

HOUSE BILL 3200

By Winningham

AN ACT to amend Tennessee Code Annotated, Section 49-6-4213, relative to the testing of students for drugs.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-6-4213, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a)

(1) A student may be subject to testing for the presence of drugs in the student's body in accordance with this section and the policy of the LEA if there are reasonable indications to the principal that such student may have used or be under the influence of drugs. The need for such testing may be brought to the attention of the principal through a search authorized by § 49-6-4204 or § 49-6-4205, observed or reported use of drugs by the student on school property, or other reasonable information received from a teacher, staff member or other student. All of the following standards of reasonableness shall be met:

(A) A particular student has violated school policy;

(B) The test will yield evidence of the violation of school policy or will establish that a student either was impaired due to drug use or did not use drugs;

(C) The test is in pursuit of legitimate interests of the school in maintaining order, discipline, safety, supervision and education of students;

(D) The test is not conducted for the sole purpose of discovering evidence to be used in a criminal prosecution; and

(E) Tests shall be conducted in the presence of a witness.

Persons who shall act as witnesses shall be designated in the policy of the local board of education.

(2) A student participating in voluntary extracurricular activities may be subject to random drug testing in the absence of individualized reasonable suspicion provided the standards set forth in subdivisions (a)(1)(B)-(E) are met.

SECTION 2. Tennessee Code Annotated, Section 49-6-4213, is amended by deleting subsection (l) in its entirety and by substituting instead the following:

(l) Each LEA participating in the drug testing of students authorized in subsection (a) shall promulgate policies and procedures to ensure that those students testing positive receive the assistance needed. This assistance shall include counseling to determine the severity of the student's alcohol and drug problem and a recommendation for referral to intervention or treatment resources as appropriate.

Nothing in this section shall be construed to require LEAs to administer drug tests to students. Any system electing to participate shall supply the testing materials and any subsequent counseling within existing local funds.

SECTION 3. This act shall take effect July 1, 2010, the public welfare requiring it.