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EDUCATION School Safety Act: Require Superior Courts to Notify Local School System When a Juvenile or Student Over Seventeen is Convicted of a Felony or Criminal Offense; Provide for Student Code of Conduct for the Local School Systems; Provide for Reporting Alleged Criminal Action by Student; Authorize Statewide Suspension or Expulsion of Students Convicted of a Felony; Provide for Alternative Placement of Such Students

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EDUCATION

School Safety Act: Require Superior Courts to Notify Local School System When a Juvenile or Student Over Seventeen is Convicted of a Felony or Criminal Offense; Provide for Student Code of Conduct for the Local School Systems; Provide for Reporting Alleged Criminal Action by Student; Authorize Statewide Suspension or Expulsion of Students Convicted of a Felony; Provide for Alternative Placement of Such Students

CODE SECTIONS: O.C.G.A. §§ 15-6-36 (new), 15-11-5, 20-2-751.2 (amended), -751.3 (new), -754, -756 (amended), 20-2-768 to -770 (new), 20-2-1000 (amended), -1001 (new)

BILL NUMBER: HB 567

ACT NUMBER: 440

GEORGIA LAWS: 1997 Ga. Laws 1436

SUMMARY: The Act requires superior courts in the state to give notice to the local school system when a student who is seventeen or older commits a felony. The superior court is also charged with providing written notice to the local school system if a juvenile commits a criminal offense that is in the exclusive jurisdiction of the superior court. The Act also provides that teachers of students who commit criminal offenses be informed, and the administrator of the school is charged with reporting any criminal act by the student. The Act authorizes a statewide expulsion or suspension of the student if the student has committed a felony. The Act provides for alternative placement of such students. The Act does not hold educators criminally liable for an act or omission pertaining to the reporting of offenses.

EFFECTIVE DATE: July 1, 1997

History

On September 25, 1996, a DeKalb County school teacher was shot and killed after breaking up a fight between two students in the school.¹ A sixteen-year-old student was alleged to have shot the teacher

1. See Christy Oglesby, *DeKalb Teacher Shot Dead: Sixteen-year-old Student Arrested*, ATLANTA J. & CONST., Sept. 25, 1996, at A1.

with a handgun.² This occurred despite the fact that there has been a dramatic decline in the number of guns confiscated in schools (80% decline in DeKalb since 1992-93)³ because of an increased number of security officers in schools, surveillance cameras, walk-through metal detectors, and hand-held metal detectors.⁴ Even with these measures, school teachers have said the event in the DeKalb school could have happened anywhere.⁵ A month before HB 567 came into effect, a teacher attempting to break up a fight at school had to plead out of assault charges brought by the student.⁶ A 1995 survey of Fulton County teachers showed that many of them feared for their safety and almost half of them reported that their students had brought weapons, alcohol, and drugs to school.⁷ In Clayton County, a teacher reported that a parent asked to excuse her son who had missed class because he had been in jail for taking a hostage in an armed robbery.⁸ A math teacher reported that students were showing up in school with electronic monitoring devices strapped to their ankles.⁹ Teachers believed they had a legitimate reason to be notified if any of their students had criminal records, otherwise it is "like an employee handling dangerous chemicals and not telling him that they're dangerous chemicals."¹⁰ Additionally, there is the problem of students charged with moving from one school to another, and escaping punishment because the school systems do not share information.¹¹

Responding to the needs of the teachers, the school systems, and the community, the state school superintendent made it her first priority to promote safety in the schools, said Representative Jeffrey Williams, author of the bill.¹² Representative DuBose Porter, who sponsored the bill, said that the School Safety Act is intended to enhance the safety in

2. *See id.*

3. *See* Diane Loupe & Doug Cumming, *How Safe are Our Schools? Fewer Guns in the Classrooms: But Educators are Struggling to Develop New Methods Beyond Metal Detectors and Hall Guards to Combat Violence in School*, ATLANTA J. & CONST., Sept. 28, 1996, at D1.

4. *See id.*

5. *See id.*

6. Telephone Interview with Rep. Jeffrey Williams, House District No. 83 (Oct. 20, 1997) [hereinafter Williams Interview II].

7. *See* Loupe & Cumming, *supra* note 3.

8. *See* Diane Loupe, *Danger in the Classroom: Laws Offer Protection for Teachers*, ATLANTA J. & CONST., Apr. 7, 1997, at D4.

9. *See id.*

10. *Id.*

11. *See id.*

12. Telephone Interview with Rep. Jeffrey Williams, House District No. 83 (June 12, 1997) [hereinafter Williams Interview I]. Representative Williams said that he had introduced the bill because safety in schools was the number one priority for Ms. Linda Schrenko, State School Superintendent. *Id.*

local school systems by requiring that schools adopt a code of conduct, by requiring the courts to notify the local school of a student who has been convicted or adjudicated to have committed a felony, and by giving the schools greater authority to deal with problems as they occur in the schools.¹³ The issue today is about improving education, said one Senator who supported the bill.¹⁴ Representative Porter also said that there is a need for discipline in the classroom and for students to know what is expected of them, and the Georgia General Assembly can show its support of teachers by giving them the right to assert their authority.¹⁵ HB 567 was also passed to encourage teachers to break up fights between students without fear that a legal action will be brought against them.¹⁶

HB 567

Introduction

The General Assembly referred HB 567 to the House Education Committee, which made substantial changes to the bill.¹⁷ The bill then passed the House and was transferred to the Senate. The Senate referred the bill to the Senate Judiciary Committee, where it was amended, and subsequently passed the Senate.¹⁸ The House did not agree with the Senate version of the bill. The bill was then referred to a Conference Committee for resolution. Both the House and Senate adopted the modified version of the bill.¹⁹

Definitions

The Act defines the term "conviction" as any felony conviction for a person who is seventeen years or older.²⁰ It defines a disciplinary order as an order of the local school system that has imposed a short-term suspension, long-term suspension, or expulsion from a school.²¹ An

13. Telephone Interview with Rep. DuBose Porter, House District No. 143 (July 3, 1997), [hereinafter Porter Interview].

14. *Lawmakers '97* (GPTV broadcast, Mar. 27, 1997) (remarks by Sen. Richard D. Marable) (videotape available in Georgia State University College of Law Library).

15. *Lawmakers '97* (GPTV broadcast, Feb. 23, 1997) (remarks by Rep. DuBose Porter) (videotape available in Georgia State University College of Law Library).

16. See Williams Interview II, *supra* note 6.

17. HB 567 (HCA), 1997 Ga. Gen. Assem.; see Final Composite Status Sheet, Mar. 28, 1997.

18. HB 567 (SCA), 1997 Ga. Gen. Assem.; see Final Composite Status Sheet, Mar. 28, 1997.

19. HB 567 (CCS), 1997 Ga. Gen. Assem.; see Final Composite Status Sheet, Mar. 28, 1997.

20. O.C.G.A. § 15-6-36(a) (Supp. 1997).

21. *Id.* § 20-2-751.2(a).

expulsion is defined by the Act as expulsion of the student from the public school for a period longer than the current school quarter or semester.²² The Act defines a suspension as a suspension for a temporary period from the public school for a period not exceeding ten days, or a long-term suspension for longer than ten days.²³

Duties Imposed on the Courts

The Act provides that the superior courts, within thirty days of any proceeding that ends in a conviction of a person age seventeen or older, provide written notice to the superintendent of the school in which the person is enrolled.²⁴ The written notification must include the criminal offense for which the defendant was convicted.²⁵ The local school system may also request additional information from the notifying court's files.²⁶

If the defendant is thirteen to seventeen years of age, and is convicted of certain offenses that are under the jurisdiction of the superior courts,²⁷ the courts are required to notify the school superintendent in writing within thirty days.²⁸ If the defendant is not currently enrolled in school, but it is known which school the defendant will enroll in the future, the superior courts are required to notify that school's superintendent.²⁹

Juvenile court proceedings are generally kept confidential and records are released, if at all, only if the court finds it to be in the child's interest or if mandated by the Georgia Constitution.³⁰ However, when the juvenile has committed a serious offense that is under the exclusive jurisdiction of the superior courts, the juvenile is not afforded the cloak of protection, and the records are open to the public.³¹

The original version of the bill would have applied only to defendants who are between the ages of thirteen and seventeen.³² The bill was

22. *Id.* § 20-2-768(1).

23. *Id.* § 20-2-768(2).

24. *Id.* § 15-6-36(b).

25. *See id.*

26. *See id.*

27. O.C.G.A. § 15-11-5(b)(2)(A) provides that the superior court shall have exclusive jurisdiction over any matter concerning any child 13 to 17 years of age who is alleged to have committed any of the following offenses: (1) murder, (2) voluntary manslaughter, (3) rape, (4) aggravated sodomy, (5) aggravated child molestation, (6) aggravated sexual battery, (7) armed robbery if committed with a firearm. *See* 1995 Op. Att'y Gen. U95-9 (Ga.).

28. *See* O.C.G.A. § 15-11-5(e) (Supp. 1997).

29. *See id.*

30. *See* 1987 Op. Att'y Gen. U87-18 (Ga.).

31. *See* 1995 Op. Att'y Gen. U95-9 (Ga.).

32. HB 567, as introduced, 1997 Ga. Gen. Assem.

revised in the Senate to include defendants enrolled in public school over the age of seventeen.³³ Both the original and final versions of HB 567 specify a limit of thirty days within which the court must notify the superintendent.³⁴ However, the House Education Committee substituted fifteen days and the House adopted the substitution. In the end, however, the Conference Committee reinstated the original period of thirty days.³⁵

Duties of the School Systems Under the School Safety Act of 1997

Notification

Once a school has been notified by a court that a convicted felon is enrolled in that school, the administrator is required to inform all teachers to whom the student is assigned.³⁶ These teachers and any certified professional personnel, deemed appropriate by the school administrator, are given the authority to review the student's file.³⁷ All information is required to be kept confidential.³⁸

The notification provision was primarily aimed at helping the teachers in the classroom.³⁹ Representative Porter said that the information regarding the student will not be used to hurt the student, rather to help the student and effectively manage the classroom.⁴⁰

School Code of Conduct

The Act requires that each local board of education receiving state funding adopt a student code of conduct and send a copy of the code of conduct to the State Board of Education by August 15, 1997.⁴¹ The requirement of a state-mandated student code of conduct found strong support among educators because it reinforces the importance of discipline in the schools and adherence to a code of conduct.⁴² Virtually every school system has its own code of conduct, but a state law that makes it mandatory tends to re-emphasize the importance of a code.⁴³

33. See O.C.G.A. § 15-6-36(a) (Supp. 1997).

34. Compare HB 567, as introduced, 1997 Ga. Gen. Assem., with O.C.G.A. § 15-6-36(b) (Supp. 1997).

35. HB 567 (HCSFA), 1997 Ga. Gen. Assem.

36. See O.C.G.A. § 20-2-751.2(d) (Supp. 1997).

37. See *id.*

38. See *id.*

39. See Porter Interview, *supra* note 13.

40. *Id.*

41. O.C.G.A. § 20-2-751.3 (Supp. 1997).

42. See Telephone Interview with Tom Wommack, Director of Legislative and Legal Services, Professional Association of Georgia Educators (June 10, 1997) [hereinafter Wommack Interview].

43. See *id.*

This provision varies considerably from the original bill. The original version of the bill required only that the local board adopt a school code of conduct, but contained no provision for the local board to send the code to the state.⁴⁴ Additionally, as introduced, the bill listed minimum provisions that a school's code of conduct had to incorporate.⁴⁵ Students were required to: (1) respect school authority such as teachers and administrators, bus drivers, and school employees; (2) attend school daily; (3) pursue and try to complete the course of study prescribed by the state and school authorities; (4) protect and take care of schools' property; (5) dress and groom to meet standards of health, safety, and decency; (6) avoid indecent or obscene language; and (7) avoid demeaning or slanderous conduct.⁴⁶ The original version also defined misconduct and provided examples, such as bringing a weapon to school or violating the school code.⁴⁷ The Georgia School Boards Association lobbied successfully to have the amended version of the bill delete these specific provisions of the code.⁴⁸ The Georgia School Boards Association opposed the mandated code because it believed local authority, along with teachers, parents, and board members, should develop the codes specifically for each locality.⁴⁹ Local school boards are authorized by the state to manage their school systems, and imposing a state-mandated code of conduct would have infringed on the school boards' authority, according to Don Rooks of the Georgia School Boards Association.⁵⁰ The concern was due to the fact that while school systems share common characteristics, there are unique characteristics that differ among communities, and therefore, only the community can determine what is best for the local school system.⁵¹ As one opponent said, "the lives of students who live in southern Georgia compared to those of south Atlanta are totally different" and the rules for these students must also be different.⁵²

44. HB 567, as introduced, 1997 Ga. Gen. Assem.

45. *Id.*

46. *Id.*

47. *Id.*

48. See Diane Loupe, '97 Legislature: State School Conduct Proposed: Schrenko Wants It; School Boards Say No, ATLANTA J. & CONST., Feb 25, 1997, at E2.

49. See *Lawmakers '97* (GPTV broadcast, Feb. 23, 1997) (remarks by Gary Ashley, Vice President of the Georgia School Boards Association) (videotape available in Georgia State University College of Law Library).

50. Telephone Interview with Don Rooks, Director of Legal Affairs, Georgia School Boards Association (June 18, 1997).

51. Wommack Interview, *supra* note 42.

52. Rachel Rittman, *Standard Code Not Wise*, ATLANTA J. & CONST., Mar. 27, 1997, at G2.

Alternative Schools

The original bill stated that acts of misconduct may result in suspension, expulsion, or reassignment to an alternative educational setting.⁵³ The General Assembly elected not to define or give examples of misconduct, thus leaving these decisions to the local school boards. The Act, however, preserves the policy of the state that reassignment is preferred to suspension or expulsion.⁵⁴ The Florida legislature has found an alarming correlation between the number of children suspended or expelled from school and the rising crime rate.⁵⁵

Every year, approximately 3000 students are expelled from Georgia schools.⁵⁶ These students seldom return to school, said Representative Williams, and that is why it is imperative that these students be sent to an alternative school.⁵⁷ Representative Williams said that from a punitive standpoint, alternative schools have a rigorous academic approach and an environment that gives students an incentive to complete their time and their education.⁵⁸ For the first time in Georgia, he said, the policy of expulsion has been changed to send students to alternative schools.⁵⁹

Another provision in the original bill was a requirement that any transfer student from another school system execute a document under oath providing the name and address of all schools previously attended and authorizing the release of all disciplinary records to the current school.⁶⁰ This provision was deleted in the amended version of the bill.⁶¹

Reporting Criminal Action to Law Enforcement

Previously, the school administration, or a disciplinary hearing officer or panel, could report an incident to law enforcement officials, if the incident included assault or battery upon students, teachers, and school employees, or involved substantial damage caused by a student on the school premises.⁶² The School Safety Act broadens the scope of the previous law to apply to any alleged criminal action by a student rather than limiting the scope to the three instances cited previously.⁶³

53. HB 567, as introduced, 1997 Ga. Gen. Assem.

54. *Compare id.*, with O.C.G.A. § 20-2-751.3(c) (Supp. 1997).

55. FLA. STAT. ANN. § 39.025 (West 1996).

56. *See Williams Interview I, supra* note 12.

57. *Id.*

58. *Id.*

59. *Id.*

60. HB 567, as introduced, 1997 Ga. Gen. Assem.

61. *Compare id.*, with O.C.G.A. § 20-2-751.2 (Supp. 1997).

62. *See* 1984 Ga. Laws 908 (formerly found at O.C.G.A. § 20-2-756 (a) (1996)).

63. O.C.G.A. § 20-2-753 (Supp. 1997); 1984 Ga. Laws 908 (formerly found at

However, the School Safety Act does not make it mandatory for the school to report criminal actions of students, even though the original version of the bill said that the school officials "shall" report such incidents.⁶⁴ The House Education Committee changed the language to "may," which is the language used in the prior law.⁶⁵

The School Safety Act provides immunity from civil⁶⁶ and criminal liability⁶⁷ for school officials for any act or omission relating to disciplining students or reporting misconduct.⁶⁸ The exemption from criminal liability depends on whether the educator was acting in good faith at the time of his act or omission.⁶⁹ This clause was considered essential to protect teachers who might otherwise be afraid of retaliatory action such as suits or sanctions by parents if they reported misconduct.⁷⁰

Conclusion

By enacting HB 567, the Georgia General Assembly has emphasized the need for a safe environment in the classroom by mandating that school systems prescribe the conduct to be adhered to by students. It ensures that teachers are better informed by the court system about students who have committed serious offenses so that teachers can help such students, and the Act provides immunity to teachers for reporting incidents in the classroom involving students. This ensures safety of students and teachers and promotes an environment that is more conducive to teaching and learning in the classroom.

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O.C.G.A. § 20-2-756 (1996)).

64. Compare HB 567, as introduced, 1997 Ga. Gen. Assem., with O.C.G.A. § 20-2-756(a) (Supp. 1997).

65. HB 567 (HCA), 1997 Ga. Gen. Assem.

66. O.C.G.A. § 20-2-1000(b) (Supp. 1997).

67. *Id.* § 20-2-1001(b).

68. *Id.*

69. *See id.*

70. *See* Porter Interview, *supra* note 13.