MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Crawford To: Education

HOUSE BILL NO. 760

AN ACT TO AMEND SECTION 37-11-57, MISSISSIPPI CODE OF 1972, TO REQUIRE SCHOOL DISTRICTS THAT PRACTICE CORPORAL PUNISHMENT TO ADOPT A POLICY ALLOWING PARENTS OR LEGAL GUARDIANS OF STUDENTS TO REQUEST THAT THEIR CHILD BE INCLUDED IN THE DISTRICT CORPORAL PUNISHMENT PROGRAM; TO REQUIRE PARENTS OR LEGAL GUARDIANS TO SUBMIT THEIR REQUEST FOR INCLUSION IN THE PROGRAM IN WRITING; TO PROVIDE THAT WITHDRAWAL FROM THE PROGRAM MUST BE IN WRITING ALSO; AND FOR RELATED PURPOSES.

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

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

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

the school district who was acting within the course and scope of his employment in any action which may be filed against such school personnel. A school district or charter school, as the case may be, shall be entitled to reimbursement for legal fees and expenses from its employee if a court finds that the act of the employee was outside the course and scope of his employment, or that the employee was acting with criminal intent. Any action by a school district or charter school against its employee and any action by the employee against the school district or charter school for necessary legal fees and expenses shall be tried to the court in the same suit brought against the school employee.

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

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

(4) In every school district that practices corporal punishment, the local school board shall adopt a policy allowing each student's parent or legal guardian to choose to include that student in the school district's corporal punishment program.

Each school year, every public school district must provide written notice to parents or guardians of students explaining the school district's policy regarding corporal punishment. The written notice must inform parents of their rights to request, in writing, the inclusion of their child in the school district's corporal punishment program. Inclusion in the program shall last for the remainder of the school year in which the request is submitted, and it may be withdrawn by written notice at any time. Notwithstanding subsection (2) of this section, a public school teacher, assistant teacher, principal, assistant principal or other school personnel is prohibited from using corporal punishment, as defined in subsection (2) of this section, on any student whose parent or legal guardian has not included the student in the school district's corporal punishment program. No school personnel shall be granted immunity from liability under subsection (2) of this section for the use of corporal punishment on a student whose parent or legal guardian has not included the student in the school district's corporal punishment program. This subsection shall not apply to any student for whom subsection (3) of this section applies.

SECTION 2. This act shall take effect and be in force from and after July 1, 2021.