



# A Manual of State Laws and Regulations

## SCHOOL SAFETY AND DISCIPLINE 2010



**State Department of Education**  
**Joseph B. Morton**  
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**Montgomery, Alabama**



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# FOREWORD

This document, *A Manual of State Laws and Regulations 2010: School Safety and Discipline*, contains current Alabama laws relating to responsibilities of each local board of education and its personnel. Some of these laws do not require the *Assurance of Compliance* reporting required by *Code of Alabama (1975)*, §16-16B-5. These additional laws are provided for your convenience. It is important for everyone to be knowledgeable of them.

Other laws are included that require each local board of education to report annually to the State Department of Education (SDE) its level of compliance. These laws are delineated on the 2009-2010 *Assurance of Compliance* form that can be found on pages 79-81 of this document.

For assistance with the purpose and use of this document, you may telephone the SDE, Prevention and Support Services Section, at (334) 242-8165. For specific questions relating to the *Assurance of Compliance* requirements, please speak with the education specialist assigned to compliance issues.



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Joseph B. Morton  
State Superintendent of Education

***CIVIL PRACTICE LAWS***

**TITLE 6.  
CIVIL PRACTICE LAWS.**

**Section 6-5-72.** Liability of person for injury to third party in consequence of selling or furnishing controlled substance to minor.

**Section 6-5-380.** Liability of parents for destruction of property by minor; exception.

## **CIVIL PRACTICE LAWS**

### **Section 6-5-72.**

#### **Liability of person for injury to third party in consequence of selling or furnishing controlled substance to minor.**

(a) A person who unlawfully sells, furnishes, or gives a controlled substance as defined in Section 20-2-2 to a minor may be liable for injury or damage or both suffered by a third person caused by or resulting from the use of the controlled substance by the minor, if the sale, furnishing, or giving of the controlled substance is the proximate cause of the injury or damage.

(b) A third person who is injured or damaged or both, under subsection (a) shall have a cause of action against the person selling, furnishing, or giving the controlled substance to the minor.

(c) Conviction under any criminal law relating to the unlawful sale, furnishing, or giving of a controlled substance shall conclusively establish an unlawful sale, furnishing, or giving of a controlled substance under this section.

(d) Upon the death of a party, the cause of action or right to the cause of action shall survive to the estate of the party.

*(Acts 1994, 1st Ex. Sess., No. 94-783, p. 72, §1.)*

### **Section 6-5-380.**

#### **Liability of parents for destruction of property by minor; exception.**

(a) The parent or parents, guardian, or other person having care or control of any minor under the age of 18 years with whom the minor is living and who have custody of the minor shall be liable for the actual damages sustained, but not exceeding the sum of \$1,000, plus the court costs of the action, to any person, firm, association, corporation and the State of Alabama and its political subdivision for all damages proximately caused by the injury to, or destruction of, any property, real, personal or mixed, by the intentional, willful, or malicious act or acts of the minor. Except, approved foster parents of the Department of Human Resources shall not be liable for damages caused by foster children.

(b) Nothing in this section shall be construed to limit the liability of any such parent or parents as the same may now otherwise exist under the laws of the State of Alabama.

*(Acts 1965, 2nd Ex. Sess., No. 99, p. 132; Acts 1994, 1st Ex. Sess., No. 94-819, p. 137, §1.)*

***JUVENILE PROCEEDINGS***

**TITLE 12.**  
**JUVENILE PROCEEDINGS.**

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**Section 12-15-133.** Filing and inspection of records.

**Section 12-15-204.** Acts for which person who has attained age 16 shall be charged, arrested, and tried as adult; removal of person from jurisdiction of juvenile court.

**Section 12-15-208.** Facilities to be used for detention or shelter care of children generally; when child may be detained in jail or other facility for detention of adults; notification of juvenile court, when child

received at facility for detention of adult offenders or persons charged with crimes; development of statewide system; Department of Youth Services to subsidize detention in regional facilities, may contract for detention; transfer of child to detention facility, when case transferred from juvenile court for criminal prosecution.

**Section 12-15-211.** Suspension of proceedings and continuation of cases under terms and conditions agreed to by parties.

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## JUVENILE PROCEEDINGS

### **Section 12-15-105.**

**Exercise of authority by district attorneys in juvenile court proceedings generally; assistance by district attorneys in the juvenile courts; representation of the state by district attorneys in cases appealed from juvenile courts.**

- (a) The district attorney of the judicial circuit in which delinquency or child in need of supervision cases are filed may exercise his or her authority in all delinquency and child in need of supervision cases arising pursuant to this chapter.
- (b) The juvenile court may call upon the district attorney to assist the juvenile court in any proceeding pursuant to this chapter. It shall be the duty of the district attorney to render this assistance when so requested.
- (c) Notwithstanding Title 36, the district attorney shall represent the state in all delinquency and child in need of supervision cases appealed from the juvenile court.

*(Acts 1975, No. 1205, p. 2384, §5-107; §12-15-5; amended and renumbered by Act 2008-277, p. 441, §1.)*

### **Section 12-15-111.**

**Contributing to the delinquency, dependency, or need of supervision of children.**

- (a) It shall be unlawful for any parent, legal guardian, legal custodian, or other person to do any of the following:
  - (1) To willfully aid, encourage, or cause any child to become or remain delinquent, dependent, or in need of supervision.
  - (2) To permit or encourage the employment of any child in violation of any of the provisions of the child labor law.
  - (3) To cause a child to fail to attend school as required by the compulsory school attendance law.
- (b) Whenever, in the course of any proceedings pursuant to this chapter, or when, by affidavit as provided in this subsection, it shall appear to the juvenile court that a parent, legal guardian, legal custodian, or other person having custody, control, or supervision of a child or any other person not standing in any relation to the child has aided, encouraged, or caused the child to become delinquent, dependent, or in need of supervision, the juvenile court, for the protection of the child from these influences, shall have jurisdiction in these matters, as provided in this section. The juvenile court shall cause the parent, legal guardian, legal custodian, or other person to be brought before the juvenile court upon either summons or a warrant, affidavit of probable cause having first been made.
- (c) Whoever violates any provision of this section shall be guilty of a Class A misdemeanor and shall be punished accordingly.
- (d) Upon conviction, the juvenile court may suspend any sentence, remit any fine, or

place the person on probation pursuant to such orders, directives, or conditions for his or her discipline and supervision as the juvenile court deems fit.

*(Acts 1975, No. 1205, p. 2384, §5-148; §12-15-13; amended and renumbered by Act 2008-277, p. 441, §1.)*

### **Section 12-15-133.**

#### **Filing and inspection of records.**

(a) The following records, reports, and information acquired or generated in juvenile courts concerning children shall be confidential and shall not be released to any person, department, agency, or entity, except as provided elsewhere in this section:

(1) Juvenile legal files (including formal documents as petitions, notices, motions, legal memoranda, orders, and decrees).

(2) Social records, including but not limited to:

a. Records of juvenile probation officers.

b. Records of the Department of Human Resources.

c. Records of the Department of Youth Services.

d. Medical records.

e. Psychiatric or psychological records.

f. Reports of preliminary inquiries and predisposition studies.

g. Supervision records.

h. Birth certificates.

i. Individualized service plans.

j. Education records, including, but not limited to, individualized education plans.

k. Detention records.

l. Demographic information that identifies a child or the family of a child.

(3) State Criminal Justice Information System records.

(4) Juvenile criminal sex offender notification records.

(b) The records, reports, and information described in subsection (a) shall be filed separately from other files and records of the court. The juvenile legal files described in subdivision (1) of subsection (a) shall be maintained in a separate file from all other juvenile records, reports, and information.

(c) Subject to applicable federal law, the records, reports, and information described in subsection (a) shall be open to inspection and copying only by the following, under the specified circumstances:

(1) The judge, juvenile probation officers, and professional staff assigned to serve or contracted for service to the juvenile court.

(2) Representatives of a public or private agency or department providing supervision or having legal custody of the child.

(3) The parent (except when parental rights have been terminated), the legal guardian of the child, and the legal custodian of the child.

(4) The subject of the proceedings and his or her counsel and guardian ad litem. As used in this section, the term counsel means a child's attorney and an attorney for a criminal

defendant who was formerly a child subject to proceedings in juvenile court.

(5) The judge, probation, and other professional staff serving a court handling criminal cases for investigating or considering youthful offender applications for an individual, who, prior thereto, had been the subject of proceedings in juvenile court.

(6) The judge, probation, and other professional staff, including the prosecutor and the attorney for the defendant, serving a court handling criminal cases for completing sentencing standards worksheets and considering the sentence upon a person charged with a criminal offense who, prior thereto, had been the subject of proceedings in juvenile court.

(7) The principal of the school in which the child is enrolled, or the representative of the principal, upon written petition to the juvenile court setting forth the reasons why the safety or welfare, or both, of the school, its students, or personnel, necessitate production of the information and without which the safety and welfare of the school, its students, and personnel, would be threatened; provided, however, certain information concerning children adjudicated delinquent of certain offenses shall be provided as set forth in Section 12-15-217.

(8) The Alabama Sentencing Commission, as set forth in Section 12-25-11.

(d) Upon determining a legitimate need for access, and subject to applicable federal law, the juvenile court may also grant access to specific records, reports, and information to another person, department, entity, or agency. The determination of legitimate need by the juvenile court shall be based upon a written request filed with the juvenile court stating the following:

(1) The reason the person, department, entity, or agency is requesting the information.

(2) The use to be made of the information.

(3) The names of those persons or entities that will have access to the information.

(e) Petitions, motions, juvenile court notices, or dispositions shall be open to inspection and copying by the victim.

(f) Subject to applicable confidentiality disclosure and case restrictions imposed by federal or state law, confidential juvenile legal files, as described in subdivision (1) of subsection (a), may be placed on an automated information sharing system to be shared by those persons, departments, agencies, or entities who are entitled to access pursuant to this section.

(g) Except for the purposes permitted and in the manner provided by this section, whoever discloses or makes use of or knowingly permits the use of information identifying a child, or the family of a child, who is or was under the jurisdiction of the juvenile court, where this information is directly or indirectly derived from the records of the juvenile court or acquired in the course of official duties, upon conviction thereof, shall be guilty of a Class A misdemeanor under the jurisdiction of the juvenile court and also may be subject to civil sanctions. Provided, however, that nothing in this section shall be construed to prohibit or otherwise limit counsel from disclosing confidential information obtained from the juvenile court file of the child as needed to investigate the case of the client or prepare a defense for that client, provided that the disclosure is in furtherance of counsel's representation of the party.

(h) Anytime that a child commits a violent offense and is adjudicated delinquent, if that child as an adult commits the same or a similar offense, the court records pertaining to the juvenile offense may be used in the prosecution of the adult offense.

*(Acts 1975, No. 1205, p. 2384, §5-142; Acts 1990, No. 90-674, p. 1304, §15; Acts 1996, No. 96-524, p. 677, §1; Act 99-433, p. 792, §3; §12-15-100; amended and renumbered by Act 2008-277, p. 441, §7.)*

**Section 12-15-204.**

**Acts for which person who has attained age 16 shall be charged, arrested, and tried as adult; removal of person from jurisdiction of juvenile court.**

(a) Notwithstanding any other provision of law, any person who has attained the age of 16 years at the time of the conduct charged and who is charged with the commission of any act or conduct, which if committed by an adult would constitute any of the following, shall not be subject to the jurisdiction of juvenile court but shall be charged, arrested, and tried as an adult:

(1) A capital offense.

(2) A Class A felony.

(3) A felony which has as an element thereof the use of a deadly weapon.

(4) A felony which has as an element thereof the causing of death or serious physical injury.

(5) A felony which has as an element thereof the use of a dangerous instrument against any person who is one of the following:

a. A law enforcement officer or official.

b. A correctional officer or official.

c. A parole or probation officer or official.

d. A juvenile court probation officer or official.

e. A district attorney or other prosecuting officer or official.

f. A judge or judicial official.

g. A court officer or official.

h. A person who is a grand juror, juror, or witness in any legal proceeding of whatever nature when the offense stems from, is caused by, or is related to the role of the person as a juror, grand juror, or witness.

i. A teacher, principal, or employee of the public education system of Alabama.

(6) Trafficking in drugs in violation of Section 13A-12-231, or as the same may be amended.

(7) Any lesser included offense of the above offenses charged or any lesser felony offense charged arising from the same facts and circumstances and committed at the same time as the offenses listed above. Provided, however, that the juvenile court shall maintain original jurisdiction over these lesser included offenses if the grand jury fails to indict for any of the offenses enumerated in subsections (a)(1) to (a)(6), inclusive. The juvenile court shall also maintain original jurisdiction over these lesser included offenses, subject to double jeopardy limitations, if the court handling criminal offenses dismisses all charges for offenses enumerated in subsections (a)(1) to (a)(6), inclusive.

(b) Notwithstanding any other provision of law, any person who has been convicted or adjudicated a youthful offender in a court handling criminal offenses pursuant to the

provisions of this section shall not thereafter be subject to the jurisdiction of juvenile court for any pending or subsequent offense. Provided, however, pursuant to Section 12-15-117, the juvenile court shall retain jurisdiction over an individual of any age for the enforcement of any prior orders of the juvenile court requiring the payment of fines, court costs, restitution, or other money ordered by the juvenile court until paid in full.

(c) This section shall apply to all cases in which the alleged criminal conduct occurred after April 14, 1994. All conduct occurring before April 14, 1994, shall be governed by pre-existing law.

*(Acts 1994, No. 94-481, p. 798, §§1-3; Acts 1996, No. 96-571, p. 871, §1; §12-15-34.1; amended and renumbered by Act 2008-277, p. 441, §12.)*

### **Section 12-15-208.**

**Facilities to be used for detention or shelter care of children generally; when child may be detained in jail or other facility for detention of adults; notification of juvenile court, when child received at facility for detention of adult offenders or persons charged with crimes; development of statewide system; Department of Youth Services to subsidize detention in regional facilities, may contract for detention; transfer of child to detention facility, when case transferred from juvenile court for criminal prosecution.**

(a) Persons who shall not be detained or confined in secure custody include all of the following:

(1) Status offenders. Effective October 1, 2009, status offenders, as defined in this article, shall not be detained or confined in secure custody, except that a status offender who is charged with or who commits a violation of a valid court order may be detained in secure custody in a juvenile detention facility for up to 72 hours in any six-month period, provided that all conditions set forth in subdivision (3) of subsection (b) are satisfied. Short-term secure custody of accused status offenders may be necessary, such as detention in a juvenile detention facility for a brief period, not exceeding 24 hours, prior to formal juvenile court action, for investigative purposes, for identification purposes, or for the purpose of allowing return of a status offender to the parent, legal guardian, or legal custodian. Detention for a brief period of time pursuant to juvenile court authority may also be necessary in order to arrange for appropriate shelter care placement. If a petition regarding an alleged status offender is filed in juvenile court and if it is determined that the alleged status offender is at imminent risk of being placed in the legal or physical custody of the Department of Human Resources, the case shall be referred to the county children's services facilitation team, and the procedures in Article 5 shall be followed. Upon referral to the county children's services facilitation team, the juvenile probation officer shall continue to provide case management to the status offender unless the county children's services facilitation team appoints another person to act as case manager. The juvenile probation officer shall participate in county children's services facilitation team meetings and share records information and reports on the status offender with the county children's services facilitation team.

(2) Federal wards. Federal wards held beyond 24 hours in secure custody in state and local juvenile detention facilities pursuant to a written contract or agreement with a federal agency and for the specific purpose of affecting a jurisdictional transfer or appearance as a material witness or for return to their lawful residence or country of citizenship shall be reported as violations of the deinstitutionalization of status offender requirement.

(3) Nonoffenders. Nonoffenders, as defined in this article, shall not be detained or confined in secure custody.

(4) Children 10 years of age and younger. Children 10 years of age and younger shall not be detained or confined in secure custody, unless the children are charged with offenses causing death or serious bodily injury to persons or offenses that would be classified as Class A felonies if committed by adults. Children 11 or 12 years of age may only be detained or confined in secure custody by orders of juvenile courts, unless the children are charged with offenses causing death or serious bodily injury to persons or offenses that would be classified as Class A felonies if committed by adults.

(b) Persons who may be detained or confined in secure custody include all of the following:

(1) Persons who violate the federal law, which prohibits possession of a handgun by a child under the age of 18 years, or who violate a similar state or municipal law, may be placed in secure custody in juvenile detention facilities.

(2) Persons in custody pursuant to the Interstate Compact on Juveniles, contained in Section 44-2-1, et seq., may be placed in secure custody in juvenile detention facilities.

(3) Status offenders who violate a valid court order. A status offender who is charged with or has committed a violation of a valid court order may be detained in secure custody in a juvenile detention facility for up to 72 hours in any six-month period. Status offenders who violate valid court orders shall not be committed to the Department of Youth Services, nor shall they be held in jails or lockups for adult offenders. For this valid court order exception to apply, the following actions must occur whenever a status offender is taken into custody for violating a valid court order:

a. The juvenile detention facility shall immediately notify the juvenile court intake or probation officer that the child is being held in secure custody for violating a valid court order. The notice shall include the date and time the child entered the juvenile detention facility.

b. Within the first 24 hours during which a status offender is held in secure custody for violating a valid court order, not including weekends or holidays, a juvenile court intake or probation officer, or an authorized representative of the department or agency having custody or supervision of the child, shall interview the child, in person.

c. Within 48 hours of the admission of the status offender to secure custody for violating a valid court order, not including weekends or holidays:

1. The individual who interviewed the child shall submit a written assessment report to the juvenile court regarding the immediate needs of the child; and

2. If the juvenile court has not yet determined whether the child has, in fact, violated the order, the juvenile court shall conduct a hearing to determine whether there is reasonable cause to believe that the child violated the order and the appropriate placement of the child pending disposition of the alleged violation.

(c) Compliance with jail removal. No person under the age of 18 years shall be detained

or confined in any jail or lockup for adults except for the following exceptions:

(1) A child may be detained in a jail or lockup for adults for up to six hours while processing the case of the child.

(2) A child transferred for criminal prosecution pursuant to Section 12-15-203 may be detained in a jail or lockup for adults.

(3) A person charged pursuant to Section 12-15-204 may be detained in a jail or lockup for adults.

When a case is transferred to another court for criminal prosecution, the person shall be transferred to the appropriate officer or jail or lockup in accordance with the law governing the detention of the person charged with the crime. Jails and lockups used for holding adults shall not hold status offenders in secure custody at any time. An accused status offender may be detained in a nonsecure area of a jail or lockup for processing while waiting transportation to a nonsecure shelter care facility or a juvenile detention facility or while waiting for release to a parent, legal guardian, or legal custodian.

Nothing in this subsection shall prohibit a circuit court judge exercising criminal jurisdiction from recommending that a child described in subdivision (2) or (3) should be placed in a juvenile detention center instead of an adult jail or lockup.

(d) Compliance with separation. Accused or adjudicated delinquent children or status offenders shall not have contact with adult inmates, including trustees. Contact is defined to include any physical or sustained sight and sound contact. Sight contact is defined as clear visual contact between adult inmates and accused or adjudicated delinquent children or status offenders within close proximity to each other. Sound contact is defined as direct verbal communication between adult inmates and accused or adjudicated delinquent children or status offenders.

No child shall enter pursuant to public authority, for any amount of time, in secure custody in a secure section of a jail, lockup, or correctional facility for adults as a disposition of an offense or as a means of modifying his or her behavior (e.g., Shock Incarceration or Scared Straight).

(e) Except as provided above, in providing detention and shelter or other care for children referred to or coming under the jurisdiction of the juvenile court, the juvenile court shall utilize only those facilities as have been established, licensed, or approved by the Department of Youth Services or Department of Human Resources for those purposes.

(f) After October 1, 1991, the Department of Youth Services shall accept all children committed to it within seven days of notice of disposition.

(g) Except as provided above, the official in charge of a jail or lockup for the detention of adult offenders or persons charged with crimes shall inform the juvenile court immediately when a child, who is or appears to be a child as defined by this chapter, is received at the jail or lockup. Upon request, the official shall deliver the child to the juvenile court or transfer him or her to a juvenile detention facility designated by the juvenile court.

(h) The Department of Youth Services shall continue to develop and implement a statewide system of juvenile detention facilities which shall be licensed by the Department of Youth Services for the detention of children.

(i) The Department of Youth Services shall subsidize the detention of children in the juvenile detention facilities in an amount up to one half the average cost of detention, which term is defined in this article, the amount depending on the provision of funds by

the Legislature to the Department of Youth Services. Juvenile detention facilities may contract with the Department of Youth Services or other counties for the detention of children.

(j) When a case is transferred to another court for criminal prosecution, the child shall be transferred to the appropriate officer or jail or lockup in accordance with the law governing the detention of the person charged with criminal offenses.

(k) Any law enforcement officer, at the direction of the juvenile court, shall provide security and transportation services for the juvenile court in transporting children to and from juvenile detention facilities.

*(Acts 1975, No. 1205, p. 2384, §5-122; Acts 1990, No. 90-674, p. 1304, §9; Acts 1991, No. 91-634, p. 1192, §1; Acts 1996, No. 96-570, p. 864, §1; amended and renumbered by Act 2008-277, p. 441, §12.)*

### **Section 12-15-211.**

#### **Suspension of proceedings and continuation of cases under terms and conditions agreed to by parties.**

(a) The juvenile court may suspend delinquency or child in need of supervision proceedings pursuant to a consent decree. The terms and conditions of the consent decree shall be agreed to by the child and his or her parent, legal guardian, or legal custodian. The consent decree shall be entered at any time after the filing of a delinquency or child in need of supervision petition and before the entry of an adjudication order. The child and his or her parent, legal guardian, or legal custodian shall be advised of their rights, including the right to counsel.

(b) Where an objection is made by the prosecutor, the juvenile court, after considering the objection and the reasons therefor, shall proceed to determine whether it is appropriate to enter a consent decree.

(c) A consent decree shall remain in force for six months unless the child is discharged sooner by the juvenile court. Upon application of a juvenile probation officer or other department or agency supervising the child, made before the expiration of the six-month period, a consent decree may be extended by the juvenile court for an additional six months.

(d) If prior to discharge by the juvenile probation officer or expiration of the consent decree, a new delinquency or child in need of supervision petition is filed against the child, or the child otherwise fails to fulfill express terms and conditions of the decree, the petition under which the child was continued under supervision may be reinstated after a hearing and the case may proceed to adjudication.

(e) Upon satisfaction by the child of the conditions of the consent decree or upon the child being otherwise discharged by the juvenile court, the petition shall be dismissed with prejudice.

*(Acts 1975, No. 1205, p. 2384, §5-130; §12-15-64; amended and renumbered by Act 2008-277, p. 441, §12.)*

**Section 12-15-215.**

**Disposition of delinquent children or children in need of supervision generally.**

(a) If the juvenile court finds on proof beyond a reasonable doubt, based upon competent, material, and relevant evidence, that a child committed the acts by reason of which the child is alleged to be delinquent or in need of supervision, it may proceed immediately to hear evidence as to whether the child is in need of care or rehabilitation and to file its findings thereon. In the absence of evidence to the contrary, a finding that the child has committed an act which constitutes a felony is sufficient to sustain a finding that the child is in need of care or rehabilitation. If the juvenile court finds that the child is not in need of care or rehabilitation, it shall dismiss the proceedings and discharge the child from any detention or other temporary care theretofore ordered. If the juvenile court finds that the child is in need of care or rehabilitation, it may make any of the following orders or dispositions, subject to the limitations and prohibitions on secure custody contained in Section 12-15-208:

(1) Permit the child to remain with the parent, legal guardian, or other legal custodian of the child, subject to the conditions and limitations the juvenile court may prescribe.

(2) Place the child on probation pursuant to conditions and limitations the juvenile court may prescribe.

(3) Transfer legal and physical custody to any of the following:

a. The Department of Youth Services, with or without an order to a specific institution.

b. In the case of a child in need of supervision, the Department of Youth Services, or the Department of Human Resources; provided however 1. that prior to any transfer of custody to the Department of Human Resources, the case shall first be referred to the county children's services facilitation team, which must proceed according to Article 5; and 2. that the child's commission of one or more status offenses shall not constitute a sufficient basis for transfer of legal or physical custody to the Department of Human Resources. Upon referral to the county children's services facilitation team, the juvenile probation officer shall continue to provide case management to the status offender unless the county children's services facilitation team appoints another person to act as case manager. The juvenile probation officer shall participate in county children's services facilitation team meetings and share records information and reports on the status offender with the county children's services facilitation team. When the juvenile court transfers legal and physical custody to the Department of Human Resources, all requirements which shall be met for a child to be eligible for federal funding shall apply, including, but not limited to, the requirements set out in Sections 12-15-312, 12-15-315, and 12-15-317.

c. A local, public, or private agency, organization, or facility willing and able to assume the education, care, and maintenance of the child and which is licensed or otherwise authorized by law to receive and provide care for children.

d. During the term of supervision, a relative or other individual who is found by the juvenile court to be qualified to receive and care for the child.

(4) Make any other order as the juvenile court in its discretion shall deem to be for the welfare and best interests of the child, including random drug screens, assessment of fines not to exceed two hundred fifty dollars (\$250), and restitution against the parent,

legal guardian, legal custodian, or child, as the juvenile court deems appropriate. Costs for juvenile court-ordered drug screening may be ordered paid for by the state out of moneys appropriated as "court costs not otherwise provided for." Restitution against the parent, legal guardian, legal custodian, or child shall be governed by the same principles applicable in the Restitution to Victims of Crime Act, commencing with Section 15-18-65.

(5) Direct the parent, legal guardian, or legal custodian of the child to perform reasonable acts as are deemed necessary to promote the best interests of the child.

(6) In any case where a child is adjudicated delinquent for possessing a pistol, short-barreled rifle, or short-barreled shotgun, any pistol, short-barreled rifle, or short-barreled shotgun possessed by that child is forfeited and shall be ordered to be destroyed by the juvenile court.

(b) No child by virtue of a disposition pursuant to this section shall be committed or transferred to a penal institution or other facility used for the execution of sentences of persons convicted of a crime.

(c) No child in need of supervision, unless also a delinquent child, shall be ordered to be placed in an institution or facility established for the care and rehabilitation of delinquent children unless the juvenile probation officer submits a written recommendation and the juvenile court finds upon a further hearing that the child is not amenable to treatment or rehabilitation pursuant to any prior disposition.

In determining if a child is not amenable to treatment or rehabilitation, the juvenile court shall consider evidence of the following and other relevant factors:

(1) Prior treatment efforts, such as, but not limited to:

- a. Mental health counseling, if any.
- b. Individualized educational plans, if any.
- c. Other educational records.
- d. Individualized service plans, if any.

(2) The age of the child.

(3) The history of the child being involved with the juvenile court, including, but not limited to, informal adjustments, consent decrees, adjudications, and prior placements.

(4) Other factors contributing to the behavioral difficulties of the child.

The written recommendations of the juvenile probation officer shall include evidence of the foregoing and other relevant factors.

(d) When a delinquent child may be committable to the Department of Mental Health, the juvenile court shall proceed as provided in Article 4, commencing with Section 12-15-401.

(e) Whenever the juvenile court vests legal custody in an agency or department, it shall transmit with the order copies of the clinical reports, predisposition study, and other information it has pertinent to the care and treatment of the child.

(f) When a child is placed in the legal custody of a department, agency, organization, entity, or person as provided in this section, when the parent, legal guardian, or legal custodian of the child has resources for child support, the juvenile court shall order child support in conformity with the child support guidelines as set out in Rule 32, Alabama Rules of Judicial Administration. The child support shall be paid to the department, agency, organization, entity, or person in whose legal custody the child is placed and may be expended for those matters that are necessary for the welfare and well-being of those

children placed in the departments, agencies, organizations, entities, or persons. In these cases, the juvenile court shall issue income withholding orders subject to state law.

(g) Whenever the juvenile court commits a child to a state or local department or agency or orders a state or local department or agency to provide services or treatment for a child, that department or agency shall accept the child for commitment, ordered services, or treatment within seven days of the order of the juvenile court. Notwithstanding the foregoing, if compliance with the order of the juvenile court within seven days would place a department or agency in violation of either a state statute or standard, then compliance is not required.

*(Acts 1975, No. 1205, p. 2384, §5-131; Acts 1990, No. 90-674, p. 1304, §12; Acts 1991, No. 91-553, p. 1021, §(1), (2); Acts 1993, No. 93-256, p. 367, §1; Acts 1996, No. 96-570, p. 864, §1; Acts 1996, No. 96-769, p. 1355, §§1, 2; Acts 1997, No. 97-621, p. 1087, §1; §12-15-71; amended and renumbered by Act 2008-277, p. 441, §14.)*

### **Section 12-15-217.**

#### **Notice of delinquent acts.**

(a) Notwithstanding subsection (a) of Section 12-15-133, written notice that a child enrolled in a school, kindergarten to grade 12, has been found delinquent of an act which if committed by an adult would be a Class A or B felony or any other crime, at the discretion of the juvenile court, shall be provided within seven days to the superintendent of the school district of attendance, or, if the child attends a private school, to the principal of the school. The juvenile court shall provide the notice using whatever method it deems appropriate or otherwise as decided by the Administrative Office of Courts. The prosecutor may recommend to the juvenile court that notice be given to the school for any delinquent act. Written notice shall include only the offenses, enumerated by the appropriate code section and brief description, found to have been committed by the child and the disposition of the case involving the child. Where applicable, this notice shall be expeditiously transmitted by the district superintendent to the principal at the school of attendance. The principal shall disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the child. In addition, the principal may disseminate the information to any teacher, administrator, or other school employee directly supervising or reporting on the behavior or progress of the child whom the principal believes needs the information to work with the pupil in appropriate fashion or to protect other students and staff.

(b) Any information received by a teacher, counselor, administrator, or other school employee pursuant to this section shall be received in confidence for the limited purpose of rehabilitating the child and protecting students and staff, and shall not be further disseminated by the teacher, counselor, or administrator, except insofar as communication with the child, his or her parent, legal guardian, legal custodian, law enforcement personnel, and the juvenile probation officer of the child is necessary to effectuate the rehabilitation of the child or to protect students and staff.

(c) An intentional violation of the confidentiality provisions of this section is a Class A misdemeanor under the jurisdiction of the juvenile court.

*(Act 99-433, p. 792, §4; §12-15-105; amended and renumbered by Act 2008-277, p. 441, §14.)*

**Section 12-15-219.**

**Serious juvenile offenders; disposition; serious juvenile offender review panel; facility and programs.**

(a) The juvenile court may find a child to be a serious juvenile offender if:

(1) The child is adjudicated delinquent and the delinquent act or acts charged in the petition would constitute any of the following if committed by an adult:

a. A Class A felony.

b. A felony resulting in serious physical injury as defined in subdivision (14) of Section 13A-1-2.

c. A felony involving deadly physical force as defined in subdivision (6) of Section 13A-1-2; or a deadly weapon as defined in subdivision (7) of Section 13A-1-2; or a dangerous instrument as defined in subdivision (5) of Section 13A-1-2.

(2) The child has been adjudicated delinquent for an act which would constitute a Class A or B felony or burglary in the third degree involving a residence and the child has previously been adjudicated delinquent of two previous acts which would have been a Class A or B felony or burglary in the third degree involving a residence if the acts had been committed by an adult.

(b) A child found to be a serious juvenile offender shall be committed to the custody of the Department of Youth Services, where he or she shall remain for a minimum of one year.

(c) A serious juvenile offender review panel shall be created by the Board of the Department of Youth Services. The serious juvenile offender review panel shall review quarterly the progress of each serious juvenile offender and determine at the end of the one-year term served by each child, a further treatment plan for that child. The panel may extend the commitment, order alternative treatment, or release the child. The serious juvenile offender review panel shall provide the juvenile court with all reports and recommendations, and notify the judge in writing of the decision to release the child at least 30 days in advance of the release.

(d) The Department of Youth Services shall maintain and staff a separate, secure facility and implement programs for serious juvenile offenders. The minimum one-year term required by this section shall be served at the facility and the review panel may extend the period of confinement in the facility as determined necessary.

(e) Nothing in this section shall be construed to prevent the juvenile court from transferring a child for criminal prosecution pursuant to Section 12-15-203.

*(Acts 1990, No. 90-674, p. 1304, §13; §12-15-71.1; amended and renumbered by Act 2008-277, p. 441, §14.)*

***CRIMINAL CODE LAWS***

**TITLE 13**  
**CRIMINAL CODE LAW**

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**Section 13A-12-212.** Unlawful possession or receipt of controlled substances.

**Section 15-10-3.** Arrest without warrant - Generally; definitions; written report.

**Section 15-20-26.** Adult criminal sex offender - Prohibited residence locations, etc.

## CRIMINAL CODE LAWS

### **Section 13A-1-2.**

#### **Definitions.**

Unless different meanings are expressly specified in subsequent provisions of this title, the following terms shall have the following meanings:

(1) **BOOBY TRAP.** Any concealed or camouflaged device designed to cause bodily injury when triggered by any action of a person making contact with the device. This term includes guns, ammunition, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, nails, spikes, electrical devices, lines or wires with hooks attached, and devices for the production of toxic fumes or gases.

(2) **BURDEN OF INJECTING THE ISSUE.** The term means that the defendant must offer some competent evidence relating to all matters subject to the burden, except that the defendant may rely upon evidence presented by the prosecution in meeting the burden.

(3) **CLANDESTINE LABORATORY OPERATION.** Any of the following:

a. Purchase or procurement of chemicals, supplies, equipment, or laboratory location for the unlawful manufacture of controlled substances.

b. Transportation or arranging for the transportation of chemicals, supplies, or equipment for the unlawful manufacture of controlled substances.

c. Setting up of equipment or supplies in preparation for the unlawful manufacture of controlled substances.

d. Distribution or disposal of chemicals, equipment, supplies, or products used in or produced by the unlawful manufacture of controlled substances.

(4) **CRIME.** A misdemeanor or a felony.

(5) **DANGEROUS INSTRUMENT.** Any instrument, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is highly capable of causing death or serious physical injury. The term includes a "vehicle," as that term is defined in subdivision (15).

(6) **DEADLY PHYSICAL FORCE.** Physical force which, under the circumstances in which it is used, is readily capable of causing death or serious physical injury.

(7) **DEADLY WEAPON.** A firearm or anything manifestly designed, made, or adapted for the purposes of inflicting death or serious physical injury. The term includes, but is not limited to, a pistol, rifle, or shotgun; or a switch-blade knife, gravity knife, stiletto, sword, or dagger; or any billy, black-jack, bludgeon, or metal knuckles.

(8) **FELONY.** An offense for which a sentence to a term of imprisonment in excess of one year is authorized by this title.

(9) **MISDEMEANOR.** An offense for which a sentence to a term of imprisonment not in excess of one year may be imposed.

(10) **OFFENSE.** Conduct for which a sentence to a term of imprisonment, or the death penalty, or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state.

(11) PERSON. A human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental instrumentality.

(12) PHYSICAL INJURY. Impairment of physical condition or substantial pain.

(13) POSSESS. To have physical possession or otherwise to exercise dominion or control over tangible property.

(14) SERIOUS PHYSICAL INJURY. Physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

(15) VEHICLE. Any "propelled vehicle," as defined in subdivision (9) of Section 13A-8-1. The term includes any propelled device by which any person or property is transported on land, water, or in the air, and includes motor vehicles, motorcycles, motorboats, and aircraft, and any vessel, whether propelled by machinery or not.

(16) VIOLATION. An offense for which a sentence to a term of imprisonment not in excess of 30 days may be imposed.

*(Acts 1977, No. 607, p. 812, §130; Acts 1978, No. 770, p. 1110; Act 2001-971, 3rd Sp. Sess., p. 873, §2.)*

### **Section 13A-1-3.**

#### **General purposes of title.**

The general purposes of the provisions of this title are:

(1) To proscribe conduct that unjustifiably and inexcusably causes or threatens substantial harm to individual and/or public interests;

(2) To give fair warning of the nature of the conduct proscribed and of the punishment authorized upon conviction;

(3) To define the act or omission and the accompanying mental state that constitute each offense;

(4) To differentiate on reasonable grounds between serious and minor offenses and to prescribe proportionate penalties for each;

(5) To insure the public safety by preventing the commission of offenses through the deterrent influence of the sentences authorized, the rehabilitation of those convicted and their confinement when required in the interests of public protection; and

(6) To prevent arbitrary or oppressive treatment of persons accused or convicted of offenses.

*(Acts 1977, No. 607, p. 812, §105.)*

### **Section 13A-6-20.**

#### **Assault in the first degree.**

(a) A person commits the crime of assault in the first degree if:

- (1) With intent to cause serious physical injury to another person, he causes serious physical injury to any person by means of a deadly weapon or a dangerous instrument; or
  - (2) With intent to disfigure another person seriously and permanently, or to destroy, amputate or disable permanently a member or organ of his body, he causes such an injury to any person; or
  - (3) Under circumstances manifesting extreme indifference to the value of human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes serious physical injury to any person; or
  - (4) In the course of and in furtherance of the commission or attempted commission of arson in the first degree, burglary in the first or second degree, escape in the first degree, kidnapping in the first degree, rape in the first degree, robbery in any degree, sodomy in the first degree or any other felony clearly dangerous to human life, or of immediate flight therefrom, he causes a serious physical injury to another person; or
  - (5) While driving under the influence of alcohol or a controlled substance or any combination thereof in violation of Section 32-5A-191 he causes serious bodily injury to the person of another with a motor vehicle.
- (b) Assault in the first degree is a Class B felony.

*(Acts 1977, No. 607, p. 812, §2101; Acts 1987, No. 87-712, p. 1259.)*

### **Section 13A-6-21.**

#### **Assault in the second degree.**

- (a) A person commits the crime of assault in the second degree if the person does any of the following:
- (1) With intent to cause serious physical injury to another person, he or she causes serious physical injury to any person.
  - (2) With intent to cause physical injury to another person, he or she causes physical injury to any person by means of a deadly weapon or a dangerous instrument.
  - (3) He or she recklessly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument.
  - (4) With intent to prevent a peace officer, as defined in Section 36-21-60, or emergency medical personnel or a firefighter from performing a lawful duty, he or she intends to cause physical injury and he or she causes physical injury to any person.
  - (5) With intent to cause physical injury to a teacher or to an employee of a public educational institution during or as a result of the performance of his or her duty, he or she causes physical injury to any person.
  - (6) With intent to cause physical injury to a health care worker, including a nurse, physician, technician, or any other person employed by or practicing at a hospital as defined in Section 22-21-20; a county or district health department; a long-term care facility; or a physician's office, clinic, or outpatient treatment facility during

the course of or as a result of the performance of the duties of the health care worker or other person employed by or practicing at the hospital; the county or district health department; any health care facility owned or operated by the State of Alabama; the long-term care facility; or the physician's office, clinic, or outpatient treatment facility; he or she causes physical injury to any person. This subdivision shall not apply to assaults by patients who are impaired by medication or to assaults on home health care workers while they are in private residences.

- (7) For a purpose other than lawful medical or therapeutic treatment, he or she intentionally causes stupor, unconsciousness, or other physical or mental impairment or injury to another person by administering to him or her, without his or her consent, a drug, substance or preparation capable of producing the intended harm.

(b) Assault in the second degree is a Class C felony.

*(Acts 1977, No. 607, p. 812, §2102; Acts 1994, 1st Ex. Sess., No. 94-794, §1; Acts 1996, No. 96-533, p. 744, §1; Act 2006-565, §1.)*

### **Section 13A-6-22.**

#### **Assault in the third degree.**

- (a) A person commits the crime of assault in the third degree if:
  - (1) With intent to cause physical injury to another person, he causes physical injury to any person; or
  - (2) He recklessly causes physical injury to another person; or
  - (3) With criminal negligence he causes physical injury to another person by means of a deadly weapon or a dangerous instrument; or
  - (4) With intent to prevent a peace officer from performing a lawful duty, he causes physical injury to any person.
- (b) Assault in the third degree is a Class A misdemeanor.

*(Acts 1977, No. 607, p. 812, §2103.)*

### **Section 13A-6-23.**

#### **Menacing.**

- (a) A person commits the crime of menacing if, by physical action, he intentionally places or attempts to place another person in fear of imminent serious physical injury.
- (b) Menacing is a Class B misdemeanor.

*(Acts 1977, No. 607, p. 812, §2110.)*

**Section 13A-6-25.**

**Criminal coercion.**

(a) A person commits the crime of criminal coercion if, without legal authority, he threatens to confine, restrain or to cause physical injury to the threatened person or another, or to damage the property or reputation of the threatened person or another with intent thereby to induce the threatened person or another against his will to do an unlawful act or refrain from doing a lawful act.

(b) Criminal coercion is a Class A misdemeanor.

*(Acts 1977, No. 607, p. 812, §2125.)*

**Section 13A-6-26.**

**Compelling streetgang membership.**

(a) For purposes of this section, the term "streetgang" means any combination, confederation, alliance, network, conspiracy, understanding, or other similar arrangement in law or in fact, of three or more persons that, through its membership or through the agency of any member, engages in a course or pattern of criminal activity.

(b) A person who expressly or by implication threatens to do bodily harm or does bodily harm to a person, a family member or a friend of the person, or any other person, or uses any other unlawful criminal means to solicit or cause any person to join or remain in a streetgang is guilty of the crime of compelling streetgang membership.

(c) The crime of compelling streetgang membership is a Class C felony.

(d) Notwithstanding subsection (c), the crime of compelling streetgang membership is a Class A felony if the defendant is over the age of 18 years and the other person is under the age of 18 years.

(e) This section shall not be construed to repeal other criminal laws. Whenever conduct proscribed by this section is also proscribed by any other provision of law, the provision which carries the more serious penalty shall apply.

*(Act 98-490, p.942, §§1, 2.)*

**Section 13A-6-90.**

**Stalking.**

(a) A person who intentionally and repeatedly follows or harasses another person and who makes a credible threat, either expressed or implied, with the intent to place that person in reasonable fear of death or serious bodily harm is guilty of the crime of stalking.

(b) The crime of stalking is a Class C felony.

*(Acts 1992, 2nd Ex. Sess., No. 92-675, p. 54, §1.)*

**Section 13A-6-91.**

**Aggravated stalking.**

(a) A person who violates the provisions of Section 13A-6-90(a) and whose conduct in doing so also violates any court order or injunction is guilty of the crime of aggravated stalking.

(b) The crime of aggravated stalking is a Class B felony.

*(Acts 1992, 2nd Ex. Sess., No. 92-675, p. 54, §2.)*

**Section 13A-6-92.**

**Definitions.**

As used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise.

(a) COURSE OF CONDUCT. A pattern of conduct composed of a series of acts over a period of time which evidences a continuity of purpose.

(b) CREDIBLE THREAT. A threat, expressed or implied, made with the intent and the apparent ability to carry out the threat so as to cause the person who is the target of the threat to fear for his or her safety or the safety of a family member and to cause reasonable mental anxiety, anguish, or fear.

(c) HARASSES. Engages in an intentional course of conduct directed at a specified person which alarms or annoys that person, or interferes with the freedom of movement of that person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress. Constitutionally protected conduct is not included within the definition of this term.

*(Acts 1992, 2nd Ex. Sess., No. 92-675, p. 54, §3; Acts 1994, No. 94-305, §1.)*

**Section 13A-8-70.**

**"Traffic sign" defined.**

As used in this article, the term "traffic sign" shall mean any traffic sign, traffic signal, warning sign, guideboard, milepost, road marker, emergency telephone sign, or any similar sign, signal, or device used by the state or any political subdivision of the state on the highways, roads, bridges, or streets of this state for the warning, instruction, or information of the public.

*(Acts 1993, 1st Ex. Sess., No. 93-887, p. 157, §1.)*

**Section 13A-8-71.**

**Possession of traffic sign; notification; destruction, defacement, etc., of traffic sign or traffic control device; defacement of public building or property.**

(a) No person may unlawfully possess any traffic sign erected by the state, a county, or a municipality.

(b) Any person who voluntarily notifies a law enforcement agency of the presence on their property of a traffic sign shall not be guilty of violating the provisions of subsection (a).

(c) It shall be unlawful for any person to intentionally destroy, knock down, remove, deface, or alter any letters or figures on a traffic sign, or in any way damage any traffic control device, erected on a highway, public road, or right of way of this state, by the Department of Transportation, a county, or municipality.

(d) It shall be unlawful for any person to intentionally deface any public building or public property.

*(Acts 1993, 1st Ex. Sess., No. 93-887, p. 157, §2; Acts 1996, No. 96-425, p. 539, §1.)*

**Section 13A-10-15.**

**Terrorist threats.**

(a) A person commits the crime of making a terrorist threat when he or she threatens by any means to commit any crime of violence or to damage any property by doing any of the following:

(1) Intentionally or recklessly:

a. Terrorizing another person.

b. Causing the disruption of school activities.

c. Causing the evacuation of a building, place of assembly, or facility of public transportation, or other serious public inconvenience.

(2) With the intent to retaliate against any person who:

a. Attends a judicial or administrative proceeding as a witness or party or produces records, documents, or other objects in a judicial proceeding.

b. Provides to a law enforcement officer, adult or juvenile probation officer, prosecuting attorney, or judge any information relating to the commission or possible commission of an offense under the laws of this state, of the United States, or a violation of conditions of bail, pretrial release, probation, or parole.

(b) The crime of making a terrorist threat is a Class C felony.

*(Act 2000-807, p1919, §1.)*

**Section 13A-11-7.**

**Disorderly conduct.**

(a) A person commits the crime of disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

- (1) Engages in fighting or in violent tumultuous or threatening behavior; or
- (2) Makes unreasonable noise; or
- (3) In a public place uses abusive or obscene language or makes an obscene gesture; or
- (4) Without lawful authority, disturbs any lawful assembly or meeting of persons; or
- (5) Obstructs vehicular or pedestrian traffic, or a transportation facility; or
- (6) Congregates with other person in a public place and refuses to comply with a lawful order of the police to disperse.

(b) Disorderly conduct is a Class C misdemeanor.

*(Acts 1977, No. 607, p. 812, §5525.)*

**Section 13A-11-8.**

**Harassment or harassing communications.**

(a)(1) HARASSMENT.- A person commits the crime of harassment if, with intent to harass, annoy, or alarm another person, he or she either:

a. Strikes, shoves, kicks, or otherwise touches a person or subjects him or her to physical contact.

b. Directs abusive or obscene language or makes an obscene gesture towards another person.

(2) For purposes of this section, harassment shall include a threat, verbal or nonverbal, made with the intent to carry out the threat, that would cause a reasonable person who is the target of the threat to fear for his or her safety.

(3) Harassment is a Class C misdemeanor.

(b)(1) HARASSING COMMUNICATIONS. - A person commits the crime of harassing communications if, with intent to harass or alarm another person, he or she does any of the following:

a. Communicates with a person, anonymously or otherwise, by telephone, telegraph, mail, or any other form of written or electronic communication, in a manner likely to harass or cause alarm.

b. Makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication.

c. Telephones another person and addresses to or about such other person any lewd or obscene words or language.

Nothing in this section shall apply to legitimate business telephone communications.

(2) Harassing communications is a Class C misdemeanor.

*(Acts 1977, No. 607, p. 812, §5530; Acts 1978, No. 770, p. 1110, §1; Acts 1979, No. 79-471, p. 862, §1; Acts 1996, No. 96-767, p. 1353, §1; Acts 1997, No. 97-552, p. 989, §1.)*

**Section 13A-11-9.**

**Loitering.**

- (a) A person commits the crime of loitering if he:
  - (5) Loiters or remains in or about a school, college or university building or grounds after having been told to leave by any authorized official of such school, college or university, and not having any reason or relationship involving custody of or responsibility for a pupil or any other specific, legitimate reason for being there, and not having written permission from a school, college or university administrator; or
  - (7) Loiters or remains in any place with one or more persons for purpose of unlawfully using or possessing a dangerous drug.
- (d) "Dangerous drug" in subdivision (a)(7) of this section means any narcotic, drug or controlled substance as defined in Chapter 2 of Title 20 of this Code and any schedule incorporated therein.
- (e) Loitering is a violation.

*(Acts 1977, No. 607, p. 812, §5540.)*

**Section 13A-11-11.**

**Falsely reporting an incident.**

- (a) A person commits the crime of falsely reporting an incident if with knowledge that the information reported, conveyed or circulated is false, he initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a fire, explosion, crime, catastrophe or emergency under circumstances in which it is likely to cause evacuation of a building, place of assembly or transportation facility, or to cause public inconvenience or alarm.
- (b) Falsely reporting an incident is a Class A misdemeanor except that falsely reporting an incident of a bomb or explosion is a Class C felony.

*(Acts 1977, No. 607, p. 812, §5550; Act 2000-113, §1.)*

**Section 13A-11-61.1.**

**Discharging into a school bus or school building.**

- (a) No person shall shoot or discharge a firearm into an occupied or unoccupied school bus or school building.
- (b) A person who shoots or discharges a firearm into an occupied school bus or school building shall be guilty of a Class B felony.
- (c) A person who shoots or discharges a firearm into an unoccupied school bus or school building shall be guilty of a Class C felony.

(d) This section shall not be construed to repeal other criminal laws. Whenever conduct prescribed by any provision of this section is also prescribed by any other provision of law, the provision which carries the more serious penalty shall be applied.

*(Act 2006-539, §§1, 2.)*

**Section 13A-11-72.**

**Certain persons forbidden to possess pistol.**

(a) No person who has been convicted in this state or elsewhere of committing or attempting to commit a crime of violence shall own a pistol or have one in his or her possession or under his or her control.

(b) No person who is a drug addict or an habitual drunkard shall own a pistol or have one in his or her possession or under his or her control.

(c) Subject to the exceptions provided by Section 13A-11-74, no person shall knowingly with intent to do bodily harm carry or possess a deadly weapon on the premises of a public school.

(d) Possession of a deadly weapon with the intent to do bodily harm on the premises of a public school in violation of subsection (c) of this section is a Class C felony.

(e) Law enforcement officers are exempt from this section, and persons with pistol permits issued pursuant to Section 13A-11-75, are exempt from the provisions of subsection (c) of this section.

(f) The term "public school" as used in this section applies only to a school composed of grades K-12 and shall include a school bus used for grades K-12.

(g) The term "deadly weapon" as used in this section means a firearm or anything manifestly designed, made, or adapted for the purposes of inflicting death or serious physical injury, and such term includes, but is not limited to, a bazooka, hand grenade, missile, or explosive or incendiary device; a pistol, rifle, or shotgun; or a switch-blade knife, gravity knife, stiletto, sword, or dagger; or any club, baton, billy, black-jack, bludgeon, or metal knuckles.

*(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, §174; Acts 1951, No. 784, p. 1378; Code 1975, §13-6-152; Acts 1994, 1st Ex. Sess., No. 94-817, §1.)*

**Section 13A-12-212.**

**Unlawful possession or receipt of controlled substances.**

(a) A person commits the crime of unlawful possession of controlled substance if:

(1) Except as otherwise authorized, he possesses a controlled substance enumerated in Schedules I through V.

(2) He obtains by fraud, deceit, misrepresentation or subterfuge or by the alteration of a prescription or written order or by the concealment of a material fact or by the

use of a false name or giving a false address, a controlled substance enumerated in Schedules I through V.

(b) Unlawful possession of a controlled substance is a Class C felony.

*(Acts 1987, No. 87-603, p. 1047, §3.)*

### **Section 15-10-3.**

#### **Arrest without warrant - Generally; definitions; written report.**

(a) An officer may arrest a person without a warrant, on any day and at any time in any of the following instances:

(1) If a public offense has been committed or a breach of the peace threatened in the presence of the officer.

(2) When a felony has been committed, though not in the presence of the officer, by the person arrested.

(3) When a felony has been committed and the officer has reasonable cause to believe that the person arrested committed the felony.

(4) When the officer has reasonable cause to believe that the person arrested has committed a felony, although it may afterwards appear that a felony had not in fact been committed.

(5) When a charge has been made, upon reasonable cause, that the person arrested has committed a felony.

(6) When the officer has actual knowledge that a warrant for the person's arrest for the commission of a felony or misdemeanor has been issued, provided the warrant was issued in accordance with this chapter. However, upon request the officer shall show the warrant to the arrested person as soon as possible. If the officer does not have the warrant in his or her possession at the time of arrest the officer shall inform the defendant of the offense charged and of the fact that a warrant has been issued.

(7) When the officer has reasonable cause to believe that a felony or misdemeanor has been committed by the person arrested in violation of a protection order issued by a court of competent jurisdiction.

(8) When an offense involves domestic violence as defined by this section, and the arrest is based on probable cause, regardless of whether the offense is a felony or misdemeanor.

(b) For the purpose of this section, the following terms have the following meanings:

(1) ABUSE. Any offense under Sections 13A-6-60 to 13A-6-70, inclusive, or under Sections 26-15-1 to 26-15-4, inclusive.

(2) ASSAULT. Any offense under Sections 13A-6-20 to 13A-6-25, inclusive.

(3) FAMILY, HOUSEHOLD, OR DATING OR ENGAGEMENT RELATIONSHIP MEMBERS. Includes a spouse, former spouse, parent, child, or any other person related by marriage or common law marriage, a person with whom the victim has a child in common, a present or former household member, or a person who has or had a dating or engagement relationship.

(4) DOMESTIC VIOLENCE. Any incident resulting in the abuse, assault, harassment, or the attempt or threats thereof, between family, household, or dating or engagement

relationship members.

(5) HARASSMENT. Any offense under Section 13A-11-8.

(c) When a law enforcement officer investigates an allegation of domestic violence, whether or not an arrest is made, the officer shall make a written report of the alleged incident, including a statement of the complaint, and the disposition of the case.

*(Code 1852, §445; Code 1867, §3994; Code 1876, §4664; Code 1886, §4262; Code 1896, §5211; Code 1907, §6269; Code 1923, §3263; Code 1940, T. 15, §154; Acts 1989, No. 89-857, p. 1710, §2; Acts 1995, No. 95-534, p. 1081, §1; Act 2000-266, p. 411, §8.)*

### **Section 15-20-26.**

#### **Adult criminal sex offender - Prohibited residence locations, etc.**

(a) Unless otherwise exempted by law, no adult criminal sex offender shall establish a residence or any other living accommodation or accept employment within 2,000 feet of the property on which any school, including, but not limited to, an elementary or secondary school and a college or university, or child care facility is located.

(b) Unless otherwise exempted by law, no adult criminal sex offender shall establish a residence or any other living accommodation within 1,000 feet of the property on which any of his or her former victims, or the victims' immediate family members reside.

(c) No adult criminal sex offender shall establish a residence or any other living accommodation where a minor resides. Notwithstanding the foregoing, an adult criminal sex offender may reside with a minor if the adult criminal sex offender is the parent, grandparent, or stepparent of the minor, unless one of the following conditions applies:

(1) The adult criminal sex offender's parental rights have been or are in the process of being terminated as provided by law.

(2) The adult criminal sex offender has been convicted of any criminal sex offense in which any of the offender's minor children, grandchildren, or stepchildren were the victim.

(3) The adult criminal sex offender has been convicted of any criminal sex offense in which a minor was the victim and the minor resided or lived with the offender at the time of the offense.

(4) The adult criminal sex offender has ever been convicted of any criminal sex offense involving a child, regardless of whether the offender was related to or shared a residence with the child victim.

(d) No adult criminal sex offender shall be permitted to willfully or knowingly come within 100 feet of any of his or her former victims, except as elsewhere provided by law, or make any visual or audible sexually suggestive or obscene gesture, sound, or communication at or to a former victim or a member of the victim's immediate family.

(e) Changes to property within 2,000 feet of an adult criminal sex offender's registered address which occur after an adult criminal sex offender establishes residency or accepts employment shall not form the basis for finding that a criminal sex offender is in violation of subsections (a) or (b).

(f) No adult criminal sex offender, after having been convicted of a criminal sex offense involving a child, shall loiter on or within 500 feet of any property on which there is a school, child care facility, playground, park, athletic field or facility, school bus stop, or any other business or facility having a principal purpose of caring for, educating, or entertaining minors. Under this subsection, loiter means to enter or remain on property while having no legitimate purpose therefor or, if a legitimate purpose exists, remaining on that property beyond the time necessary to fulfill that purpose. An offender does not violate this subsection unless he or she has first been asked to leave a prohibited location by a person authorized to exclude the offender from the premises. An authorized person includes, but is not limited to, any law enforcement officer, any owner or manager of the premises, a principal or teacher if the premises is a school or child care facility, or a coach if the premises is an athletic field or facility.

For purposes of this subsection, the term school includes all property owned by a college or university and used for educational purposes or for official school functions.

For purposes of this subsection, a school bus stop is any location where a motor vehicle owned or operated by or on behalf of a public or private secondary school stops on a regular basis for the purpose of transporting children to and from school.

(g) No adult criminal sex offender, after having been convicted of a criminal sex offense involving a child, shall accept, maintain, or carry on any employment or vocation at or within 500 feet of a school, child care facility, playground, park, athletic field or facility, or any other business or facility having a principal purpose of caring for, educating, or entertaining minors.

(h) An adult criminal sex offender who knowingly violates the provisions of this section shall be guilty of a Class C felony.

*(Act 99-572, p. 1283, §3; Act 2000-728, p. 1566, §1; Act 2001-1127, 4th Sp. Sess., p. 1199, §1; Act 2005-301, 1st Sp. Sess., p. 571, §1; Act 2009-558, §1.)*

***EDUCATION LAWS***

**TITLE 16.**  
**EDUCATION LAWS.**

**EDUCATION LAWS**

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## EDUCATION LAWS

### **Section 16-1-2.**

#### **Inspection of buildings during and after construction; acceptance of completed construction; forms for construction contracts.**

In order to eliminate the causes of school fires and other conditions which jeopardize the health and safety of school children:

(1) The county or city superintendent of education shall notify the State Superintendent of Education within 10 days after the beginning of the construction of a building; and, upon the request of the county or city superintendent of education, the State Superintendent of Education or his agent shall inspect said building during construction for the purpose of seeing that plans and specifications upon which the contract was let are being complied with.

(2) A county or city superintendent of education shall not recommend and a county or city board of education shall not approve for payment more than 90 percent of the contract price of the building constructed by the county or city board of education until the State Superintendent of Education or his agent has made a final inspection of said building for the purpose of seeing that the plans and specifications upon which the contract was let have been complied with in full. The State Superintendent of Education or his agent must make final inspection of a school building within 10 days after being notified by the county or city board of education that the building is ready for final inspection. When the State Superintendent of Education or his agent makes a final inspection of a building and finds that it has been completed in accordance with said plans and specifications, the State Superintendent of Education must within five days after said final inspection give the county or city board of education written notice that the building has been completed in accordance with plans and specifications. If the State Superintendent of Education or his agent in making final inspection finds that the building has not been completed in accordance with plans and specifications, the State Superintendent of Education shall not authorize acceptance of said building until it has been completed in accordance with the plans and specifications on which the contract was let or until the contractor or his bondsmen makes an adjustment satisfactory to the county or city board of education and the State Superintendent of Education. Final acceptance of a building cannot be made by a county or city board of education and the final payment of 10 percent of the contract price of such building cannot be made until the State Superintendent of Education has given written notice to the county or city board of education that said building has been completed in accordance with the plans and specifications upon which the contract was let.

(3) Contracts for architectural services and for school building construction shall be made by county and city boards of education on contract forms prescribed by the State Superintendent of Education, into which forms the contracting parties shall write the terms and conditions of the contract agreed upon.

(4) Representatives of the Department of Finance charged with the responsibility of inspecting buildings insured in the State Insurance Fund shall at all times have the authority to inspect for fire hazards school buildings insured in the State Insurance Fund. Reports of said inspections shall be made to the county or city superintendent of education, the State Superintendent of Education and the Director of Finance of the State Department of Finance. If a board of education fails within 30 days to eliminate a potential fire hazard, or hazards, in a school building insured in the State Insurance Fund when notified to do so by a representative of the State Department of Finance charged with the responsibility of inspecting buildings insured in the State Insurance Fund, upon the recommendation of the State Superintendent of Education, the Director of Finance shall have the authority to order the affected building vacated and closed until said potential fire hazard, or hazards, are eliminated.

*(Acts 1943, No. 254, p. 224, §1.)*

### **Section 16-1-7.**

#### **Eye protective devices for pupils and teachers participating in certain courses.**

(a) Every pupil and every teacher in the public schools shall wear industrial quality eye protective devices while participating in the following courses:

(1) Vocational or industrial arts, shops or laboratories involving experience with:

- a. Hot molten metals;
- b. Milling, sawing, turning, shaping, cutting or stamping of any solid materials;
- c. Heat treatment, tempering or kiln firing of any metal or other materials;
- d. Gas or electric arc welding;
- e. Repair or servicing of any vehicle;
- f. Caustic or explosive materials.

(2) Chemical or combined chemical-physical laboratories involving caustic or explosive chemicals or hot liquids or solids.

(b) The board of education or other governing authority of each school shall furnish the eye protective devices prescribed in this section free of charge to the pupils and teachers of the school participating in the courses described in subsection (a) of this section. The county board of education or other governing authority shall furnish eye protective devices to all visitors to the courses heretofore named.

(c) "Industrial quality eye protective devices" as used in this section shall mean devices meeting the current standards of the American Standard Safety Code for head, eye and respiratory protection, promulgated by the American Standards Association, Incorporated.

*(Acts 1965, 1st Ex. Sess., No. 168, p. 219, §§1-3.)*

### **Section 16-1-10.**

#### **Selling, etc., alcoholic beverages to school children; keeping on school premises.**

Any person, firm, corporation or association that knowingly sells, gives or dispenses any alcoholic beverage to any school student under the age of 18 years, or keeps or has in possession any alcoholic beverage in or on the campus or premises of any school building of any public secondary or grade school is guilty of a felony and, upon conviction thereof, shall be imprisoned in the state penitentiary for a period of from one to three years.

*(Acts 1947, No. 532, p. 388, §1.)*

### **Section 16-1-14.**

#### **Removal, isolation, or separation of pupils creating disciplinary problems; state approval necessary for rules implementing such measures; deprivation of right to equal and adequate education may not result.**

Any city, county, or other local public school board shall, consistent with Section 16-28-12, prescribe rules and regulations with respect to behavior and discipline of pupils enrolled in the schools under its jurisdiction and, in order to enforce such rules and regulations, may remove, isolate, or separate pupils who create disciplinary problems in any classroom or other school activity and whose presence in the class may be detrimental to the best interest and welfare of the pupils of such class as a whole. Any rules and regulations adopted pursuant to this section shall be approved by the State Board of Education. Any such removal, isolation, or separation may not deprive such pupils of their full right to an equal and adequate education.

*(Acts 1963, No. 460, p. 995, §1; Acts 1994, 1st Ex. Sess., No. 94-793, p. 98, §1.)*

### **Section 16-1-23.**

#### **Hazing prohibited; penalty.**

(a) Hazing is defined as follows:

(1) Any willful action taken or situation created, whether on or off any school, college, university, or other educational premises, which recklessly or intentionally endangers the mental or physical health of any student, or

(2) Any willful act on or off any school, college, university, or other educational premises by any person alone or acting with others in striking, beating, bruising, or maiming; or seriously offering, threatening, or attempting to strike, beat, bruise, or maim, or to do or seriously offer, threaten, or attempt to do physical violence to any student of any such educational institution or any assault upon any such students made

for the purpose of committing any of the acts, or producing any of the results to such student as defined in this section.

(3) The term hazing as defined in this section does not include customary athletic events or similar contests or competitions, and is limited to those actions taken and situations created in connection with initiation into or affiliation with any organization. The term hazing does not include corporal punishment administered by officials or employees of public schools when in accordance with policies adopted by local boards of education.

(b) No person shall engage in what is commonly known and recognized as hazing, or encourage, aid, or assist any other person thus offending.

(c) No person shall knowingly permit, encourage, aid, or assist any person in committing the offense of hazing, or willfully acquiesce in the commission of such offense, or fail to report promptly his knowledge or any reasonable information within his knowledge of the presence and practice of hazing in this state to the chief executive officer of the appropriate school, college, university, or other educational institution in this state. Any act of omission or commission shall be deemed hazing under the provisions of this section.

(d) Any person who shall commit the offense of hazing shall be guilty of a Class C misdemeanor as defined by Title 13A.

(e) Any person who participates in the hazing of another, or any organization associated with a school, college, university, or other educational institution in this state which knowingly permits hazing to be conducted by its members or by others subject to its direction or control, shall forfeit any entitlement to public funds, scholarships, or awards which are enjoyed by him or by it and shall be deprived of any sanction or approval granted by the school, college, university, or other educational institution.

(f) Nothing in this section shall be construed as in any manner affecting or repealing any law of this state respecting homicide, or murder, manslaughter, assault with intent to murder, or aggravated assault.

*(Acts 1981, No. 81-824, p. 1466, §§1-6.)*

### **Section 16-1-24.**

#### **Reporting of property damage and physical assaults on students and school personnel; legislative intent; penalties.**

(a) For purposes of this section, the following words and phrases shall have the following respective meanings, unless the context clearly indicates otherwise:

(1) Incident.

Any act of physical violence, with or without a weapon, trespass, vandalism, or property damage which occurs.

a. On school property; or

b. During school activities, on or off school property; or

c. At any other times when such incident can be reasonably related to school functions.

Provided, however, that incidents involving only students from the same school wherein no dangerous weapon was involved and no bodily injury requiring medical attention occurs shall not be required to be reported as provided herein. All attacks or incidents involving teachers or other school personnel shall be promptly reported.

(2) Principal.

The principal or top administrator of any public elementary, junior or senior high school at which the incident occurred.

(3) Superintendent of education.

The superintendent of the county or city board of education in the county in which the school is located.

(4) Report.

A written narrative report of an incident, the number and names and addresses of persons involved in the incident, the type of any weapon involved and a description of any injury or damage resulting from the incident. Said report shall contain the names and addresses of all known persons present at the time of said incident.

(5) Teacher and other school employee.

An employee of any public elementary, junior or senior high school at which the incident occurred.

(6) School board.

The board of education.

(7) County sheriff.

The sheriff of the county in which the public school is located.

(b) It is the intention of the Legislature by passage of the section to require principals, teachers and other school employees of public elementary, junior and senior high schools to make reports of violent disruptive incidents occurring on school property during school hours or during school activities conducted on or off school property after school hours or at any other time when such incident can be reasonably related to school or school functions and to provide for penalties for failure to report such incidents.

(c) Principals shall file a report within 72 hours with the superintendent of education of any incident of which they have knowledge. A copy of the report shall also be furnished members of the school board and the county sheriff by the superintendent of education.

(d) Teachers and other school employees shall immediately report to the principal any incident of which they have knowledge. Said teacher and employee shall assist the principal in the preparation of the report required under subsection (c) of this section.

(e) Any superintendent of education, principal, teacher, or employee who violates the provisions of this section by failure to file a required report shall be guilty of a Class C misdemeanor.

*(Acts 1982, No. 82-515, p. 849, §§1-5.)*

**Section 16-1-24.1.**

**Safe school and drug-free school policy; treatment of policy violators; promulgation and distribution of discipline policy; liability limited for discipline actions; local boards may adopt more stringent guidelines.**

(a) The Legislature finds a compelling public interest in ensuring that schools are made safe and drug-free for all students and school employees. The Legislature finds the need for a comprehensive safe school and drug-free school policy to be adopted by the State Board of Education. This policy should establish minimum standards for classes of offenses and prescribe uniform minimum procedures and penalties for those who violate the policies. It is the intent of the Legislature that our schools remain safe and drug-free for all students and school employees. The State Board of Education shall adopt and all local boards of education shall uniformly enforce policies that protect all students and school employees. The State Board of Education shall require local school systems to modify their policies, practices or procedures so as to ensure a safe school environment free of illegal drugs, alcohol, or weapons. Any rules and regulations adopted by the State Board of Education pursuant to this section shall be exempt from Section 41-22-3(3). These modifications shall include the formulation of a discipline plan setting forth policies, practices, and procedures dealing with students or other persons who bring illegal drugs, alcohol, or weapons on a school campus. The discipline plan shall also include uniform drug-free school policies with uniform penalties.

(b) The principal shall notify appropriate law enforcement officials when any person violates local board of education policies concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person. If any criminal charge is warranted arising from the conduct, the principal is authorized to sign the appropriate warrant. If that person is a student enrolled in any public school in the State of Alabama, the local school system shall immediately suspend that person from attending regular classes and schedule a hearing at the earliest possible date, which shall not be later than five school days. The decision to suspend or initiate criminal charges against a student, or both, shall include a review and consideration of the student's exceptional status, if applicable, under Chapter 39, or appropriate federal statutory or case law.

(c) If a person is found to have violated a local board of education policy concerning drugs, alcohol, weapons, physical harm to a person, or threatened physical harm to a person, the person may not be readmitted to the public schools of this state until (1) criminal charges or offenses arising from the conduct, if any, have been disposed of by appropriate authorities and (2) the person has satisfied all other requirements imposed by the local board of education as a condition for readmission.

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

(e)(1) A copy of the school system's discipline plan shall be distributed to all students enrolled in the system and their parents, guardians, or custodians shall read the plan and sign a statement verifying that they have been given notice of the discipline policies of their respective school system. The school board shall have its official discipline plan reviewed on an annual basis to ensure that its policies and procedures are currently in compliance with applicable statutes, case law, and state and federal constitutional provisions.

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

- a. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system shall be responsible financially for such child's destructive acts against school property or persons.
- b. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a public school system may be requested to appear at school by an appropriate school official for a conference regarding acts of the child specified in paragraph a.
- c. A parent, guardian, custodian, or person, excluding a foster parent, responsible for the care or control of a minor child enrolled in a school system who has been summoned by proper notification by an appropriate school official shall be required under this provision to attend such discipline conference specified in paragraph b.

(3) Any public school system shall be entitled to recover actual damages, plus necessary court costs, from the parent or guardian, or both, of any minor who maliciously and willfully damages or destroys property belonging to the school system. However, this section shall not apply to parents whose parental control of any child has been removed by court order or decree or to parents of exceptional children with specific mental and physical impairments if the damage is determined to result from the impairments. The action authorized in this section shall be in addition to all other actions which the school system is entitled to maintain and nothing in this section shall preclude recovery in a greater amount from the minor or from a person, including the parents or guardian, or both, for damages to which such minor other person would otherwise be liable.

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

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

- (1) Specific grounds for disciplinary action.
- (2) Procedures to be followed for acts requiring discipline.
- (3) An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of

conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

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

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

*(Acts 1991, No. 91-323, p. 602, §22; Acts 1994, 1st Ex. Sess., No. 94-784, p. 72, §1.)*

### **Section 16-1-24.3.**

#### **Local boards of education to implement policies requiring expulsion of students who possess firearms in school areas.**

(a) All city and county boards of education shall develop and implement local policies and procedures requiring the expulsion of students, for a period of one year, who are determined to have brought to school or have in their possession a firearm in a school building, on school grounds, on school buses, or at other school-sponsored functions. Notwithstanding the foregoing, city and county boards of education and the local superintendent of education of each board may modify the expulsion requirement for a student on a case-by-case basis. Students who are expelled for violation of this section shall not be allowed to attend regular school classes in any public school in the state during the expulsion period. Students who are expelled from schools for firearm possession may be permitted to attend alternative schools designed to provide education services. Discipline of students with disabilities who violate the firearm possession policies of city and county boards of education shall be determined on a case-by-case basis in accordance with the requirements of the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act.

(b) For the purposes of this section, the term "firearm" has the same meaning as defined in Section 921 of Title 18 of the United States Code.

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

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

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

- (1) An affidavit to affirm that the local education agency has developed and implemented a policy to provide for a gun-free environment in all its public schools.
- (2) A description of the circumstances surrounding an expulsion imposed under this section including:
  - a. The name of the school concerned.
  - b. The number of students expelled.
  - c. The types of weapons concerned.

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

*(Acts 1995, No. 95-756, 1768, §§1-4.)*

### **Section 16-1-27.**

#### **Use of electronic communication devices on school property.**

(a) A local board of education may permit any pupil to carry a pocket pager, cellular telephone, or other electronic communication device while on school property and may permit any pupil to use a pocket pager, cellular telephone, or other electronic communication device, when such use is expressly and specifically permitted by the school administrator, teacher, or employee who is acting in a supervisory capacity at the time of the use.

(b) Any pupil found in violation of this section shall be subject to suspension by the board of education.

(c) Each local board of education may adopt a local policy that pertains to pocket pagers, cellular telephones, and other electronic communication devices.

*(Acts 1989, No. 89-953, p. 1880, §1; Act 2006-530, p. 1224, §1.)*

### **Section 16-1-28.**

#### **No public funds or public facilities to be used to promote lifestyle or activities prohibited by sodomy and sexual misconduct laws.**

(a) No public funds or public facilities shall be used by any college or university to, directly or indirectly, sanction, recognize, or support the activities or existence of any organization or group that fosters or promotes a lifestyle or actions prohibited by the sodomy and sexual misconduct laws of Sections 13A-6-63 to 13A-6-65, inclusive.

(b) No organization or group that receives public funds or uses public facilities, directly or indirectly, at any college or university shall permit or encourage its members or encourage other persons to engage in any such unlawful acts or provide information or materials that explain how such acts may be engaged in or performed.

(c) This section shall not be construed to be a prior restraint of the first amendment

protected speech. It shall not apply to any organization or group whose activities are limited solely to the political advocacy of a change in the sodomy and sexual misconduct laws of this state.

*(Acts 1992, No. 92-439, p. 869, §§1-3.)*

### **Section 16-1-39.**

#### **Self-administration of medications by student.**

(a) Commencing with the 2007-2008 scholastic year, each local board of education and the governing body of each nonpublic school in the state shall permit the self-administration of medications by a student for chronic conditions if conducted in compliance with the State Department of Education and State Board of Nursing Medication Curriculum, as may be amended from time to time by the department and board. Approved medications may be self-administered if the parent or legal guardian of the student provides all of the information outlined in the medication curriculum, including, but not limited to, all of the following:

(1) Written and signed authorization for the self-administration to the chief executive officer of the school.

(2) Written and signed acknowledgement that the school shall incur no liability and that the parent or legal guardian shall indemnify and hold harmless the school and the employees and agents of the school against any claims that may arise relating to the self-administration of approved medications.

(3) Written medical authorization that includes all of the following:

a. The signature of the attending physician, or his or her authorized agent.

b. Confirmation that the student has been instructed in the proper self-administration of the approved medication.

c. The name, purpose, and prescribed dosage of the medications to be self-administered.

d. The frequency with which the prescribed medications are to be administered.

e. Any special instructions or circumstances under which the medications should be administered.

f. The length of time for which the medications are prescribed.

(b) All documents provided to a school pursuant to subsection (a) shall be kept on file in the office of the school nurse or chief executive officer of the school.

(c) The local board of education or the governing body of the nonpublic school shall incur no liability and is immune from any liability exposure created by this section.

(d) Permission for the self-administration of approved medications shall only be effective for the school year in which permission is granted. Permission for self-administration of approved medications may be granted in subsequent years provided all requirements of this section are satisfied.

(e) Upon obtaining permission to self-administer approved medications pursuant to this section, a student shall be permitted to possess and self-administer approved medications, according to the orders of the prescriber, at any time while on school property or while attending a school-sponsored event.

(f) Nothing in this section shall be interpreted as permitting a student to possess a controlled substance, as defined in the medication curriculum, on school property.

*(Act 2003-271, p. 643, §1; Act 2007-463, §1.)*

**Section 16-1-44.**

**(Effective January 1, 2010) School safety plans.**

(a)(1) Each local board of education shall adopt a comprehensive school safety plan for each school under the authority of the board.

(2) The local board or its agent shall examine the conditions and operations of each school under the authority of the local board to determine hazards to student and staff safety and shall propose changes, if needed to promote the prevention of dangerous problems and circumstances.

(3) In developing the plan for each school, the local board or its agent shall involve community law enforcement, safety officials, teachers, and nonteaching employees who are assigned to the school.

(b)(1) The board shall incorporate into the plan the following:

a. A protocol for addressing serious threats to the safety of school property, students, employees, or administrators.

b. A protocol for responding to any emergency events that compromise the safety of school property, students, and employees.

(2) Each protocol shall include procedures for responding to threats and emergency events, respectively, including such action as notification of appropriate law enforcement and emergency response personnel for assistance, and informing parents of affected students.

(c)(1) The board shall update the safety plan whenever a major modification to the building requires changes in the procedures outlined in the plan, and at other necessary times.

(2) Upon request of law enforcement or safety officials, or both, the local board shall provide a copy of the current school site and safety plan, which shall be kept in a secure place and not considered public record.

(d) The local board shall grant access to each school under its control to law enforcement and fire department personnel to enable them to prepare for responding to threats and emergency events affecting the school. Such access shall occur outside of student instructional hours and an employee of the board shall be present.

(e) The principal or his or her designee shall instruct and train students concerning procedures to be used for drills and evacuations. The principal or his or her designee shall ensure that all safety and security drills and procedures are conducted and performed no less than what is required by state or federal law, or both. The doors and exits of each school may be locked from the outside but shall allow for immediate egress by those inside the building during school hours and at all school functions.

(f) In conjunction with drills or evacuations required by subsection (e), a principal or his or her designee shall instruct students in safety precautions to be taken in case of a severe weather watch, alert, or warning. A principal or his or her designee shall designate, in

accordance with standards prescribed by the local superintendent of education in conjunction with local public safety officials and the fire marshal, or appropriate local fire safety official in counties that do not have a fire marshal, appropriate locations to be used to shelter students in case of a severe weather watch, alert, or warning.

(g) In addition to the requirements of subsection (e), the principal or his or her designee shall conduct a school safety drill at least once each school year to provide students with instruction in the procedures to follow in the case of a threat to the school involving acts of violence, such as terrorism, a person possessing a firearm or a deadly weapon, or any other act of violence. The principal or his or her designee shall hold annual training sessions for employees of the school regarding the school safety drills and procedures to be conducted during a school year.

(h) Appropriate disciplinary action shall be taken against any principal or his or her designee who knowingly neglects or refuses to comply with the requirements of this section.

(i) This section shall be read in pari materia with other laws relating to school safety and emergency planning.

*(Act 2009-655, §§1,2.)*

### **Section 16-1-45.**

#### **Automated external defibrillator requirements.**

(a) For purposes of this section, the term automated external defibrillator is given the same definition as provided in subsection (c) of Section 6-5-332.3.

(b) An automated external defibrillator shall be placed in each public K-12 school in Alabama. The superintendent of each local board of education shall designate at least one employee at each school to be trained in the use of an automated external defibrillator.

(c) The State Department of Education shall implement and administer this section and shall adopt such rules as are necessary.

*(Act 2009-754, §1.)*

### **Section 16-3-12.**

#### **Rules and regulations — Generally.**

The State Board of Education shall adopt rules and regulations for the proper construction of school buildings, for the sanitation of schools, for the physical examination of school children and, in conjunction with other state authorities, shall see to it that the rules relating to school health, compulsory education and child conservation are enforced.

*(School Code 1927, §36; Code 1940, T. 52, §15.)*

### **Section 16-6B-5.**

#### **School safety and discipline accountability.**

In addition to providing quality instruction in classrooms and fiscal soundness, all local boards of education shall be accountable for compliance with statutes and regulations regarding school safety and discipline. The State Department of Education shall send to all local boards of education and all local superintendents of education, on or before August 1 of each year, a manual containing all acts of the Legislature and all regulations promulgated by the State Board of Education which pertain to school safety and discipline. Within thirty (30) days of receipt of this manual, each local board of education shall provide to the State Board of Education a report, in the form prescribed by the State Department of Education, describing its compliance with these acts and regulations. If a local board of education is determined by the State Board of Education to have failed to comply in any material respect with these acts and regulations, the State Department of Education shall provide assistance to obtain compliance. If after one year, the State Board of Education determines that a local board of education refuses or fails to come into compliance with these acts and regulations, the State Superintendent of Education shall intervene in and assume the direct management and day-to-day operation of the local board of education for such period of time as the State Board of Education deems necessary to bring that local board of education into compliance with these acts and regulations.

*(Acts 1995, No. 95-313, p. 620, §5.)*

### **Section 16-6B-6.**

#### **Release from intervention.**

Management of a school or local board of education occasioned by state intervention based on student achievement or financial instability shall continue until such time as either condition improves to an acceptable level. The local board of education may petition the State Board of Education for release from state intervention by showing acceptable improvement in achievement or financial stability or other just cause for such release. The State Board of Education following a hearing shall have final determination on the matter of release from state intervention.

*(Acts 1995, No. 95-313, p. 620, §6.)*

**Section 16-6B-7.**

**Accountability reports to the public.**

(3) A School Safety and Discipline Report which shall include statistical information relating to student safety and discipline in each school and any other data deemed necessary by the local board of education or the State Board of Education to inform the public about safety and discipline in each school.

(b) These reports shall be released to the media, presented to parent organizations, members of the Legislature who represent the schools covered in each report, and the State Superintendent of Education. These reports shall be made available to the public upon request on or before ninety (90) days after the end of the fiscal year.

*(Acts 1995, No. 95-313, p. 620, §7.)*

**Section 16-22A-1.**

**Short title; purpose.**

This chapter shall be known and cited as the Alabama Child Protection Act of 1999. Article 1 provides the procedure for conducting criminal history background information checks on all applicants for certification, public and nonpublic applicants for employment, nonpublic current employees, and current employees under review. Article 2 provides the procedure for conducting criminal history background information checks on current public certified and noncertified employees.

*(Act 99-361, p. 566, §1; Act 2002-457, p. 1171, §1.)*

**Section 16-22A-2.**

**Legislative intent.**

Under the National Child Protection Act of 1993, Public Law 103-209, 42 U.S.C. 5119, et seq., the states are required to implement a computerized information system to provide child abuse crime information through the Federal Bureau of Investigation National Criminal History Record Information System and may conduct a nationwide criminal history background check for the purpose of determining whether an individual who will have unsupervised access to children is suitable for employment or has been convicted of a crime that bears upon the individual's fitness to teach or have responsibility for the safety and well-being of children as defined in this chapter.

The Legislature finds that there is a compelling state interest and it is in the best interest of the children of Alabama to protect them from those persons who may inflict physical or mental injury or abuse, sexual abuse or exploitation, or maltreatment or other mistreatment upon children. Therefore, in establishing the Alabama Child Protection Act

of 1999, it is the Legislature's intent to provide for the implementation of a system that allows the State Superintendent of Education, local boards of education, and other nonpublic schools to ensure that prospective employees and certain current employees are suitable for employment and have not been convicted of a crime that bears upon their fitness to teach or to have responsibility for the safety and well-being of children as defined in this chapter.

*(Act 99-361, p. 566, §2, Act 2002-457, p. 1171, §1.)*

### **Section 16-22A-3.**

#### **Definitions.**

When used in this chapter only, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) **APPLICANT.** A certified or noncertified individual who submits an application for employment to a local employing board or any nonpublic school, to act in any capacity in which the individual will have unsupervised access to children in an educational environment.

(2) **APPLICANT FOR CERTIFICATION.** An individual who submits an application for certification issued by the State Superintendent of Education.

(3) **AUTHORIZED EMPLOYER.** Any educational entity authorized to obtain criminal history background information, including the State Department of Education, local employing boards, and nonpublic schools which are responsible for hiring employees or contracting with private employers to provide personnel who have unsupervised access to children in an educational setting.

(4) **CERTIFIED APPLICANT FOR EMPLOYMENT.** A certified individual who submits an application for employment to a local employing board or any nonpublic school to act in any capacity in which the individual will have unsupervised access to children in an educational environment.

(5) **CHIEF EXECUTIVE OFFICER.** The State Superintendent of Education; the superintendent of any public county or city school system; the President of the Alabama Institute for Deaf and Blind; the Executive Director of the Alabama School of Fine Arts; the Superintendent of the Department of Youth Services School District; the Executive Director of the Alabama High School of Mathematics and Science; the superintendent of any nonpublic school, or in the absence of a superintendent, the headmaster of any nonpublic school; and the head of any department or employer covered by this chapter but not specifically enumerated herein.

(6) **CHILD or CHILDREN.** Any person under the age of 19 years, or any youth who suffers from a disability thereby rendering the youth a child for the purpose of receiving elementary and secondary education at public expense, notwithstanding their chronological age.

(7) **CRIMINAL HISTORY BACKGROUND INFORMATION CHECK.** The review of any and all records containing any information collected and stored in the criminal record repository of the Federal Bureau of Investigation, the Alabama Department of Public

Safety, or any other repository of criminal history records, involving a pending arrest or conviction by a criminal justice agency, including, but not limited to, child abuse crime information as defined by 42 U.S.C. 5119, the National Child Protection Act of 1993, conviction record information, fingerprint cards, correctional induction and release information, identifiable descriptions and notations of convictions; provided, however, dissemination of such information is not forbidden by order of any court of competent jurisdiction or by federal law. Criminal history background information shall not include any analytical records or investigative reports that contain criminal intelligence information or criminal investigation information.

(8) CURRENT EMPLOYEE.

a. Any person who is employed by a local employing board or nonpublic school who has or seeks to have unsupervised access to a child or children in an educational setting.

b. Any person employed to serve an authorized employer as defined in this chapter, including those individuals that provide services to local employing boards or nonpublic schools, when the person so employed has unsupervised access to children in an educational environment.

(9) CURRENT EMPLOYEE UNDER REVIEW. Any current employee whose professional certificate or employment status is under review based upon reasonable suspicion.

(10) CURRENT PUBLIC CERTIFIED EMPLOYEE.

a. Any person certified by the State Superintendent of Education who is employed by a local employing board and who has or seeks to have unsupervised access to a child or children in an educational setting.

b. Any person certified by the State Superintendent of Education who is employed to serve a local employing board, including those individuals that provide services to local employing boards, when the person so employed has unsupervised access to children in an educational environment.

c. Any person certified by the State Superintendent of Education who is employed by the State Department of Education and whose responsibilities include work in the public schools of the state, as determined by the State Superintendent of Education.

(11) CURRENT PUBLIC NONCERTIFIED EMPLOYEE.

a. Any person not certified by the State Superintendent of Education who is employed by a local employing board and who has or seeks to have unsupervised access to a child or children in an educational setting.

b. Any person not certified by the State Superintendent of Education who is employed to serve a local employing board, including those individuals that provide services to local employing boards, when the person so employed has unsupervised access to children in an educational environment.

c. Any person not certified by the State Superintendent of Education who is employed by the State Department of Education and whose responsibilities include work in the public schools of the state, as determined by the State Superintendent of Education.

(12) EDUCATIONAL ENVIRONMENT OR SETTING. Any building, structure, or location whether public or private property, or vehicle, utilized to or involved in the providing of education, training, instruction, or supervision to children or transportation in connection with such activity provided by a local employing board or nonpublic school.

(13) LOCAL EMPLOYING BOARD. Any public county or city school system which falls under the jurisdiction of the State Board of Education and the State Superintendent of Education, the Alabama Institute for Deaf and Blind, the Alabama School of Fine Arts, the Department of Youth Services School District, the Alabama High School of Mathematics and Science, and any public educational employer covered by this chapter but not specifically enumerated herein.

(14) NONCERTIFIED APPLICANT FOR EMPLOYMENT. Any person not certified by the state who submits an application for employment to a local employing board or any nonpublic school, to act in any capacity in which the individual will have unsupervised access to children in an educational environment.

(15) NONPUBLIC SCHOOL. Any nonpublic or private school, including parochial schools, not under the jurisdiction of the State Superintendent of Education and the State Board of Education, yet providing educational services to children. Parents engaged in the home schooling of their own children are specifically excluded from this chapter.

(16) REASONABLE SUSPICION. Belief by a prudent person that reasonable articulable grounds exist to suspect that the past or present behavior of an employee should be reviewed to determine if such behavior or conduct bears upon the fitness of the employee to teach or have responsibility for the safety and well-being of children, or both, as defined in this chapter.

(17) SUITABILITY CRITERIA.

a. Suitability Criteria for Nonpublic Employment. Pertains to an applicant for employment, nonpublic current employee, or a current employee under review in a nonpublic school. An individual who has not been convicted of a child abuse crime, as defined herein as a crime committed under the law of the state that involves the physical or mental injury, sexual abuse or exploitation, or maltreatment of a child, shall be deemed suitable for employment.

b. Suitability Criteria for Public Employment. Pertains to an applicant for certification, certified applicant for employment, current public certified employee, current public noncertified employee, and current employee under review in a public school. An individual who has not been convicted of a child abuse crime, as defined herein as a crime committed under the law of the state that involves the physical or mental injury, sexual abuse or exploitation, or maltreatment of a child, or who has not been convicted of a crime which would bear upon the fitness of the employee to teach or have responsibility for the safety or well-being of children, or both, shall be deemed suitable for employment. Factors considered in determining whether a conviction bears a reasonable relationship to the fitness of a current employee or applicant include:

1. The likelihood that the conduct may adversely affect children or fellow employees.
2. The degree of such adversity anticipated.
3. The proximity or remoteness in time of the conduct.
4. The type of certificate held by the individual, if applicable.
5. Any extenuating or aggravating circumstances surrounding the conduct.
6. The praiseworthiness or blameworthiness of the motives resulting in the conduct.
7. The likelihood of the recurrence of the questioned conduct.
8. The extent to which disciplinary or employment action may inflict an adverse impact or chilling effect upon the constitutional rights of the individual or other employees.

9. Any other factor that is relevant to determining whether the individual is fit to have unsupervised access to a child or children.

(18) UNSUPERVISED ACCESS TO A CHILD OR CHILDREN. During the providing of education, training, instruction, supervision to children, or other employment related activities or responsibilities, a person would have unaccompanied control, governance, or contact with a child or children.

(19) WRITTEN CONSENT. A signed statement by the applicant, a current employee, or a current employee under review containing all of the following:

a. The name, address, date of birth, race, gender, and social security number appearing on a valid identification document as defined in subsection (d) of 18 U.S.C. 1028.

b. A statement that the applicant or current employee under review has not been convicted of a crime that bears upon the fitness of the applicant or employee to teach or to have responsibility for the safety and well-being of children as defined in this chapter, and if convicted of such a crime, a description of the crime and the particulars of the conviction.

c. Notice to the applicant or current employee under review, where reasonable suspicion exists regarding the current employee, that a background information check is going to be requested.

d. Notice to the applicant, current employee, or current employee under review who is the subject of the background information check of the right to obtain a copy of the background information check report, challenge the accuracy and completeness of any information contained in the report, and to obtain a prompt determination as to the validity of such challenge before a decision to retain or hire for employment is made by the employer.

e. Notice to the applicant or current employee under review that before a background information check is made, the applicant may be denied unsupervised access to children or the opportunity to serve based upon the information contained in the criminal history background information check or that employment or service or both may be restricted by the employing entity according to written policy.

f. Notice to the applicant that refusal to give written permission for a criminal history background information check will result in the applicant not being hired.

g. Notice to the applicant that failure to reveal a prior conviction that would bear upon the fitness of the individual to teach or to have responsibility for the safety and well-being of children, or any other convictions, may cause the applicant, if later employed, to face dismissal, in accordance with existing applicable statutes, for falsifying the employment application information.

h. Notice to the applicant, current employee, or current employee under review of his or her due process rights.

i. Notice to the applicant, current employee, or current employee under review, seeking employment or employed by a nonpublic school, that the State Superintendent of Education will provide a suitability determination based upon the Alabama Bureau of Investigation and Federal Bureau of Investigation criminal history background information reports and the suitability criteria for nonpublic employment defined herein to the chief executive officer of the nonpublic school.

***(Act 99-361, p. 566, §3; Act 2000-274, p. 433, §1; Act 2002-457, p. 1171, §1.)***

#### **Section 16-22A-4.**

##### **Initiation of request for criminal history background check.**

Any person who wishes to initiate a request for a criminal history background check of a current employee shall be required to provide a written signed statement to the designated chief executive officer of an authorized employer containing the reasonable articulable grounds supporting a request and initiation of review.

*(Act 99-361, p. 566, §4.)*

#### **Section 16-22A-5.**

##### **Agencies required to conduct criminal history background information checks.**

(a) A criminal history background information check shall be conducted on all applicants seeking positions with, and on all current employees under review employed by any local employing board, and any State Department of Education personnel as determined by the State Superintendent of Education, who have unsupervised access to and provide education, training, instruction, or supervision for children in an educational setting.

(b) A criminal history background information check shall be conducted on all applicants seeking positions with, and on all current employees and current employees under review employed by any nonpublic school, who have unsupervised access to or who provide education, training, instruction, or supervision for children in an educational setting.

(c) No institution listed in subsection (a) or subsection (b) shall hire an individual who may have unsupervised access to a child without first obtaining a criminal history background information check, except on a temporary emergency basis. In the event that this exception is used and a position is filled by the employer due to exigent circumstances, the applicant so employed may be placed on payroll until such time as a criminal history background information check on the employee is completed.

(d) Nationwide criminal history background information reports for applicants for certification, certified applicants for public employment, noncertified applicants for public employment, and public current employees under review shall be sent directly from the Department of Public Safety to the State Department of Education within a reasonable time from the receipt of the report from the Alabama Bureau of Investigation.

(e) Nationwide criminal history background information reports for nonpublic school applicants for employment, current employees, and current employees under review shall be sent directly from the Department of Public Safety to the State Department of Education within a reasonable time from the receipt of the report from the Alabama Bureau of Investigation. Thereafter, the State Superintendent of Education shall review the criminal history background information report and determine whether the applicant for employment, current employee, or current employee under review satisfies the suitability criteria for nonpublic employment. The State Superintendent of Education shall issue a suitability determination to the chief executive officer of the nonpublic school requesting the determination.

(f) Mandatory criminal history background information checks shall be performed by the Department of Public Safety upon request by any public entity authorized to make a request and shall be forwarded to the State Department of Education. The Department of Public Safety shall provide an Alabama Bureau of Investigation criminal history background information check within a reasonable time of the receipt of such request. Criminal history background information checks shall be requested by the Department of Public Safety from the Federal Bureau of Investigation within a reasonable time of receipt of such request.

(g) The Department of Public Safety, upon receipt of the criminal history background information report from the Federal Bureau of Investigation, shall forward such report to the State Department of Education within a reasonable time of the receipt of the report by certified mail. The fee charged for mandatory criminal history background information checks shall not exceed the statutory and regulatory amounts set under existing guidelines nor shall additional administrative fees of any kind, except for the cost of mailings, be charged which would increase the cost of the criminal history background information check. An applicant for employment and an applicant for certification are responsible for the cost of their criminal history background information check. The employer is responsible for the cost of the criminal history background information check on a current employee under review. The State Department of Education is responsible for the cost of the criminal history background information check on a nonpublic current employee, unless a court of competent jurisdiction determines that public funds may not be used for this purpose, then the employer or employee shall pay the cost. If a noncertified applicant for employment is determined by the chief executive officer of the prospective employer to be financially unable to pay the costs of a criminal history background information check, the prospective employer may pay the fee associated with the criminal history background information check.

(h) The following persons shall obtain a signed and dated written consent to obtain criminal history background information checks for applicants, nonpublic current employees, and current employees under review who have or seek to have unsupervised access to children in an educational setting as provided in subsections (a) and (b):

(1) Persons designated by the public local employing board.

(2) Persons designated by the State Department of Education.

(3) Persons designated by any other nonpublic school.

(i) Refusal by an applicant for certification, applicant for employment, nonpublic current employee, or current employee under review to sign and date a consent to obtain a criminal history background information check and to provide two acceptable sets of fingerprints shall result in the preclusion of employment or certification of the applicant for certification or applicant for employment, or the continued employment or certification in a position requiring unsupervised access to children of the nonpublic current employee or current employee under review, until such time as written permission has been given to the local employing board, State Department of Education, or other appropriate chief executive officer to conduct the criminal history background information check.

(j)(1) No current employee under review shall be subjected to a criminal history background information check for political or personal reasons. A review of a current employee under review, which may be conducted at any time, irrespective of whether a

prior criminal history background information check has been conducted on the employee, shall be based upon reasonable suspicion.

(2) A current employee under review shall be apprised in writing of the reasons supporting a request for a criminal history background information check, including the grounds supporting reasonable suspicion, and shall be provided the opportunity to supply additional information on his or her behalf to the employer. Any personnel action taken against the current employee under review shall be in accordance with all applicable state and federal laws as well as any adopted applicable local policies or procedures.

*(Act 99-361, p. 566, §5; Act 2002-457, p. 1171, §1.)*

### **Section 16-22A-6.**

#### **Request from schools for criminal history background information check.**

(a) The State Department of Education, or other public authorized employer responsible for hiring employees who will have unsupervised access to children in an educational setting, shall request through the State Department of Education, that the Department of Public Safety secure from both the Alabama Bureau of Investigation and Federal Bureau of Investigation a criminal history background information check on each applicant for certification, certified applicant for public employment, noncertified applicant for public employment, and public current employee under review.

(b) Any nonpublic school in which an individual may have unsupervised access to children in an educational setting, shall through its duly authorized representative under guidelines established by the nonpublic school employer, request that the Department of Public Safety secure a state criminal history background information check from the Alabama Bureau of Investigation and a nationwide criminal history background information check from the Federal Bureau of Investigation, on each applicant for nonpublic employment, nonpublic current employee, and nonpublic current employee under review.

(c) A request to the Department of Public Safety for a criminal history background information check on an applicant for certification, applicant for employment, nonpublic current employee, and current employee under review shall be accompanied by the following:

(1) Two complete functional sets of fingerprints, properly executed by a criminal justice agency or an individual properly trained in fingerprinting techniques.

(2) In the case of public education employment, written consent from the applicant for certification, certified applicant for public employment, noncertified applicant for public employment, or public current employee under review for the release of criminal history background information to the State Superintendent of Education and a specifically designated representative of the State Department of Education authorized to make the request.

(3) In the case of nonpublic school employment, written consent from the applicant for employment, nonpublic current employee, or current employee under review for the release of criminal history background information to the State Superintendent of Education.

(4) A nonrefundable fee to be paid by the applicant or educational entity requesting the criminal history background information check which shall conform to the guidelines promulgated pursuant to 42 U.S.C. 5119, the National Child Protection Act of 1993, and state law. An applicant for employment shall not be required to pay the fee until the authorized employer is prepared to employ the applicant and request the criminal history background information check. An applicant for certification shall be required to submit two complete acceptable sets of fingerprints and the fee for the criminal history background information check at the time his or her application for certification is submitted to the State Department of Education. If two sets of acceptable fingerprints and the appropriate fee are submitted to the State Department of Education and a criminal history background information check is not performed, the fee shall be refunded to the applicant or educational entity that paid the fee for the criminal history background information check.

*(Act 99-361, p. 566, §6; Act 2002-457, p. 1171, §1.)*

### **Section 16-22A-10.**

#### **Confidentiality of information.**

(a)(1) Any criminal history background information reports received by the State Department of Education from the Department of Public Safety shall be confidential, conspicuously marked as confidential, and not further disclosed or made available for public inspection.

(2) Any criminal history background information report received by a local employing board from the State Department of Education shall be confidential, conspicuously marked as confidential, and not further disclosed or made available for public inspection.

(b) All criminal history background information reports are specifically excluded from any requirement of public disclosure as a public record as the Legislature finds these documents to be sensitive personnel records.

(c) Transmittal of any criminal history background information at any time shall be accomplished in a nontransparent package, sealed, and marked confidential with instructions to be opened only by the person named on the package and authorized to receive the information pursuant to this chapter.

(d) Without additional public disclosure, the following actions shall not be construed to violate this section:

(1) Showing the report of criminal history background information to the applicant for certification, applicant for employment, current employee, or current employee under review to give him or her the opportunity to challenge the report.

(2) Releasing the report to a court of competent jurisdiction in the event of litigation brought by the applicant for certification, applicant for employment, current employee, or current employee under review.

(3) Use of the information in preparation, investigation, and presentation during administrative proceedings involving revocation of certification or suitability determination brought by the State Superintendent of Education, termination by the employer, or restriction on unsupervised access to a child in an educational setting.

(e) Any person having access to criminal history background information check reports and releasing same as provided herein, shall be required to maintain a register consistent with the National Child Protection Act of 1993, Public Law 103-209, 42 U.S.C. 5119, et seq.

(f) Nothing in this chapter shall be construed to prohibit the distribution of employment or certification status through the National Association of State Directors of Teacher Education and Certification Educator Identification Clearinghouse.

*(Act 99-361, p. 566, §10; Act 2002-457, p. 1171, §1.)*

### **Section 16-27-1.**

#### **State Board of Education to prescribe rules and regulations.**

The State Board of Education shall prescribe rules and regulations:

(1) Requiring all local boards of education which provide transportation services for pupils going to and from public elementary and secondary schools of Alabama or in school-related activities, and the presidents of all state community, junior and technical colleges and directors of all state technical institutes and trade schools which provide transportation services for pupils going to and from said technical institutes and trade schools or community, junior and technical colleges to employ a competent supervisor or manager of such transportation services, whether such transportation services are provided in publicly owned or privately owned buses;

(2) Requiring periodic safety inspection of all vehicles used for transporting pupils, whether such vehicles are publicly or privately owned;

(3) Requiring and providing for special training and licensing of drivers of all vehicles used to transport pupils to and from school and in all school-related activities, whether such vehicles are publicly owned and operated or operated under contract with a private owner.

*(Acts 1969, No. 281, p. 614, §1.)*

### **Section 16-27-2.**

#### **Transportation of community, junior and technical college, etc., students on public school buses.**

(a) A student attending a state community, junior and technical college, technical institute or trade school shall be entitled to receive transportation on a public school bus; provided, that no community, junior and technical college, technical institute and trade school bus service is available to such student, such student lives along a route usually served by a public school bus and there is space available in such public school bus for the safe transportation of additional students.

(b) The county boards of education whose school buses are being used shall adopt such rules and regulations necessary to carry out the provisions and intent of this section.

*(Acts 1966, Ex. Sess., No. 448, p. 621, §§1, 2.)*

### **Section 16-27-3.**

#### **Safety inspections by state school bus inspectors; reporting and remedying deficiencies; records and reports.**

(a) Safety inspections provided for in the rules herein above mentioned shall be made by authorized, qualified State Department of Education employees and shall be made at least once each year and more often when, in the judgment of the State Superintendent of Education, such inspections should be made. The State Director of Public Safety shall advise and consult with the State Department of Education relative to the type and manner of inspections to be made and the scheduling thereof. When a safety check by a state school bus inspector indicates that a bus does not meet the safety standards set up by the State Board of Education, the inspector shall immediately report this fact to the local board of education using such bus. The report shall define the deficiency and prescribe the immediate status of the bus regarding its use; and any bus found by the inspector to be unsafe for operation shall not be used to transport pupils until appropriate repairs have been made. Any restrictions placed on a school bus by an official inspector can be lifted only:

- (1) When a follow-up inspection reveals that the deficiency has been removed; or
- (2) When the local superintendent of education certifies to the State Department of Education that the prescribed repairs or corrections have been made.

(b) Records and reports relative to such inspections and corrections shall be made on forms prescribed by the State Board of Education. Such records and reports shall be maintained on file by the local board of education for a minimum period of one year.

*(Acts 1969, No. 281, p. 614, §2; Acts 1971, No. 970, p. 1727.)*

### **Section 16-27-4.**

#### **Licensing of drivers.**

Regulations made pursuant to an order of the board of education requiring and providing for special training and licensing of drivers of vehicles used to transport pupils to and from school shall require an applicant for a school bus driver's license to be the holder of a currently valid regular driver's license and to complete a minimum of 12 clock-hours of approved instruction in school bus driving and to pass satisfactorily a written examination and also a driving performance test. The written examination shall be designed by the State Superintendent of Education with the cooperation of the State Director of Public Safety and may be given to the applicant either by an employee of the

State Department of Education or a state trooper or other representative of the State Department of Public Safety as the State Superintendent of Education and the director of public safety agree; but the driving performance test shall be given by a state trooper or other representative of the State Department of Public Safety. The plan for the performance test shall, however, be submitted to and approved by the State Superintendent of Education before the performance test is given. If the applicant for a school bus driver's license satisfactorily passes the test, the testing officer shall report this fact to the State Superintendent of Education and shall send a copy of such report to the local superintendent of education of the county or city where the applicant desires a job as a school bus driver.

Upon receipt of the testing officer's report of an applicant having satisfactorily passed the examinations, the State Superintendent of Education shall issue a special school bus driver's license. Such license shall be valid for one year from the date of its issuance and may be renewed annually for an additional year if the applicant attends a four clock-hour training session for school bus drivers conducted in such manner as the State Superintendent of Education prescribes. Such rules may also provide for the issuance of temporary permits or licenses for school bus drivers who have had a minimum of four clock-hours of instruction conducted by representatives of a local board of education. Holders of such temporary licenses shall only be employed for the purpose of filling vacancies which develop between scheduled training periods, and such temporary licenses shall be valid for a maximum of six months only.

*(Acts 1969, No. 281, p. 614, §3; Acts 1971, No. 970, p. 1727; §1; Acts 1982, No. 82-618, p. 1170, §1.)*

### **Section 16-27-7.**

#### **Vehicle liability insurance for employees required to transport pupils.**

(a) The State Board of Education, each governing board of Alabama's public senior universities and each city and county board of education shall provide vehicle liability insurance for bus drivers or any other employee who is required to transport pupils. Said vehicle liability insurance shall cover personal liabilities for bus drivers or any other employee who is required to transport pupils. Said liability insurance shall be applicable to moving vehicular accidents only.

(b) School boards and other agencies covered by this section shall be deemed to be in compliance with the requirements of this section by either purchasing a liability insurance policy naming drivers as insureds, or if the employing board elects not to purchase a policy, by reimbursing individual employees for amounts necessary to add "drive other car broad form liability" riders to their individual vehicle liability insurance policies, to the limits specified by the employing board or agency.

(c) The provisions of this section shall also apply to the Alabama Department of Youth Services and the Alabama Institute for Deaf and Blind.

*(Acts 1984, No. 84-191, p. 300, §§1, 2.)*

**Section 16-27-8.**

**School buses - Crossing control arm required.**

(a) No new school bus registered in this state and purchased after August 1, 2000, to transport public and nonpublic school students shall be operated or used as a school bus within this state unless the bus is equipped with a crossing control arm on the front of the bus that conforms to equipment and installation standards promulgated by the State Board of Education pursuant to the Administrative Procedure Act, Chapter 22 of Title 41, commencing with Section 41-22-1.

(b) Priority in the use of any new school bus equipped with a crossing arm shall be given to the transportation of elementary school students.

(c) A crossing arm meeting the standards promulgated by the board shall be designed to swing out at least seventy inches from the front of a school bus each time the bus stops and opens its doors for school children to enter or exist the bus.

*(Act 2000-701, p. 1424, §§1, 2; Act 2004-484, §1.)*

**Section 16-28-2.2.**

**Establishment of program by local boards to inform parents of educational responsibilities.**

(a) Local boards of education, pursuant to guidelines established by the State Board of Education, shall establish educational programs to inform parents of school children of their education-related responsibilities to their children. The programs shall include, but shall not be limited to, coverage of each of the following topics:

(1) The criminal liability and criminal sanctions parents may be subject to under Section 16-28-12, for failing to compel their child to properly conduct himself or herself as a pupil, or for failing to ensure that their child attends school or enrolls in school.

(2) The necessity for a parent to monitor and supervise the school work and educational activities of the child.

(3) An explanation of the responsibilities of teachers and the school system to a child, and an enumeration of those matters that are strictly the responsibility of the parent.

(4) Techniques and suggestions to enable a parent to best supervise the school work and educational activities of the child.

(5) An explanation of the interrelationship of the family life of a child and the educational achievement of the child.

(b) The State Board of Education and local boards of education shall develop strategies to ensure that parents of school children receive this information. These strategies may include provisions for weekend meetings, one-to-one conferences, telephone communications, and neighborhood meetings.

(c) Local district attorneys and law enforcement officials shall, at the request of the local board of education, assist in the implementation and operation of this section.

*(Acts 1993, No. 93-672, p. 1213, §2.)*

### **Section 16-28-12.**

**Person in loco parentis responsible for child's school attendance and behavior; noncompliance; local boards to promulgate written behavior policy, contents, annual distribution, receipt to be documented; school officials required to report noncompliance; failure to report suspected violation; district attorneys vigorously to enforce provisions.**

(a) Each parent, guardian, or other person having control or custody of any child required to attend school or receive regular instruction by a private tutor who fails to have the child enrolled in school or who fails to send the child to school, or have him or her instructed by a private tutor during the time the child is required to attend a public school, private school, church school, denominational school, or parochial school, or be instructed by a private tutor, or fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in any public school in accordance with the written policy on school behavior adopted by the local board of education pursuant to this section and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one hundred dollars (\$100) and may also be sentenced to hard labor for the county for not more than 90 days. The absence of a child without the consent of the principal teacher of the public school he or she attends or should attend, or of the tutor who instructs or should instruct the child, shall be prima facie evidence of the violation of this section.

(b) Each local public board of education shall adopt a written policy for its standards on school behavior. Each local public school superintendent shall provide at the commencement of each academic year a copy of the written policy on school behavior to each parent, guardian, or other person having care or control of a child who is enrolled. Included in the written policy shall be a copy of this section. The signature of the student and the parent, guardian, or other person having control or custody of the child shall document receipt of the policy.

(c) Any parent, guardian, or other person having control or custody of any child enrolled in public school who fails to require the child to regularly attend the school or tutor, or fails to compel the child to properly conduct himself or herself as a pupil in accordance with the written policy on school behavior adopted by the local board of education and documented by the appropriate school official which conduct may result in the suspension of the pupil, shall be reported by the principal to the superintendent of

education of the school system in which the suspected violation occurred. The superintendent of education or his or her designee shall report suspected violations to the district attorney within 10 days. Any principal or superintendent of education or his or her designee intentionally failing to report a suspected violation shall be guilty of a Class C misdemeanor. The district attorney shall vigorously enforce this section to ensure proper conduct and required attendance by any child enrolled in public school.

*(School Code 1927, §305; Code 1940, T. 52, §302; Acts 1993, No. 93-672, p. 1213, §1; Acts 1994, 1st Ex. Sess., No. 94-782, p. 70, §1.)*

### **Section 16-28-13.**

#### **Burden of proof on person in loco parentis.**

No parent, guardian or other person having control or charge of any child shall be convicted for failure to have said child enrolled in school or for failure to send a child to school or for failure to require such child to regularly attend such school or tutor, or for failure to compel such child to properly conduct himself as a pupil, if such parent, guardian or other person having control or charge of such child can establish to the reasonable satisfaction of the court the following:

- (1) That the principal teacher in charge of said school which he attends or should attend or the tutor who instructs or should instruct said child gave permission for the child to be absent; or
- (2) That such parent, guardian or other person is unable to provide necessary books and clothes in order that the child may attend school in compliance with law, and that such parent, guardian or other person had prior to the opening of the school, or immediately after the beginning of such dependency, reported such dependent condition to the juvenile court of the county and offered to turn the child over to the State Department of Human Resources as a dependent child; or
- (3) That such parent, guardian or other person has made a bona fide effort to control such child and is unable to do so, and files in court a written statement that he is unable to control such child; or
- (4) That there exists a good cause or valid excuse for such absence; or
- (5) That such parent, guardian or other person has made a bona fide, diligent effort to secure the regular attendance of such child and that the absence was without his knowledge, connivance or consent.

A good cause or valid excuse, as used in this section, exists when on account of sickness or other condition attendance was impossible or entirely inadvisable or impracticable or when, by virtue of the extraordinary circumstances, the absence is generally recognized as excusable.

*(School Code 1927, §306; Code 1940, T. 52, §303.)*

**Section 16-28-14.**

**Habitual truant.**

In case any child becomes an habitual truant, or because of irregular attendance or misconduct has become a menace to the best interest of the school which he is attending or should attend, and the parent, guardian or other person files a written statement in court as provided in Section 16-28-13, stating that he is unable to control such child, the attendance officer must file a complaint before the judge of the juvenile court of the county, alleging the facts, whereupon such child must be proceeded against in the juvenile court for the purpose of ascertaining whether such child is a dependent, neglected or delinquent child.

*(School Code 1927, §307; Code 1940, T. 52, §304.)*

**Section 16-28-16.**

**Cases of nonenrollment and nonattendance; withdrawal of enrollment.**

(a) It shall be the duty of the county superintendent of education or the city superintendent of education, as the case may be, to require the attendance officer to investigate all cases of nonenrollment and of nonattendance. In all cases investigated where no valid reason for nonenrollment or nonattendance is found, the attendance officer shall give written notice to the parent, guardian, or other person having control of the child. In the event of the absence of the parent, guardian, or other person having control of the child from his or her usual place of residence, the attendance officer shall leave a copy of the notice with some person over 12 years of age residing at the usual place of residence, with instructions to hand the notice to the parent, guardian, or other person having control of the child, which notice shall require the attendance of the child at the school within three days from the date of the notice. In the event the investigation discloses that the nonenrollment or nonattendance was without valid excuse or good reason and intentional, the attendance officer shall be required to bring criminal prosecution against the parent, guardian, or other person having control of the child.

(b) Each child who is enrolled in a public school shall be subject to the attendance and truancy provisions of this article except that any parent or parents, guardian or guardians who voluntarily enrolls their child in public school, who feels that it is in the best interest of that child shall have the right to withdraw the child at anytime prior to the current compulsory attendance age.

*(School Code 1927, §314; Code 1940, T. 52, §311; Act 99-705, 2nd Sp. Sess., p. 222, §1; Act 2001-344, p. 446, §1.)*

**Section 16-28-17.**

**When child may be taken into custody.**

It shall be the duty of the attendance officer, probation officer or other officer authorized to execute writs of arrest to take into custody without warrant any child required to attend school or be instructed by a private tutor who is found away from home and not in the custody of the person having charge or control of such child during school hours and who has been reported by any person authorized to begin proceedings or prosecutions under the provisions of this article as a truant. Such child shall forthwith be delivered to the person having charge or control of said child or to the principal teacher of the school or the private tutor from whom said child is a truant. If such child is an habitual truant, he shall be brought before the juvenile court for such disposition as the judge of said court finds proper from the facts.

*(School Code 1927, §315; Code 1940, T. 52, §312.)*

**Section 16-28-40.**

**License applicant under 19 to provide documentation of school enrollment, etc.; duties of school attendance official; withdrawal from school; conviction for certain pistol offenses.**

(a) The Department of Public Safety shall deny a driver's license or a learner's license for the operation of a motor vehicle to any person under the age of 19 who does not, at the time of application, present a diploma or other certificate of graduation issued to the person from a secondary high school of this state or any other state, or documentation that the person: (1) is enrolled and making satisfactory progress in a course leading to a general educational development certificate (GED) from a state approved institution or organization, or has obtained the certificate; (2) is enrolled in a secondary school of this state or any other state and has not at the time of application accumulated disciplinary points while a student in school that would extend the age of eligibility for the student to apply for a driver's license; (3) is participating in a job training program approved by the State Superintendent of Education; (4) is gainfully and substantially employed; (5) is a parent with the care and custody of a minor or unborn child; (6) has a physician certify that the parents of the person depend on him or her as their sole source of transportation; or (7) is exempted from this requirement due to circumstances beyond his or her control as provided in this chapter.

(b) The attendance officer or chief attendance administrator, upon request, shall provide documentation of enrollment status and disciplinary points on a form approved by the Department of Education to any student 15 years of age or older who is properly enrolled in a school under the jurisdiction of the official, for presentation to the Department of Public Safety, on application for, or renewal or reinstatement of, a driver's license or a learner's license to operate a motor vehicle. Whenever a student 16 years of age or older withdraws from school, the attendance officer or chief attendance administrator shall

notify the Department of Public Safety of the withdrawal. Withdrawal shall be defined as more than 10 consecutive or 15 days total unexcused absences during a single semester.

(c) Within five days of receipt of a notice of withdrawal, the Department of Public Safety shall send notice to the licensee that his or her driver's license or learner's license will be suspended under this article on the 30th day following the date the notice was sent unless documentation of compliance with this article is received by the department before the 30th day.

(d) Whenever the withdrawal from school of the student, or the failure of the student to enroll in a course leading to or to obtain a GED or high school diploma, is beyond the control of the student, or is for the purpose of transfer to another school as confirmed in writing by the parent or guardian of the student, or is for the purpose of participating in a job training program approved by the State Superintendent of Education, no notice shall be sent by the proper school official to the Department of Public Safety to suspend the license of the student. If the student is applying for or renewing a driver's license or a learner's license, the attendance officer or chief attendance administrator, upon request, shall provide the student with documentation to present to the Department of Public Safety to exempt the student from this section. The local superintendent of education with the assistance of the county or city school attendance director as the case may be, and any other staff or school personnel, or the appropriate school official of any private secondary school, shall be the sole judge of whether the withdrawal is due to circumstances beyond the control of the person. Suspension or expulsion from school or imprisonment in a jail or penitentiary is not a circumstance beyond the control of a person.

(e)(1) Any person over the age of 14 who is convicted of the crime of possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 shall be denied issuance of a driver's permit or license for the operation of a motor vehicle for 180 days from the date the person is eligible and applies for a permit or license for the operation of a motor vehicle. Any adjudication as a juvenile delinquent or youthful offender where the underlying charge is the possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 shall be considered a conviction under this subsection, and the adjudication of a person as a juvenile delinquent or youthful offender where the underlying charge is a violation under Section 13A-11-72 shall be reported to the Department of Public Safety.

(2) If a person over the age of 14 years possesses a driver's license on the date of conviction, the Department of Public Safety, within five days of receipt of a notice of conviction from the court, shall send notice to the licensee that his or her driver's license will be suspended. The notice shall state that the license will be suspended for 180 days commencing on the 30th day following the date the notice was sent unless documentation is received by the department before the 30th day that the person was not convicted of the crime. Upon the appropriate date, the department shall suspend the license.

(3) Upon the written request of the person whose license is denied or suspended, the Department of Public Safety shall afford the person an opportunity for a hearing in the same manner and under the procedure used for other driver's license suspensions. If the suspension or denial of issuance determination is sustained by the Director of the Department of Public Safety or the authorized agent of the director, upon such hearing, the person may file a petition in the appropriate court to review the final order of suspension or denial by the director or the authorized agent of the director in the same

manner and under the same conditions as is provided in the case of suspensions and denials.

(4) If the conviction is reversed within the 180-day period, the department, upon receipt of notice of the reversal from the Administrative Office of Courts, shall reinstate a suspended license and shall accept an application for a license and shall issue the license according to law and regulation.

(5) The court shall notify the Department of Public Safety of the conviction of a person over the age of 14 of a crime involving the possession of a pistol on the premises of a public school, or a public school bus, or both, under Section 13A-11-72 and any reversal of the conviction. The Administrative Office of Courts may promulgate necessary rules and regulations to implement this notification procedure.

*(Acts 1993, No. 93-368, p. 628, §1; Acts 1994, 1st Ex. Sess., No. 94-820, p. 138, §1; Act 2009-713, §3.)*

### **Section 16-28A-1.**

#### **Legislative findings.**

It is the finding of the Alabama Legislature that the people of Alabama have two basic expectations of their public schools: (1) that students be allowed to learn in a safe classroom setting where order and discipline are maintained; and (2) that students learn at the level of their capabilities and achieve accordingly. The Legislature finds further that every child in Alabama is entitled to have access to a program of instruction which gives him or her the right to learn in a non-disruptive environment. No student has a right to be unruly in his or her classroom to the extent that such disruption denies fellow students of their right to learn. The teacher in each classroom is expected to maintain order and discipline. Teachers are hereby given the authority and responsibility to use appropriate means of discipline up to and including corporal punishment as may be prescribed by the local board of education. So long as teachers follow approved policy in the exercise of their responsibility to maintain discipline in their classroom, such teacher shall be immune from civil or criminal liability. It shall be the responsibility of the local boards of education and the administrators employed by them to provide legal support to each teacher exercising his or her authority and responsibility to maintain order and discipline in his or her classroom as long as the teacher follows the local board of education's policy. Such support for the teacher shall include, but not be limited to, providing appropriate legal representation to defend the teacher against charges, filing of a written report pursuant to Section 16-1-24, seeking the issuance of a warrant or warrants for any person or persons threatening or assaulting a teacher, and the timely assistance and cooperation with the appropriate authorities in the prosecution of any person or persons threatening or assaulting a teacher. Local school board authorities and school administrators providing such support shall be absolutely immune from civil and criminal liability for actions authorized or required by this section.

*(Acts 1995, No. 95-539, p. 1121, §1.)*

**Section 16-28A-2.**

**Exemption of teachers and other employees from application of Title 26.**

The provisions of Title 26 shall not apply to public school teachers in relation to corporal punishment of students when the punishment is consistent with established written policies of the employing board of education. Neither shall the provisions of Title 26 apply to public school teachers or other employees while maintaining order and discipline in the classroom and on public school property, including school buses, consistent with written policies of the employing board of education.

*(Acts 1995, No. 95-539, p. 1121, §2.)*

**Section 16-28A-3.**

**Local boards of education required to develop and disseminate student discipline and behavior policies.**

To fully implement the provisions of this chapter, the State Board of Education shall require each local board of education to develop a written policy on student discipline and behavior and to broadly disseminate them following its adoption. Copies of the student discipline and behavior policy shall be given to all teachers, staff, parents and students.

*(Acts 1995, No. 95-539, p. 1121, §3.)*

**Section 16-28A-4.**

**Immunity for teachers or administrators who report suspected drug abuse.**

A teacher or administrator who, in good faith, reports suspected drug abuse by a student to the appropriate authorities shall be immune from civil or criminal liability.

*(Acts 1995, No. 95-539, p. 1121, §4.)*

**Section 16-28A-5.**

**Immunity for other authorized school personnel.**

It is the intent of the Legislature to include under the provisions of this chapter, principals, assistant principals and any other school personnel authorized to use corporal punishment under the policies and guidelines developed by the local board of education.

*(Acts 1995, No. 95-539, p. 1121, §5.)*

### **Section 16-28B-1.**

#### **Short title.**

This chapter shall be known and may be cited as the Student Harassment Prevention Act.

*(Act 2009-571, §1.)*

### **Section 16-28B-2.**

#### **Legislative intent.**

It is the intent of the Legislature to provide for the adoption of policies in public school systems to prevent the harassment of students. It is the further intent of the Legislature that this chapter apply only to student against student harassment, intimidation, violence, and threats of violence in the public schools of Alabama, grades prekindergarten through 12, and that the State Department of Education develop, and each local board of education adopt procedural policies to manage and possibly prevent these acts against any student by another student or students based on the characteristics of a student.

Additionally, it is the intent of the Legislature that the filing of a complaint of harassment be in writing and submitted by the affected student, or the parent or guardian of the affected student, and not by an education employee on behalf of an affected student or his or her parent or guardian.

*(Act 2009-571, §2.)*

### **Section 16-28B-3.**

#### **Definitions.**

The following terms have the following meanings:

(1) DEPARTMENT. The State Department of Education.

(2) HARASSMENT. A continuous pattern of intentional behavior that takes place on school property, on a school bus, or at a school-sponsored function including, but not limited to, written, electronic, verbal, or physical acts that are reasonably perceived as being motivated by any characteristic of a student, or by the association of a student with an individual who has a particular characteristic, if the characteristic falls into one of the categories of personal characteristics contained in the model policy adopted by the department or by a local board. To constitute harassment, a pattern of behavior may do any of the following:

a. Place a student in reasonable fear of harm to his or her person or damage to his or her property.

b. Have the effect of substantially interfering with the educational performance, opportunities, or benefits of a student.

- c. Have the effect of substantially disrupting or interfering with the orderly operation of the school.
  - d. Have the effect of creating a hostile environment in the school, on school property, on a school bus, or at a school-sponsored function.
  - e. Have the effect of being sufficiently severe, persistent, or pervasive enough to create an intimidating, threatening, or abusive educational environment for a student.
- (3) **HOSTILE ENVIRONMENT.** The perception by an affected student or victim that the conduct of another student constitutes a threat of violence or harassment and that the conduct is objectively severe or pervasive enough that a reasonable person, under the circumstances, would agree that the conduct constitutes harassment, threat of assault, or assault.
- (4) **LOCAL BOARD.** A city or county board of education.
- (5) **SCHOOL.** Each public school, grades prekindergarten through 12, the Alabama Institute for Deaf and Blind, the Alabama High School of Mathematics and Science, and the Alabama School of Fine Arts.
- (6) **SCHOOL SYSTEM.** The schools under the jurisdiction of a local board.

*(Act 2009-571, §3.)*

#### **Section 16-28B-4.**

##### **Prohibited behavior; complaints; school plans or programs.**

- (a) No student shall engage in or be subjected to harassment, intimidation, violence, or threats of violence on school property, on a school bus, or at any school-sponsored function by any other student in his or her school system.
- (b) No person shall engage in reprisal, retaliation, or false accusation against a victim, witness, or other person who has reliable information about an act of harassment, violence, or threat of violence.
- (c) Any student, or parent or guardian of the student, who is the object of harassment may file a complaint outlining the details of the harassment, on a form authorized by the local board, and submit the form to the official designated by the local board to receive complaints at the school.
- (d) Each school shall develop plans or programs, including, but not limited to, peer mediation teams, in an effort to encourage students to report and address incidents of harassment, violence, or threats of violence.

*(Act 2009-571, §4.)*

## **Section 16-28B-5.**

### **Model policy.**

The department shall develop a model policy prohibiting harassment, violence, and threats of violence on school property, on a school bus, or at any school-sponsored function. The model policy, at a minimum, shall contain all of the following components:

- (1) A statement prohibiting harassment, violence, and threats of violence.
- (2) Definitions of the terms harassment, as provided in subdivision (2) of Section 16-28B-3, intimidation, and threats of violence.
- (3) A description of the behavior expected of each student.
- (4) A series of graduated consequences for any student who commits an act of intimidation, harassment, violence, or threats of violence. Punishment shall conform with applicable federal and state disability, antidiscrimination, and education laws and school discipline policies.
- (5) A procedure for reporting an act of intimidation, threat of suicide, harassment, violence, or threat of violence. An anonymous report may not be the basis for imposing formal disciplinary action against a student.
- (6) A procedure for the prompt investigation of reports of serious violations and complaints, specifying that the principal, or his or her designee, is the person responsible for the investigation.
- (7) A response procedure for a school to follow upon confirmation of an incident of intimidation, harassment, violence, or threats of violence.
- (8) A statement prohibiting reprisal or retaliation against any person who reports an act of intimidation, violence, threat of violence, or harassment, including the consequences of and any appropriate remedial action that may be taken against a person who engages in such reprisal or retaliation.
- (9) A statement of the consequences of and appropriate remedial action that may be taken against a person who has deliberately and recklessly falsely accused another.
- (10) A procedure for publicizing local board policy, including providing notice that the policy applies to participation in school-sponsored functions.
- (11) A clearly defined procedure for students to use in reporting harassment, including, but not limited to, written reports on local board approved complaint forms and written reports of instances of harassment, intimidation, violence, and threats of violence based on the personal characteristics of a student. The complaint form may be served in person or by mail on the principal, or his or her designee, or his or her office. The procedures shall be made known and be readily available to each student, employee, and the parent or guardian of each student. It is the sole responsibility of the affected student, or the parent or guardian of the affected student, to report incidences of harassment to the principal, or his or her designee.
- (12) A procedure for promulgating rules to implement this chapter, including the development of a model student complaint form. The department shall seek public input in developing and revising the model policy, model complaint form, and any other necessary forms.
- (13) A procedure for the development of a nonexhaustive list of the specific personal characteristics of a student which may often lead to harassment. Based upon experience,

a local board of education may add, but not remove, characteristics from the list. The additional characteristics or perceived characteristics that cause harassment shall be identified by the local board on a case-by-case basis and added to the local board policy. The list shall be included in the code of conduct policy of each local board.

*(Act 2009-571, §5.)*

### **Section 16-28B-6.**

#### **Duties of schools.**

Each school shall do all of the following:

- (1) Develop and implement evidence-based practices to promote a school environment that is free of harassment, intimidation, violence, and threats of violence.
- (2) Develop and implement evidence-based practices to prevent harassment, intimidation, violence, and threats of violence based, as a minimum, on the criteria established by this chapter and local board policy, and to intervene when such incidents occur.
- (3) Incorporate into civility, citizenship, and character education curricula awareness of and sensitivity to the prohibitions of this chapter and local board policy against harassment, intimidation, violence, and threats of violence.
- (4) Report statistics to the local board of actual violence, submitted reports of threats of violence, and harassment. The local board shall provide the statistics of the school system and each school in the school system to the department for posting on the department website. The posted statistics shall be available to the public and any state or federal agency requiring the information. The identity of each student involved shall be protected and may not be posted on the department website.

*(Act 2009-571, §6.)*

### **Section 16-28B-7.**

#### **Freedoms of speech and expression.**

This chapter shall not affect the freedom of speech and freedom of expression guaranteed each student under the Constitution of the United States and the Constitution of Alabama of 1901, and other applicable statutory law provided in the Code of Alabama 1975.

*(Act 2009-571, §7.)*

**Section 16-28B-8.**

**Implementation of standards and policies.**

To the extent that the Legislature shall appropriate funds, or to the extent that any local board may provide funds from other sources, each school system shall implement the following standards and policies for programs in an effort to prevent student suicide:

- (1) Foster individual, family, and group counseling services related to suicide prevention.
- (2) Make referral, crisis intervention, and other related information available for students, parents, and school personnel.
- (3) Foster training for school personnel who are responsible for counseling and supervising students.
- (4) Increase student awareness of the relationship between drug and alcohol use and suicide.
- (5) Educate students in recognizing signs of suicidal tendencies and other facts and warning signs of suicide.
- (6) Inform students of available community suicide prevention services.
- (7) Promote cooperative efforts between school personnel and community suicide prevention program personnel.
- (8) Foster school-based or community-based, or both, alternative programs outside of the classroom.
- (9) Develop a strategy to assist survivors of attempted suicide, students, and school personnel in coping with the issues relating to attempted suicide, suicide, the death of a student, and healing.
- (10) Engage in any other program or activity which the local board determines is appropriate and prudent in the efforts of the school system to prevent student suicide.
- (11) Provide training for school employees and volunteers who have significant contact with students on the local board policies to prevent harassment, intimidation, violence, and threats of violence.
- (12) Develop a process for discussing with students local board policies relating to the prevention of student suicide and to the prevention of harassment, intimidation, violence, and threats of violence.

*(Act 2009-571, §8.)*

**Section 16-28B-9.**

**Adoption of local policies.**

Each local board shall establish a policy in compliance with this chapter on or before July 1, 2010. Each local policy or model policy adopted by a local board or the department, respectively, shall be consistent with this chapter.

*(Act 2009-571, §9.)*

**Section 32-5A-154.**

**Overtaking and passing school bus or church bus; penalties and fines.**

(a) The driver of a vehicle upon meeting or overtaking from either direction any school bus which has stopped for the purpose of receiving or discharging any school children on a highway, on a roadway, on school property, or upon a private road or any church bus which has stopped for the purpose of receiving or discharging passengers shall bring the vehicle to a complete stop before reaching the school or church bus when there is in operation on the school or church bus a visual signal as specified in Section 32-5A-155. The driver shall not proceed until the school or church bus resumes motion or is signaled by the school or church bus driver to proceed or the visual signals are no longer actuated.

(b) Every bus used for the transportation of school children shall bear upon the front and rear thereof plainly visible signs containing the words "school bus" in letters not less than eight inches in height, and in addition shall be equipped with visual signals meeting the requirements of Section 32-5A-155, which shall be actuated by the driver of the school bus only when the vehicle is stopped for the purpose of receiving or discharging school children. The visual signals shall not be actuated at any other time.

(d) The driver of a vehicle upon a divided highway having four or more lanes which permits at least two lanes of traffic to travel in opposite directions need not stop the vehicle upon meeting a school or church bus which is stopped in the opposing roadway or if the school or church bus is stopped in a loading zone which is a part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway.

(e) If the driver of any vehicle is witnessed by a peace officer or the driver of a school bus to have violated this section and the identity of the driver of the vehicle is not otherwise apparent, it shall be an inference that the person in whose name such vehicle is registered committed the violation. In the event that charges are filed against multiple owners of a motor vehicle, only one of the owners may be convicted and court costs may be assessed against only one of the owners. If the vehicle which is involved in the violation is registered in the name of a rental or leasing company and the vehicle is rented or leased to another person at the time of the violation, the rental or leasing company may rebut the inference by providing the peace officer or prosecuting authority with a copy of the rental or lease agreement in effect at the time of the violation.

(f)(1) Upon first conviction, a person violating subsection (a) shall be punished by a fine of not less than one hundred fifty dollars (\$150) nor more than three hundred dollars (\$300).

(2) On a second conviction, a person convicted of violating subsection (a) shall be punished by a fine of not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) and shall complete at least 100 hours of community service. In addition, the Director of the Department of Public Safety shall suspend the driving privileges or driver's license of the person convicted for a period of 30 days.

(3) On a third conviction, a person convicted of violating subsection (a) shall be punished by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) and shall complete at least 200 hours of community service. In addition, the Director of the Department of Public Safety shall suspend the driving privileges or driver's license of the person convicted for a period of 90 days.

(4) On a fourth or subsequent conviction, a person convicted of violating subsection (a) shall be guilty of a Class C felony and punished by a fine of not less than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000). In addition to the other penalties authorized, the Director of the Department of Public Safety shall revoke the driving privileges or driver's license of the person convicted for a period of one year.

(g) Any law to the contrary notwithstanding, the Alabama habitual felony offender law shall not apply to a conviction of a felony pursuant to subsection (f), and a conviction of a felony pursuant to subsection (f) shall not be a felony conviction for purposes of the enhancement of punishment pursuant to Alabama's habitual felony offender law.

(h) All fines and penalties imposed pursuant to this section shall be forwarded immediately upon collection by the officer of the court who collects the proceeds to the general fund of the respective agency that enforced this section.

(i) Neither reckless driving nor any other traffic infraction is a lesser included offense under a charge of overtaking and passing a school bus or church bus.

*(Acts 1980, No. 80-434, p. 604, §7-106; Act 2006-311, p. 660, §1.)*

### **Section 34-23-7.**

#### **Illegal possession of prescription drugs.**

Any person found in possession of a drug or medicine limited by law to dispensation by a prescription, unless such drug or medicine was lawfully dispensed, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000.00 and, in addition thereto, may be imprisoned in the county jail for hard labor for not more than one year. This section shall not apply to a licensed pharmacy, licensed pharmacist, wholesaler, manufacturer or his representative acting within the line and scope of his employment, physician, veterinarian, dentist or nurse acting under the direction of a physician, nor to a common carrier or messenger when transporting such drug or medicine in the same unbroken package in which the drug or medicine was delivered to him for transportation.

*(Acts 1966, Ex. Sess., No. 205, p. 231, §31.)*

### **Section 36-19-9.**

#### **Promulgation of regulations for fire prevention and protection of any construction or building, etc., and keeping, storing, etc., of explosives, etc., by fire marshal.**

The fire marshal, subject to the approval of the commissioner of insurance, shall make regulations for fire prevention and protection of any construction or building, exits or other safety measures and the keeping, storing, use, manufacture, sale, handling, transportation or other disposition of rubbish and highly inflammable materials, gunpowder, dynamite, carbide, crude petroleum or any of its products, explosives or

inflammable fluids or compounds, tablets, torpedoes or any explosive of like nature including all fireworks, and may prescribe the material and construction of receptacles and buildings to be used for any of said purposes.

*(Acts 1919, No. 701, p. 1013; Code 1923, §966; Code 1940, T. 55, §38; Acts 1971, No. 1982, p. 3230.)*

**Section 36-19-10.**

**Regulation of fire drills and doors and exits in schools, factories, hospitals, etc.**

The fire marshal, his deputies and assistants shall require officials and teachers of public and private schools and educational institutions to have at least one fire drill each month and to have all doors and exits at such schools and educational institutions open out and that all such doors and exits shall be unlocked during school hours and that the doors and exits of factories, asylums, hospitals, churches, halls, theatres, amphitheatres and other places in which numbers of persons live, work or congregate from time to time, for any purpose or purposes, shall open out.

*(Acts 1919, No. 701, p. 1013; Code 1923, § 981; Code 1940, T. 55, §55.)*

***EDUCATION LAWS  
FROM THE  
2010 REGULAR SESSION***

## *Laws related to School Safety passed during this session*

[HB0144](#) Rep. Arthur Payne ENACTED **ACT 2010-129**

**SEX OFFENDERS PROHIBITED FROM DRIVING SCHOOL BUS.** This bill would prohibit sex offenders from obtaining a commercial driver's license, driving/operating a passenger vehicle or driving/operating a school bus (P and S endorsement). *This bill specifically states that it becomes effective July 10, 2010.*

[HB0037](#) Rep. Chad Fincher ENACTED **ACT 2010-264**

**REVOCAION OF TEACHING CERTIFICATE.** This bill would require the State Superintendent of Education to revoke the teaching certificate or other educational certificate of any person convicted of a Class A felony or sex offense involving a child. *This bill is effective immediately.*

[HB0038](#) Rep. Demetrius Newton ENACTED **ACT 2010-497**

**SEXUAL CONTACT WITH STUDENT.** This bill would make it a crime for a school employee to engage in a sex act or have sexual contact with a student, male or female, regardless of the age of the student. *This bill becomes effective July 1, 2010.*

[HB0459](#) Rep. Earl Hilliard ENACTED **ACT 2010-746**

**REQUIRING SAFE ROOM/SAFE HALLWAY IN NEW PUBLIC K-12 SCHOOL CONSTRUCTION.** This bill would require any new public K-12 school construction to include an Alabama Building Commission approved safe space or hallway. *This bill becomes effective July 1, 2010.*

[HB0065](#) Rep. Mac Gipson ENACTED **ACT 2010-735**

**GRADUATED DRIVER'S LICENSE AND LEARNER'S PERMIT CHANGES.** This bill amends various conditions relating to driver's licenses and learner permits. *This bill becomes effective July 1, 2010.*

***ALABAMA ADMINISTRATIVE CODE***

## ALABAMA ADMINISTRATIVE CODE

SUPP 99-3

SCHOOL SAFETY AND DISCIPLINE ACCOUNTABILITY

290-4-1

(4) School Safety and Discipline Accountability. The State Board of Education will utilize one or both of the following criteria to determine if intervention by the State Superintendent is necessary as required by the Code of Ala. (1975), § 16-6B-5:

(a) Failure of a school or school system to develop and implement the policies, rules, laws, and regulations relative to school safety and discipline as published and disseminated annually by the State Superintendent.

(b) Failure of a school or school system to respond to legitimate and documented school safety and discipline concerns/incidents as determined by the State Superintendent after investigating the concerns/incidents. The State Superintendent will investigate the following requests/incidents to determine if assignment of SDE personnel to a school or school system for school safety and discipline assistance is warranted:

1. A written request by official action of a local parent/professional/community organization (e.g., PTA/PTO; ACSAS; civic club), or by a majority of the employees of a school or school system to the State Superintendent with evidence that a request was first submitted to the school principal; secondly, the school system superintendent; and thirdly, the local board of education relative to specific school safety and discipline issues and no action was taken or action was inadequate as determined by the State Superintendent.

2. A written request by official action of a school sanctioned student organization to the State Superintendent with evidence that a request was first submitted to the school principal; secondly, the school system superintendent; and thirdly, the local board of education relative to specific school safety and discipline issues and no action was taken or action was inadequate as determined by the State Superintendent.

3. A written request by a local school principal with evidence that a request was first submitted to the local school superintendent and next, to the local board of education relative to specific school safety and discipline issues and no action was taken or action was inadequate as determined by the State Superintendent.

4. An official request by a local superintendent of education.

5. An official request by a majority vote of a local board of education.

6. A person is killed or seriously injured at school or a school related activity as a result of a violent act.

(5) Release from Financial, Academic, or School Safety & Discipline Intervention. Intervention for financial and/or school safety and discipline reasons shall remain in place until such time as either condition improves to an acceptable standard as determined by the State Superintendent. A local board may petition the State Board of Education for release from the state intervention by showing acceptable improvement on financial stability, safety and discipline, or for other just cause. The State Board, following a hearing, shall have final determination on the matter of release from state intervention.

**Author:** Ed Richardson

**Statutory Authority:** Ala. Const. amend. 284, Code of Ala. (1975), §§ 16-4-8, 16-6B-3, 16-6B-4, 16-6B-6.

**History:** New January 26, 1976. Amended: November 28, 1978, December 12, 1978, April 10, 1980, March 17, 1982. **Amended:** Filed April 12, 1996; effective May 17, 1996. Amended: Filed July 18, 1996; effective August 22, 1996. **Amended:** Filed August 20, 1996; effective September 24, 1996. Amended: Filed September 13, 1996; effective October 18, 1996. Amended: Filed July 21, 1997; effective August 25, 1997. **Amended:** Filed April 09, 1999; effective May 14, 1999. Amended: Filed February 10, 2000; effective March 16, 2000. **Ed. Note:** The entire Chapter 290-040-010, Education Accountability, has been renumbered Chapter 290-4-1, Education Accountability, as specified on the certification filed July 18, 1996.

## SCHOOL SAFETY AND DISCIPLINE ACCOUNTABILITY

### I. Criteria for Intervention for School Safety and Discipline

The State Board of Education will utilize one or both of the following criteria to determine if intervention by the State Superintendent is necessary as required by the *Code of Ala. (1975)*, §16-6B-5.

- Failure of a school or school system to develop and implement the policies, rules, laws, and regulations relative to school safety and discipline as published and disseminated annually by the State Superintendent.
- Failure of a school or school system to respond to legitimate and documented school safety and discipline concerns/incidents as determined by the State Superintendent after investigating the concerns/incidents. The State Superintendent will investigate the following requests/incidents to determine if assignment of SDE personnel to a school or school system for school safety and discipline assistance is warranted:
  - A written request by official action of a local parent/professional/community organization (e.g., PTA/PTO; ACSAS; civic club), or by a majority of the employees of a school or school system to the State Superintendent with evidence that a request was first submitted to the school principal; secondly, the school system superintendent; and thirdly, the local board of education relative to specific school safety and discipline issues and no action was taken or action was inadequate as determined by the State Superintendent.
  - A written request by official action of a school sanctioned student organization to the State Superintendent with evidence that a request was first submitted to the school principal; secondly, the school system superintendent; and thirdly, the local board of education relative to specific school safety and discipline issues and no action was taken or action was inadequate as determined by the State Superintendent.
  - A written request by a local school principal with evidence that a request was first submitted to the local school superintendent and next, to the local board of education relative to specific school safety and discipline issues and no action was taken or action was inadequate as determined by the State Superintendent.
  - An official request by a local superintendent of education.
  - An official request by a majority vote of a local board of education.
  - A person is killed or seriously injured at school or a school related activity as a result of a violent act.

### II. Release from Financial, Academic, or School Safety and Discipline Intervention

- Intervention for financial and/or school safety and discipline reasons shall remain in place until such time as either condition improves to an acceptable standard as determined by the State Superintendent. A local board may petition the State Board of Education for release from the state intervention by showing acceptable improvement on financial stability, safety and discipline, or for other just cause. The State Board, following a hearing, shall have final determination on the matter of release from state intervention.

*\*This is the same information found on the preceding page 73. This page is enclosed in order to provide a more “reader friendly” format.*

ORGANIZATION AND RULES OF PROCEDURE

(g) The final order, referred to in 290-010-020-.05(f) above, shall be issued by the State Superintendent no later than ninety (90) calendar days after the affected party has been notified of a proposed review.

**Statutory Authority: Ala. Code §16-4-8 (1975).**

**History: New 11-10-88 effective 12-15-88.**

**290-010-020-.06 Emergency Review Procedures.**

(1) In those circumstances where an imminent health or safety risk is the subject of a review, the State Superintendent may conduct an emergency review. In such case the Superintendent shall:

(a) Notify the county or city board of education and county superintendent of education or city superintendent of schools of the imminent health or safety danger within three (3) working days of the imminent health or safety danger being brought to the attention of the State Superintendent.

(b) Except that if the imminent health or safety danger is of such a nature to require emergency action on the part of the State Superintendent, the State Superintendent may, without notice or after conducting such investigation as deemed necessary, suspend any action or order of a county or city board of education or county superintendent of education or city superintendent of schools for a period not to exceed ten (10) working days.

(c) If the State Superintendent suspends an action or order of a county or city board of education or of a county superintendent of education or a city superintendent of schools prior to the State Superintendent giving notice of the review, the county or city board of education, or county superintendent of education or city superintendent of schools shall respond to the notice in writing not later than five (5) days after receiving actual notice of the State Superintendent's review.

**Statutory Authority: Ala. Code § 16-4-8 (1975).**

**History: New 11-10-88 effective 12-15-88.**

**290-010-020-.07 Disposition.** Distribution of reviews of actions or orders of county board of education, city board of education, county superintendent of education, or city superintendent of schools.

(1) If after conducting such investigation as the State Superintendent deems necessary, the State Superintendent finds an improper action or order on the part of a county board of education, a city board of education, a county superintendent of education, or a city superintendent of schools, the state Superintendent shall report the results of the investigation and final order to the State Board of Education and to the affected county or city board of education, county superintendent of education or city superintendent of schools and shall take such action as deemed necessary to cause a just and proper disposition of the matter.

290-3-1-.02(1)

290-3-1-.02(3)(e)1.

**290-3-1-.02-.01 Regulations Governing Public Schools.**

(1) Safe School Equipment and Facilities, Laboratories, and Policies.

(a) Safety precautions must be implemented and adequate facilities must be provided for implementation of programs prescribed by SDE Bulletin(s).

(b) Effective with the 1995-96 school year and thereafter, local boards of education must:

1. Adopt a uniform policy allowing law enforcement agencies to make periodic visits to local public schools to detect the presence of illegal drugs, unannounced to anyone except the local superintendent and building principal.

2. Adopt a uniform policy prohibiting the use of tobacco products on school property and prescribing specific penalties for violating this policy.

3. Adopt and enforce a uniform policy prohibiting all persons, other than authorized law enforcement personnel, from bringing or possessing any deadly weapon or dangerous instrument on school property and prescribing specific penalties for students and school personnel who violate this policy, notwithstanding any criminal penalties which may also be imposed.

(c) Local school systems which operate alternative educational programs shall provide a curriculum that stresses skills in recognizing and managing anger, alternatives to aggression (verbal and physical assault), strategies for developing self-control and personal responsibility, skills for getting along with others, success through academic achievement, and skills for success in the workplace.

(d) All policies and actions implemented under these mandatory regulations affecting students with disabilities must comply with federal and state special education laws, regulations, and court rulings.

(e) Unsafe School Choice Option

1. Definitions: A transfer option school (TOS) in the state of Alabama is one in which for three (3) consecutive school years the school has expelled one percent (1%) of the student population or five (5) students (whichever is greater) for violent criminal offenses committed on school property during school hours or committed at school-sponsored activities. The words "transfer option school," "TOS," or "TOS school" shall mean a "persistently dangerous school" as those words are used in the No Child Left Behind Act of 2001, Public Law 107-110, Title IX, §9532(a) and (b). For the purpose of this definition, a "violent criminal offense" shall mean homicide; robbery; assault in the first and/or second degree; sexual battery (including rape) as these offenses are defined in the Criminal Code of Alabama (see § 13A-6-1, et. seq., Ala. Code 1975); and use of a handgun, firearm component, explosive, knife, and other "unknown weapons" as defined by the Student Incident Report (SIR).

2. A student who becomes a victim of a violent criminal offense committed on school property during school hours or at school-sponsored activities shall be given an opportunity to transfer to a safe public school within the LEA. The LEA shall notify the student's parent/guardian of the right to transfer as soon as practicable, not to exceed ten (10) calendar days from the date of a final determination by the school board or its designee that a violent criminal offense has occurred. All LEA transfer procedures will be observed. It shall be the policy of the Alabama State Department of Education (SDE) to notify the LEA annually when one or more of its schools have been identified as a transfer option school. Each Superintendent or his or her designee shall orally notify the Prevention and Support Services Section of the State Department of Education within twenty-four (24) hours of the decision that a violent criminal offense has occurred, followed by written confirmation. The State Department of Education will assist the LEA in resolving all safety issues. At a minimum, an LEA that has one or more schools identified as persistently dangerous must:

(a) Step 1. Notify parents/guardians of each student attending the school within ten (10) working days that it has been identified as a transfer option school and offer students the opportunity to transfer to a safe public school within the LEA if another school is available.

(b) Step 2. Complete the transfer for those students who opt to do so within 20 working days.

(c) Step 3. Develop a corrective action plan to be submitted to the SDE for approval within 20 working days of the LEA's receipt of status.

(d) Step 4. Implement the corrective action plan.

Once a school has been identified as a transfer option school, it can return to safe status by (1) completing Steps One through Four above and (2) completing two consecutive years with less than one percent (1%) of the student population or five (5) students (whichever is greater) expelled for violent criminal offenses as defined in its policy.

**Author:** Dr. Ed Richardson

**Statutory Authority:** Const. of Ala. 1901, Amend No. 284, Code of Ala. (1975), 16-1-1, 16-2-2, 16-3-11, through 12, 16-3-14, 16-4-14, 16-8-35 through 36, 16-12-8, 16-26-1 through 3, 1982 Acts of Ala. No. 82-482, *No Child Left Behind Act* of 2001, Public Law 107-110, Title IX, § 9532 (a) and (b).

**History:** Adopted ER effective March 13, 2003; adopted ER as regular rule May 8, 2003, effective June 12, 2003.

SUPP. 97-4

SECONDARY CAREER/TECHNICAL EDUCATION

290-6-1-.04(4)

290-6-1-.05(1) (a)

(6) Safety Procedures.

(a) Safety instruction shall be given prior to laboratory work, work-based learning, and at other times as needed.

(b) Programs shall be operated in compliance with federal, state and local health and safety requirements.

(c) Adequate supervision shall be provided by the career/technical teacher or appropriate designee whenever the career/technical education facilities are being utilized.

(d) Supplies and equipment shall be stored in a systematic and safe manner.

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Author: Dr. Ed Richardson.

Statutory Authority: Ala. Code §§ 16-3-12, 16-3-13, 16-37-1 et seq. (1975).

History: New 7-11-78; amended 4-13-82; repealed and adopted new 9-11-97, effective 10-24-97.

***ASSURANCE OF COMPLIANCE***

**ASSURANCE OF COMPLIANCE  
2010  
Laws and Regulations Related to School Safety**

The \_\_\_\_\_ Board of Education has adopted and is implementing policies in the following areas:

<u>Yes</u>	<u>No</u>	<u>Work In Progress</u>	<u>Projected Date Of Compliance</u>	
_____	_____	_____	_____	1. <u>Code of Alabama (1975), §16-6B-7 Accountability Reports to the Public. A School Safety and Discipline Report.</u> (a)(3) School Safety and Discipline Report was made available to the public for year 2008-2009. (b) School Safety and Discipline Report (School Incident Report [SIR] data for school year 2009-2010) was released to the State Superintendent of Education by June 18, 2010.
_____	_____	_____	_____	2. <u>Code of Alabama (1975), §16-28A-1 Corporal Punishment</u> A. The school board has adopted and implements written policies/guidelines on corporal punishment. B. The school board has adopted and implements written policy on student discipline and behavior. C. The policy on student discipline and behavior is disseminated to all teachers, staff, parents/guardians, and students as follows: ____Annually to all. ____As new students enroll during the school year.
_____	_____	_____	_____	3. <u>Code of Alabama (1975), §16-1-24.3 Gun-Free Schools</u> The school board has adopted and implements a policy to provide a gun-free environment.

<u>Yes</u>	<u>No</u>	<u>Work In Progress</u>	<u>Projected Date Of Compliance</u>
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4. *Alabama Administrative Code, Chapter 290-3-1.02(1) Regulations Governing Public Schools*
- (1) Safe School Equipment and Facilities, Laboratories, and Policies.
    - (a) Safety precautions must be implemented and adequate facilities must be provided for implementation of programs prescribed by SDE Bulletin(s).
    - (b) Effective with the 1995-96 school year and thereafter, local boards of education must
      - 1. Adopt a uniform policy allowing law enforcement agencies to make periodic visits to local public schools to detect the presence of illegal drugs, unannounced to anyone except the local superintendent and building principal.
      - 2. Adopt a uniform policy prohibiting the use of tobacco products on school property and prescribing specific penalties for violation of this policy.
      - 3. Adopt and enforce a uniform policy prohibiting all persons, other than authorized law enforcement personnel, from bringing or possessing any deadly weapon or dangerous instrument on school property and prescribing specific penalties for students and school personnel who violate this policy, notwithstanding any criminal penalties which may be imposed.

<u>Yes</u>	<u>No</u>	<u>Work In Progress</u>	<u>Projected Date Of Compliance</u>
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_____	_____	_____	_____
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(c) Local school systems which operate alternative educational programs shall provide a curriculum that stresses skills in recognizing and managing anger, alternatives to aggression (verbal and physical assault), strategies for developing self-control and personal responsibility, skills for getting along with others, success through academic achievement, and skills for success in the workplace.

_____	_____	_____	_____
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(d) All policies and actions implemented under these mandatory regulations affecting students with disabilities must comply with federal and state special education laws, regulations, and court rulings.

_____	_____	_____	_____
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5. Code of Alabama (1975), §16-28b-9 The school board has adopted and implemented a policy to prevent harassment.

Signature of Superintendent	Date
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**Please return the Assurance of Compliance for 2009-2010 by August 31, 2010, to the following address:**

Alabama State Department of Education  
 Division of Instructional Services  
 Prevention and Support Services Section  
 5227 Gordon Persons Building  
 P.O. Box 302101  
 Montgomery, AL 36130-2101

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No person shall be denied employment, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any program or activity on the basis of disability, gender, race, religion, national origin, color, age or genetics. Ref: Sec. 1983, Civil Rights Act, 42 U.S.C.; Title VI and VII, Civil Rights Act of 1964; Rehabilitation Act of 1973, Sec. 504; Age Discrimination in Employment Act; The Americans with Disabilities Act of 1990 and The Americans with Disabilities Act Amendments Act of 2008; Equal Pay Act of 1963; Title IX of the Education Amendment of 1972; Title II of the Genetic Information Nondiscrimination Act of 2008: Title IX Coordinator, P.O. Box 302101, Montgomery, Alabama 36130-2101 or call (334) 242-8165.