

ENROLLED HOUSE
BILL NO. 1765

By: Easley, Piatt, Bengé, Adkins,
Balkman, Calvey, Dank, Friskup,
Nance, Peters, Peterson, Tibbs,
Winchester and Wright of the
House

and

Crutchfield of the Senate

An Act relating to crimes and punishments; amending 70 O.S. 1991, Section 6-113, as last amended by Section 1, Chapter 241, O.S.L. 1995, and as renumbered by Section 3, Chapter 241, O.S.L. 1995 (21 O.S. Supp. 2000, Section 650.7), which relates to assault and battery upon school employees; modifying penalty; establishing aggravated assault and battery upon certain individuals as a felony; stating penalty; requiring certain notice be posted at schools; defining terms; requiring certain reports; defining terms; providing exception from liability for certain actions; requiring written policy be provided to school employees; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 1991, Section 6-113, as amended by Section 1, Chapter 241, O.S.L. 1995, and as renumbered by Section 3, Chapter 241, O.S.L. 1995 (21 O.S. Supp. 2000, Section 650.7), is amended to read as follows:

Section 650.7 A. As used in this section:

~~1. "School, "school employee" shall mean~~ means a teacher, principal, or any duly appointed person employed by a school system or employees of a firm contracting with a school system for any purpose, including any personnel not directly related to the teaching process and school board members during school board meetings.

B. Any person who, without justifiable or excusable cause ~~and with intent to do bodily harm~~, commits any assault, battery, or assault and battery upon the person of a school employee while such employee is in the performance of any duties as a school employee or upon any student while such student is participating in any school activity or attending classes on school property during school hours shall, upon conviction, be guilty of a misdemeanor. The convicted person shall be punished by a term of imprisonment in the county jail for a period not exceeding ~~six (6) months~~ one (1) year, or by a fine not exceeding ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

C. Any person who, without justifiable or excusable cause, commits any aggravated battery or aggravated assault and battery upon the person of a school employee while such employee is in the performance of any duties as a school employee ~~or upon any student while such student is participating in any school activity or attending classes on school property during school hours~~ shall, upon conviction, be guilty of a misdemeanor. ~~The convicted person shall be punished~~ felony punishable by a term of imprisonment in the ~~county jail~~ State Penitentiary for a period not exceeding ~~one (1)~~ two (2) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

D. Every school site shall post in a prominent place a notice having the following or similar language: "FELONY CHARGES MAY BE FILED AGAINST ANY PERSON(S) COMMITTING AN AGGRAVATED ASSAULT OR BATTERY UPON ANY SCHOOL EMPLOYEE."

E. For purposes of this section, "assault" shall be defined by Section 641 of Title 21 of the Oklahoma Statutes, "battery" shall be defined by Section 642 of Title 21 of the Oklahoma Statutes, and "aggravated assault and battery" shall be defined by Section 646 of Title 21 of the Oklahoma Statutes.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-146 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Any school employee, as defined by subsection A of Section 650.7 of Title 21 of the Oklahoma Statutes, upon whom an assault, battery, assault and battery, or aggravated battery or aggravated assault and battery is committed while in the performance of any duties as a school employee shall notify either the superintendent, building administrator, or one member of a Safe School Committee of the school district employing the school employee. The building administrator or member of the Safe School Committee shall notify the superintendent of the assault, battery, assault and battery, aggravated battery or aggravated assault and battery.

B. The superintendent shall notify the State Department of Education of all incidents described in subsection A of this section for the previous year on July 1 of each year. The report shall include a description of the battery or assault and battery, and the final disposition of each incident.

C. The State Department of Education shall submit a report to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor on December 1 of each year.

D. For purposes of this section, "assault" shall be defined by Section 641 of Title 21 of the Oklahoma Statutes, "battery" shall be defined by Section 642 of Title 21 of the Oklahoma Statutes, and "aggravated assault and battery" shall be defined by Section 646 of Title 21 of the Oklahoma Statutes.

E. No school employee shall be subject to any civil liability for any statement, report, or action taken in reporting or assisting in reporting a battery or assault and battery which is committed upon the school employee while in the performance of any duties unless such report or assistance was made in bad faith or with malicious purpose.

F. Every school district shall have and deliver to each school employee a written policy that such employee shall follow if an assault, battery or assault and battery is committed upon the school employee while in the performance of any school duties.

SECTION 3. This act shall become effective July 1, 2001.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 23rd day of May, 2001.

Presiding Officer of the House of
Representatives

Passed the Senate the 23rd day of May, 2001.

Presiding Officer of the Senate