a policy to provide for a
22 gun-free environment in all its public schools.

23 "(2) A description of the circumstances surrounding
24 an expulsion imposed under this section including:

25 "a. The name of the school concerned.

26 "b. The number of students expelled.

27 "c. The types of weapons concerned.

1 "The State Department of Education shall report the
2 information collected from the local education agencies to the
3 Secretary of Education.

4 "(e) This section shall be strictly construed."

5 Section 3. This act shall become effective
6 immediately following its passage and approval by the
7 Governor, or its otherwise becoming law.