



**A Manual of  
State Laws and Regulations  
2005**

**SCHOOL SAFETY  
AND  
DISCIPLINE**



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# FOREWORD

This document, *A Manual of State Laws and Regulations 2005: 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 2004-2005 *Assurance of Compliance* form that can be found on pages 62-64 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.**

**Section 12-15-13:** Causing, etc., of delinquency, dependency or need of supervision of children.

**Section 12-15-14:** Disregarding, etc., of lawful order of court or interference with custody of child under jurisdiction of court.

**Section 12-15-15:** Removal, concealment, etc., of delinquent or dependent child or child in need of supervision, etc.; interference with performance of duties by probation officer, etc.

**Section 12-15-71:** Disposition of dependent children, delinquent children, multiple needs children, or children in need of supervision generally; evaluative role of children's services facilitation team; placement in alternative school.

## JUVENILE PROCEEDINGS

### Section 12-15-13

#### **Causing, etc., of delinquency, dependency or need of supervision of children.**

(a) It shall be unlawful for any parent, guardian or other person to willfully aid, encourage or cause any child to become or remain delinquent, dependent or in need of supervision or by words, acts, threats, commands or persuasions, to induce or endeavor to induce, aid or encourage any child to do or perform any act or to follow any course of conduct which would cause or manifestly tend to cause such child to become or remain delinquent, dependent or in need of supervision or by the neglect of any lawful duty or in any other manner contribute to the delinquency, dependency or need of supervision of a child. The employment of any child in violation of any of the provisions of the child labor law, or permitting, conniving at, aiding or abetting such employment shall be held to be encouraging, causing and contributing to the delinquency, dependency or need of supervision of such child. Failure on the part of any parent, guardian or other person having custody of the child to cause such child to attend school as required by the compulsory attendance law shall be held to be encouraging, causing and contributing to the delinquency, dependency or need of supervision of such child.

(b) Whenever, in the course of any proceedings under this chapter or when, by affidavit as provided in this subsection, it shall appear to the juvenile court that a parent, guardian or other person having custody, control or supervision of a child or any other person not standing in any such relation to such child has aided, encouraged or caused such child to become delinquent, dependent or in need of supervision, as defined in this chapter, or has by words, act or omission contributed thereto or has, by threats, commands or persuasion, induced or endeavored to induce, aided or encouraged such child to do or perform any act or to follow any course of conduct which would cause or manifestly tend to cause such child to become or remain delinquent, dependent or in need of supervision, the court shall, for the protection of such child from such influences, have jurisdiction in such matters, as provided in this section. The court shall cause such parent, guardian or other person to be brought before it 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 misdemeanor and, upon conviction thereof, shall be fined not more than \$500.00 or sentenced to hard labor for the county for a period not to exceed 12 months or both.

(d) Upon conviction, the court shall have the power to suspend any sentence, remit any fine or place such person on probation under such orders, directives or conditions for his discipline and supervision as the court deems fit.

*(Acts 1975, No. 1205, p. 2384, § 5-148.)*

**Section 12-15-14**

**Disregarding, etc., of lawful order of court or interference with custody of child under jurisdiction of court.**

Any person who knowingly and willfully disregards or fails to obey any lawful order made by the court under the provisions of this chapter or who knowingly and willfully interferes with the custody of any child under the jurisdiction of said court shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500.00 or sentenced to hard labor for the county for a period not to exceed six months or both. The court shall, however, have the power to suspend any sentence, remit any fine or place such person on probation under such orders, directives or conditions for his discipline and supervision as the court deems fit.

*(Acts 1975, No. 1205, p. 2384, §5-149.)*

**Section 12-15-15**

**Removal, concealment, etc., of delinquent or dependent child or child in need of supervision, etc.; interference with performance of duties by probation officer, etc.**

(a) It shall be unlawful for any person to remove, conceal or cause to be removed or concealed, or attempt so to do, any delinquent or dependent child or one in need of supervision, as defined in this chapter, or one alleged in a petition or order of transfer filed in said court to be so or any child whose custody is the subject of controversy in said court, or for any person to interfere with the custody of or remove or attempt to remove any delinquent or dependent child or one in need of supervision or one alleged so to be or any child whose custody is the subject of controversy in said court who is in the custody of the court or of a probation officer or any other officer or person designated by the court as a special officer or any such child who has been by said court committed to a department of state government, any person, persons, institution, association or corporation, under the terms of this chapter or by virtue of its general equity jurisdiction.

(b) It shall be unlawful for any person to interfere knowingly with or oppose or otherwise obstruct any probation officer or representative of the department of human resources in the performance of his duties under this chapter.

(c) Any person violating any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500.00 or sentenced to hard labor for the county for a period not to exceed 12 months or both.

(d) The court shall, however, have the power to suspend any sentence, remit any fine or place such person on probation under such orders, directives or conditions for his discipline and supervision as the court deems fit.\

*(Acts 1975, No. 1205, p. 2384, §5-150.)*

## **Section 12-15-71**

### **Disposition of dependent children, delinquent children, multiple needs children, or children in need of supervision generally; evaluative role of children's services facilitation team; placement in alternative school.**

(a) If a child is found to be dependent, the court may make any of the following orders of disposition to protect the welfare of the child:

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

(2) Place the child under protective supervision as herein provided or under the supervision of the Department of Human Resources.

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

a. The Department of Human Resources; provided, that the department is equipped to care for the child.

b. A local public child-placing agency or private organization or facility willing and able to assume the education, care, and maintenance of the child and which is licensed by the Department of Human Resources or otherwise authorized by law to receive and provide care for the child.

c. A relative or other individual who, after study by the Department of Human Resources, is found by the court to be qualified to receive and care for the child.

(4) Make any other order as the court in its discretion shall deem to be for the welfare and best interests of the child.

(5) In appropriate cases, award permanent custody to the Department of Human Resources or to a licensed child-placing agency with termination of parental rights and authorization to place for adoption, without appointing a legal guardian or guardian of the person, or award temporary custody to the same without appointing a legal custodian or guardian or guardian of the person.

(6) There shall be a rebuttable presumption that children cannot be removed from custody of parents solely because of a need for emergency housing.

(b) Unless a child found dependent shall also be found to be delinquent, the child shall not be committed to or confined in an institution established for the care and rehabilitation of delinquent children or detention facility. Nothing in this subsection shall be construed to prohibit the placement of dependent children in any other residential facility as defined in subdivision (22) of Section 12-15-1.

(c) If a child is found to be delinquent or in need of supervision, the court may make any of the following orders or dispositions for the child's supervision, care, and rehabilitation:

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

(2) Place the child on probation under conditions and limitations the court may prescribe.

- (3) Transfer legal custody to any of the following:
- a. The Department of Youth Services, with or without a commitment 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.
  - 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. A relative or other individual who, after study by the probation services, is found by the court to be qualified to receive and care for the child.
- (4) Make any other order as the 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, guardian, or child, as the court deems appropriate. Costs for court-ordered drug screening may be ordered paid for by the state out of moneys appropriated as "court costs not otherwise provided for." Any costs for drug screening recouped by order of court for drug screening shall be paid to the State General Fund. Restitution against the parent, guardian, or child shall be governed by the same principles applicable in Article 4A of Chapter 18 of Title 15 (commencing at Section 15-18-65).
- (5) Direct the parent or custodian of the child to perform such reasonable acts as are deemed necessary to promote the best interest 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 court.
- (d) No child by virtue of a disposition under 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.
- (e) No child found to be in need of supervision, unless also found to be delinquent, shall be committed to or placed in an institution or facility established for the care and rehabilitation of delinquent children unless the court finds upon a further hearing that the child is not amenable to treatment or rehabilitation under any prior disposition or unless the child is again alleged to be a child in need of supervision and the court, after hearing, so finds.
- (f) When a delinquent child is committable to an institution or agency for the mentally retarded or mentally ill, the court shall proceed as provided in Section 12-15-70 rather than committing to an institution or facility for the care and rehabilitation of delinquent children.
- (g) Whenever the 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.
- (h)(1) Regardless of the nature of the petition or allegation, when evidence is presented to the court that a child is at imminent risk of an out-of-home placement or a placement in a more restrictive environment as a result of the conditions of emotional disturbance, behavior disorder, mental retardation, mental illness, dependency, chemical dependency, education deficits, lack of supervision, delinquency, physical illness or disability, or any

combination thereof, and if such conditions require the services of two or more agencies pursuant to Section 12-15-1(19), the juvenile court shall refer the child to the county children's services facilitation team for assessment and recommendations unless a current facilitation team plan is available to the court. Within 21 days of receipt of the referral, the county children's services facilitation team shall present to the court a preliminary plan of services addressing the needs of the child and the respective responsibilities of agencies composing this team. Upon receipt of these preliminary recommendations, the juvenile court may adjudge the child as a "multiple needs child" and in accordance with the county children's services facilitation team plan, unless the court finds it not in the best interest of the child, order the use of any dispositional alternative or service available for dependent or delinquent children or children-in-need-of-supervision, children who are emotionally disturbed, mentally retarded, or mentally ill, or children who need specialized educational services, or children who need health services, or any combination thereof. The county children's services facilitation team shall be responsible for developing a final service plan which shall be filed with the court. The member agencies shall be responsible for the implementation of any ordered service plan. The court may, on its own motion, or on motion of a party, a party's parent or guardian, or a member of the county or state children's services facilitation team, set additional hearings.

(2) No child, unless alleged or adjudicated delinquent, may be placed in detention facilities established primarily for delinquents.

(3) The juvenile court shall determine the appropriate custodial entity, based on the child's characteristics of behavior and type of treatment needed and in accord, as far as possible, with the provisions of this chapter for vesting legal custody in an entity, person, or department of a child determined to be dependent, in need of supervision, delinquent, mentally ill, or mentally retarded. Nothing in this subsection, however, shall require an order of commitment for a child to (i) receive services or (ii) be placed in the custody of a state agency or department as an adjudicated multiple needs child. It shall be the duty of probation services, and the Departments of Education, Youth Services, Mental Health and Mental Retardation, Public Health, and Human Resources to provide services both at an in-home, community, or residential setting for multiple needs children when ordered by the court.

(4) The juvenile court may appoint a guardian ad litem for a multiple needs child.

(5) The provisions of subdivisions (h)(1), (2), (3), and (4) which require new or additional services beyond those already provided by the agencies are mandated only to the extent that additional funds are appropriated to the State Multiple Needs Children Fund to implement its provisions. The Departments of Human Resources, Mental Health and Mental Retardation, Youth Services, and Education along with juvenile probation services shall develop a program of services for multiple needs children. Nothing in the provisions relating to multiple needs children shall prohibit or restrict departments or agencies charged with the duty of providing services for children and families from working cooperatively and providing financial assistance to address needs which have been identified prior to a case being referred to a children's services facilitation team.

i) When a child is placed in the custody of the Department of Human Resources, Department of Mental Health and Mental Retardation, or Department of Youth Services and when the parents or guardians have 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 agency in whose primary 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 agencies. In these cases, the court shall issue income withholding orders subject to state law. Any petition for custody of a child filed by the Department of Human Resources shall contain a request for child support.

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

(k) When the court finds a juvenile to be delinquent and commits the juvenile to a juvenile detention facility, boot camp, or to the Department of Youth Services, but the juvenile detention facility, boot camp, or the Department of Youth Services is unable to take the juvenile due to a lack of space and the juvenile is enrolled in public school, unless good cause is shown that the juvenile should not attend an alternative school, the court shall order that the juvenile attend an alternative school if an alternative school is available pending availability of space at the facility.

(l) After completion of a term of commitment with the Department of Youth Services and when the juvenile is admitted back into public school, the juvenile shall be placed in an alternative school until such time when he or she meets all requirements set by the local board of education.

(m) When a court, upon holding a hearing pursuant to Section 12-15-34, orders a juvenile case to be transferred to the circuit court for criminal prosecution and the juvenile is enrolled in public school, unless good cause is shown that the juvenile should not attend an alternative school, the court shall order that the juvenile attend an alternative school if an alternative school is available until disposition of the criminal charges in the circuit court. If the criminal charges result in conviction and the juvenile is sentenced to a term of imprisonment in a penal facility, then the juvenile shall remain in an alternative school pending the serving of the sentence. After completion of the sentence or if the juvenile is convicted but not sentenced to a term of imprisonment in a penal facility, when the juvenile is admitted back into school, the juvenile shall remain in an alternative school until such time as he or she meets the requirements set by the local board of education.

(n) The juvenile court is authorized to release the order referred to in subsections (k), (l), and (m) to the appropriate local school board where the public school or public schools in which the juvenile attempts to enroll are located. No hearing pursuant to Section 12-15-100 governing the confidentiality of juvenile records is required to release the order to the school board.

(o)(1) If a juvenile age 16 or over is enrolled in school and is charged with a crime pursuant to Section 12-15-34.1, or is charged with distribution of a controlled substance, then upon notice or knowledge of the charge, the local public school system shall assign the juvenile to an alternative school, if an alternative school is available, unless good cause is shown that the juvenile should not attend an alternative school. The decision to assign a student to an alternative school shall include a review and consideration of the exceptional status of the student pursuant to Chapter 39 of Title 16, if applicable, and any appropriate federal and state statutory and case law.

(2) Any person convicted of a crime specified in subdivision (1) and readmitted to the public schools of this state shall attend an alternative school until the juvenile meets the requirements set by the local board of education.

*(Acts 1975, No. 1205, p. 2384, §5-131; Acts 1990, No. 90-674, p. 1304, §12; Acts 1991, No. 91-553, p. 1021, §1(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, §1.)*

***CRIMINAL CODE LAWS***

**TITLE 13  
CRIMINAL CODE LAW**

<b>Section 13A-1-2:</b>	Definitions.	<b>Section 13A-8-71:</b>	Possession of traffic sign; notification; destruction, defacement, etc., of traffic sign or traffic control device; defacement of public building or property.
<b>Section 13A-1-3:</b>	General purposes of title.	<b>Section 13A-10-15:</b>	Terrorist threats.
<b>Section 13A-6-20:</b>	Assault in the first degree.	<b>Section 13A-11-7:</b>	Disorderly conduct.
<b>Section 13A-6-21:</b>	Assault in the second degree.	<b>Section 13A-11-8:</b>	Harassment or harassing communications.
<b>Section 13A-6-22:</b>	Assault in the third degree.	<b>Section 13A-11-9:</b>	Loitering.
<b>Section 13A-6-23:</b>	Menacing.	<b>Section 13A-11-11:</b>	Falsely reporting an incident.
<b>Section 13A-6-25:</b>	Criminal coercion.	<b>Section 13A-11-72:</b>	Certain persons forbidden to possess pistol.
<b>Section 13A-6-26:</b>	Compelling streetgang membership.	<b>Section 13A-12-212:</b>	Unlawful possession or receipt of controlled substances.
<b>Section 13A-6-90:</b>	Stalking.		
<b>Section 13A-6-91:</b>	Aggravated stalking.		
<b>Section 13A-8-70:</b>	"Traffic sign" defined.		

## CRIMINAL CODE LAWS

### Section 13A-1-2

#### **Definitions.**

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

(1) 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.

(2) Violation.

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

(3) Misdemeanor.

An offense for which a sentence to a term of imprisonment not in excess of one year may be imposed.

(4) Felony.

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

(5) Crime.

A misdemeanor or a felony.

(6) Person.

(7) Possess.

To have physical possession or otherwise to exercise dominion or control over tangible property.

(8) Physical injury.

Impairment of physical condition or substantial pain.

(9) 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.

(10) Deadly physical force.

Physical force which, under the circumstances in which it is used, is readily capable of causing death or serious physical injury.

(11) Deadly weapon.

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 pistol, rifle or shotgun; or a switch-blade knife, gravity knife, stiletto, sword or dagger; or any billy, black-jack, bludgeon or metal knuckles.

(12) 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, and such term includes a "vehicle," as that term is defined in subdivision (13) of this section.

(13) Vehicle.

Any "propelled vehicle," as defined in subdivision (9) of Section 13A-8-1, and such 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.

(14) Burden of injecting the issue.

Such 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.

*(Acts 1977, No. 607, p. 812, §130; Acts 1978, No. 770, p. 1110.)*

### **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 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) 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.)*

### **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, §§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-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, No. 807, §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, &sect;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, &sect;5530; Acts 1978, No. 770, p. 1110, &sect;1; Acts 1979, No. 79-471, p. 862, &sect;1; Acts 1996, No. 96-767, p. 1353, &sect;1; Acts 1997, No. 97-552, p. 989, &sect;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, &sect;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-11-72**

#### **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.)*

***EDUCATION LAWS***

**TITLE 16.  
EDUCATION LAWS.**

**EDUCATION LAWS**

**Section 16-1-2:** Inspection of buildings during and after construction; acceptance of completed construction; forms for construction contracts.

**Section 16-1-7:** Eye protective devices for pupils and teachers participating in certain courses.

**Section 16-1-10:** Selling, etc., alcoholic beverages to school children; keeping on school premises.

**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.

**Section 16-1-23:** Hazing prohibited; penalty.

**Section 16-1-24:** Reporting of property damage and physical assaults on students and school personnel; legislative intent; penalties.

**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.

**Section 16-1-24.3:** Local boards of education to implement policies requiring expulsion of students who possess firearms in school areas.

**Section 16-1-27:** Electronic pagers or communication devices in school.

**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.

**Section 16-1-39:** Self-administration of asthma medication by student

**Section 16-3-12:** Rules and regulations—Generally.

**Section 16-6B-5:** School safety and discipline accountability.

**Section 16-6B-6:** Release from intervention.

**Section 16-6B-7:** Accountability reports to the public.

**EDUCATION LAWS— Cont'd**

**Section 16-22A-1:** Title of chapter.

**Section 16-22A-2:** Legislative intent.

**Section 16-22A-3:** Definitions.

**Section 16-22A-4:** Initiation of request for criminal history background check.

**Section 16-22A-5:** Agencies required to conduct criminal history background information checks.

**Section 16-22A-6:** Authority of schools and other educational entities to request criminal history background information checks from Department of Public Safety; items necessary to request check.

**Section 16-22A-10:** Confidentiality of information

**Section 16-27-1:** State Board of Education to prescribe rules and regulations.

**Section 16-27-2:** Transportation of community, junior and technical college, etc., students on public school buses.

**Section 16-27-3:** Safety inspections by state school bus inspectors; reporting and remedying deficiencies; records and reports.

**Section 16-27-4:** Licensing of drivers.

**Section 16-27-7:** Vehicle liability insurance for employees required to transport pupils.

**Section 16-27-8:** School buses - Crossing control arm required.

**Section 16-28-2.2:** Establishment of program by local boards to inform parents of educational responsibilities.

**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.

**Section 16-28-13:** Burden of proof on person in loco parentis.

**EDUCATION LAWS—Cont'd**

**Section 16-28-14:** Habitual truant.

**Section 16-28-16 Amended:** Each child who enrolls in public school is subject to the school attendance and truancy laws of the state.

**Section 16-28-17:** When child may be taken into custody.

**Section 16-28-40:** License applicant under 19 to provide documentation of school enrollment, etc.; denial of application if requisite status not shown; role of school attendance official; effect of withdrawal from school; effect of conviction for certain pistol offenses on driving privileges.

**Section 16-28A-1:** Legislative findings.

**Section 16-28A-2:** Exemption of teachers and other employees from application of Title 26.

**EDUCATION LAWS— Cont'd**

**Section 16-28A-3:** Local boards of education required to develop and disseminate student discipline and behavior policies.

**Section 16-28A-4:** Immunity for teachers or administrators who report suspected drug abuse.

**Section 16-28A-5:** Immunity for other authorized school personnel.

**Section 34-23-7:** Illegal possession of prescription drugs.

**Section 36-19-10:** Regulation of fire drills and doors and exits in schools, factories, hospitals, etc.

## 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.)*

### **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.)*

### **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.)*

### **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.)*

### **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**

#### **Electronic pagers or communication devices in school.**

(a) No board of education shall permit any pupil to carry a pocket pager or electronic communication device in school except for health or other extraordinary needs upon approval by the board of education.

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

*(Acts 1989, No. 89-953, p. 1880.)*

### **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 asthma medication by student.**

(a) Each local board of education and the governing body of each nonpublic school in the state shall permit the self-administration of asthma medications by a student if the parent or legal guardian of the student provides 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 asthma 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 asthma 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 asthma medications shall only be effective for the school year in which permission is granted. Permission for self-administration of asthma medications may be granted in subsequent years provided all requirements of this section are satisfied.

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

*(Act 2003-271, p. 643, §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**

#### **Title of chapter.**

This chapter shall be known and cited as the Alabama Child Protection Act of 1999.

*(Act 99-361, p. 566, §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.)*

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

#### **Definitions.**

When used in this chapter only, the following terms shall have the following meanings, respectively:

(1) **APPLICANT.** An individual who submits an application for employment to a local employing board or any nonpublic school, to act in any capacity in which the applicant will have unsupervised access to children in an educational environment. Applicants shall further include any person seeking certification issued by the State Superintendent of Education.

(2) **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.

(3) **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.

(4) **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.

(5) **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 an 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.

(6) **CURRENT EMPLOYEE.** 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 and 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.

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

(8) **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 board of education or nonpublic school.

(9) **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, 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.

(10) **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.

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

(12) **SUITABILITY CRITERIA FOR EMPLOYMENT.** Any noncertified teacher in a nonpublic school or classified employee or applicant in a nonpublic school for employment 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.

(13) **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.

(14) WRITTEN CONSENT. A signed statement by the applicant 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 applicant's or employee's fitness 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 check is going to be requested.

d. Notice to the applicant or current employee under review who is the subject of the background check of the right to obtain a copy of the background 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 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 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 check will result in the applicant not being hired.

g. Notice to the applicant or current employee under review that failure to reveal a prior conviction that would bear upon the individual's fitness 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 or current employee under review of his or her due process rights.

i. Notice to the applicant 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 Federal Bureau of Investigation criminal history information report and the criteria defined herein to the chief executive officer of the nonpublic school.

***(Act 99-361, p. 566, § 3; Act 2000-274, §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 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 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 (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 must be filled by the employer due to exigent circumstances, an applicant may be placed on payroll until such time as the Department of Public Safety completes a background check on the employee.

(d) Criminal history background information reports for public school applicants and employees shall be sent to the State Department of Education. The State Department of Education shall forward the report to the chief executive officer of the local employing board originating the request for the information within a reasonable time from the State Department of Education's receipt of the report from the Alabama Bureau of Investigation. Any adverse employment action taken as a result of the report of the criminal history background check shall be in accordance with all existing applicable statutes.

(e) Nationwide criminal history background information reports for nonpublic school employees 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 record information report and determine whether the applicant meets the suitability criteria for 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 requesting party in a standardized format. The Department of Public Safety shall provide an Alabama Bureau of Investigation criminal history background check within a reasonable time of the receipt of such request. Criminal history background 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. A copy of any report from the Department of Public Safety or the Federal Bureau of Investigation shall be sent concurrently to the applicant or current employee under review 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. The applicant is responsible for the cost of the criminal history background information check of the applicant. If an employing entity requests a criminal history background information check for a current employee under review, the employer is responsible for the cost of the criminal history background check. When a noncertified job applicant is determined by the chief executive officer of the prospective employer to be financially unable to pay the costs of a criminal history background check, the prospective employer may pay the fee associated with the background check.

(h) The following persons shall obtain a signed and dated written consent to obtain criminal history background information checks for applicants and certain current employees who have unsupervised access to children in an educational setting as provided for 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 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 an applicant, or the continued employment or certification in a position requiring unsupervised access to children, until such time as written permission has been given to the employer or 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 only political or personal reasons. A review of a current employee shall be based upon reasonable suspicion.

(2) A current employee under review shall be apprised of the reasons supporting a request for a criminal history background information check 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.)*

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

#### **Authority of schools and other educational entities to request criminal history background information checks from Department of Public Safety; items necessary to request check.**

(a) The State Department of Education, or authorized public education employing entities 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 the Federal Bureau of Investigation a criminal history background information check on an applicant or a 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 the Department of Public Safety secure a state criminal history background information check and a criminal history background information check from the Federal Bureau of Investigation on an applicant or a current employee under review.

(c) A request to the Department of Public Safety for a criminal history background information check 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 or current employee under review for the release of criminal history background information to 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 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. The job applicant 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 cost of the criminal history background information check at the time the application for certification is

submitted to the State Department of Education. Any fee paid for which a criminal history background information check is not performed shall be refunded to the applicant or educational entity requesting the criminal history background information check provided two sets of acceptable fingerprints have been provided to the State Department of Education.

*(Act 99-361, p. 566, §6.)*

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

#### **Confidentiality of information**

(a) All reports of criminal history background information received by the State Department of Education, any local superintendent of a city or county board of education, or any nonpublic school from the Department of Public Safety shall be confidential and marked as such 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 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 or current employee under review.

(3) Use of the information in preparation, investigation, and presentation during administrative proceedings involving revocation of certificate 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.)*

### **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.)*

### **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; 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.)*

### **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, §§1, 2.)*

### **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 Amended**

**Each child who enrolls in public school is subject to the school attendance and truancy laws of the state.**

(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.; denial of application if requisite status not shown; role of school attendance official; effect of withdrawal from school; effect of conviction for certain pistol offenses on driving privileges.**

(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; (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 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.)*

### **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 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 36-19-10**

**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  
2005 REGULAR SESSION***

*No laws related to school safety passed during this session*

***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 54 . 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).

290-3-1-.02(3)(e)2

290-3-1-.02(3)(e)2.(d)

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  
2004-2005  
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>Alabama Code (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 2004-2005. (b) School Safety and Discipline Report (School Incident Report [SIR] data for school year 2004-2005) <b>was released to the State Superintendent of Education by June 15, 2005.</b>
_____	_____	_____	_____	2. <u>Ala. Code (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>Ala. Code (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.

\_\_\_\_\_  
Signature of Superintendent

\_\_\_\_\_  
Date

**Please return the Assurance of Compliance for 2004-2005 by August 31, 2005, 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, sex, race, religion, national origin, color, or age. 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; Equal Pay Act of 1963; Title IX of the Education Amendment of 1972: Title IX Coordinator, P.O. Box 302101, Montgomery, Alabama 36130-2101 or call (334) 242-8444.