

PUBLIC CHAPTER NO. 1136**SENATE BILL NO. 2621****By Tracy, Ketron, Burks, Herron**

Substituted for: House Bill No. 3200

By Winningham, Hawk, Lollar, Evans, Eldridge, Harry Brooks

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) of this section shall promulgate policies and procedures to ensure that those students testing positive receive the assistance needed. The assistance shall include an assessment 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 that elects to participate shall supply the testing materials and any subsequent counseling within existing local funds.

SECTION 3. Tennessee Code Annotated, Section 49-6-4213(f), is amended by designating the existing language as subdivision (1) and by adding the following language as new subdivision (2):

(2) If an LEA adopts a policy permitting random drug testing of students in voluntary extracurricular activities, then, prior to a student participating in an extracurricular activity, the LEA shall notify the parents and guardians of any such student that the student may be subjected to random drug testing. A parent or guardian of a student participating in a volunteer extracurricular activity shall provide written consent for random drug testing prior to the student participating in the voluntary extracurricular activity.

SECTION 4. Tennessee Code Annotated, Section 49-6-4213, is amended by deleting subsection (k) in its entirety and by substituting instead the following:

(k)(1) If a student is tested in a drug testing program and the results of the test are positive, all records of the test, request for a test or indication a student has been tested shall be confidential student records in accordance with § 10-7-504(a)(4)(A).

(2) No student who is tested under a random drug testing program and who tests positive shall be suspended or expelled from school solely as the result of the positive test.

(3) The principal or school counselor of the school in which a student who tests positive in a drug testing program is enrolled shall provide referral information to the student and to the student's parents or guardian. The information shall include information on inpatient, outpatient and community-based drug and alcohol treatment programs.

SECTION 5. This act shall take effect July 1, 2010, the public welfare requiring it.

PASSED: June 8, 2010



RON RAMSEY
SPEAKER OF THE SENATE



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 30th day of June 2010



PHIL BREDESEN, GOVERNOR