

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 1024

By: Laughlin, Brogdon,  
Mazzei, Bingman, Crain,  
3 Brown, Justice, Ford,  
Lamb, Williamson, Coffee,  
4 Sykes, Branan, Aldridge,  
Myers, Barrington,  
5 Reynolds, Johnson (Mike),  
Nichols, Wilcoxson,  
6 Coates, Schulz and Jolley  
of the Senate

7 and

8  
9 Trebilcock and Johnson  
(Rob) of the House

10  
11  
12  
13 ( schools - School Protection Act - codification -  
14 effective date )

15  
16  
17 AUTHORS: Remove Trebilcock as Principal House Author and substitute  
Sullivan as Principal House Author and add Derby and Tibbs  
18 as Coauthors

19 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
entire bill and insert

20  
21 "An Act relating to schools; creating the School  
Protection Act; providing short title; stating  
22 purpose; defining terms; making it unlawful to make  
a false criminal report against an education  
23 employee; providing punishment; limiting application  
for statements against certain persons; providing  
24 for award of costs and certain fees; providing that

1 existence of liability insurance is not a waiver of  
2 any defense; providing for the applicability of  
3 other laws; amending 51 O.S. 2001, Section 155, as  
4 last amended by Section 1, Chapter 381, O.S.L. 2004  
5 (51 O.S. Supp. 2007, Section 155), which relates to  
6 exemptions from liability; adding certain  
7 exemptions; providing for codification; and  
8 providing an effective date.

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

10 SECTION 1. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 6-140 of Title 70, unless there  
12 is created a duplication in numbering, reads as follows:

13 Sections 1 through 7 of this act shall be known and may be cited  
14 as the "School Protection Act".

15 SECTION 2. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 6-141 of Title 70, unless there  
17 is created a duplication in numbering, reads as follows:

18 The purpose of the School Protection Act is to provide teachers,  
19 principals, and other school professionals the tools they need to  
20 undertake reasonable actions to maintain order, discipline, and an  
21 appropriate educational environment.

22 SECTION 3. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 6-142 of Title 70, unless there  
24 is created a duplication in numbering, reads as follows:

As used in the School Protection Act:

1 1. "Education employee" means any individual who is an employee  
2 of a school; and

3 2. "School" means a public school district, governmental entity  
4 that employs teachers as defined in Section 1-116 of Title 70 of the  
5 Oklahoma Statutes, or private kindergarten, elementary, or secondary  
6 school.

7 SECTION 4. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 6-143 of Title 70, unless there  
9 is created a duplication in numbering, reads as follows:

10 A. Except as otherwise provided in this section, any person  
11 eighteen (18) years of age or older who acts with specific intent in  
12 making a false accusation of criminal activity against an education  
13 employee to law enforcement authorities or school district  
14 officials, or both, shall be guilty of a misdemeanor and, upon  
15 conviction, punished by a fine of not more than Two Thousand Dollars  
16 (\$2,000.00).

17 B. Except as otherwise provided in this section, any student  
18 between seven (7) years of age and seventeen (17) years of age who  
19 acts with specific intent in making a false accusation of criminal  
20 activity against an education employee to law enforcement  
21 authorities or school district officials, or both, shall, upon  
22 conviction, at the discretion of the court, be subject to any of the  
23 following:

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1           1. Community service of a type and for a period of time to be  
2 determined by the court; or

3           2. Any other sanction as the court in its discretion may deem  
4 appropriate.

5           C. The provisions of this section shall not apply to statements  
6 regarding individuals elected or appointed to an educational entity.

7           D. This section is in addition to and does not limit the civil  
8 or criminal liability of a person who makes false statements  
9 alleging criminal activity by another.

10           SECTION 5.           NEW LAW           A new section of law to be codified  
11 in the Oklahoma Statutes as Section 6-144 of Title 70, unless there  
12 is created a duplication in numbering, reads as follows:

13           A. In any civil action or proceeding against a school or an  
14 education employee in which the school or education employee  
15 prevails, the court shall award costs and reasonable attorney fees  
16 to the prevailing party. The court in its discretion may determine  
17 whether the fees and costs are to be borne by the attorney of the  
18 nonprevailing party, the nonprevailing party, or both. In any civil  
19 action or proceeding by or between any education employee and a  
20 school or other education employee, the provisions of this section  
21 shall not apply.

22           B. Expert witness fees may be included as part of the costs  
23 awarded under this section.

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1           SECTION 6.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6-145 of Title 70, unless there  
3 is created a duplication in numbering, reads as follows:

4           Unless otherwise provided by law, the existence of any policy of  
5 insurance indemnifying a school or an education employee against  
6 liability for damages is not a waiver of any defense otherwise  
7 available to the educational entity or its employees in the defense  
8 of the claim.

9           SECTION 7.           NEW LAW           A new section of law to be codified  
10 in the Oklahoma Statutes as Section 6-146 of Title 70, unless there  
11 is created a duplication in numbering, reads as follows:

12           The School Protection Act shall be in addition to and shall not  
13 limit or amend The Governmental Tort Claims Act or any other  
14 applicable law.

15           SECTION 8.           AMENDATORY           51 O.S. 2001, Section 155, as last  
16 amended by Section 1, Chapter 381, O.S.L. 2004 (51 O.S. Supp. 2007,  
17 Section 155), is amended to read as follows:

18           Section 155. The state or a political subdivision shall not be  
19 liable if a loss or claim results from:

- 20           1. Legislative functions;
- 21           2. Judicial, quasi-judicial, or prosecutorial functions, other  
22 than claims for wrongful criminal felony conviction resulting in  
23 imprisonment provided for in Section 154 of this title;
- 24           3. Execution or enforcement of the lawful orders of any court;

1           4. Adoption or enforcement of or failure to adopt or enforce a  
2 law, whether valid or invalid, including, but not limited to, any  
3 statute, charter provision, ordinance, resolution, rule, regulation  
4 or written policy;

5           5. Performance of or the failure to exercise or perform any act  
6 or service which is in the discretion of the state or political  
7 subdivision or its employees;

8           6. Civil disobedience, riot, insurrection or rebellion or the  
9 failure to provide, or the method of providing, police, law  
10 enforcement or fire protection;

11           7. Any claim based on the theory of attractive nuisance;

12           8. Snow or ice conditions or temporary or natural conditions on  
13 any public way or other public place due to weather conditions,  
14 unless the condition is affirmatively caused by the negligent act of  
15 the state or a political subdivision;

16           9. Entry upon any property where that entry is expressly or  
17 implied authorized by law;

18           10. Natural conditions of property of the state or political  
19 subdivision;

20           11. Assessment or collection of taxes or special assessments,  
21 license or registration fees, or other fees or charges imposed by  
22 law;

23           12. Licensing powers or functions including, but not limited  
24 to, the issuance, denial, suspension or revocation of or failure or

1 refusal to issue, deny, suspend or revoke any permit, license,  
2 certificate, approval, order or similar authority;

3 13. Inspection powers or functions, including failure to make  
4 an inspection, review or approval, or making an inadequate or  
5 negligent inspection, review or approval of any property, real or  
6 personal, to determine whether the property complies with or  
7 violates any law or contains a hazard to health or safety, or fails  
8 to conform to a recognized standard;

9 14. Any loss to any person covered by any workers' compensation  
10 act or any employer's liability act;

11 15. Absence, condition, location or malfunction of any traffic  
12 or road sign, signal or warning device unless the absence,  
13 condition, location or malfunction is not corrected by the state or  
14 political subdivision responsible within a reasonable time after  
15 actual or constructive notice or the removal or destruction of such  
16 signs, signals or warning devices by third parties, action of  
17 weather elements or as a result of traffic collision except on  
18 failure of the state or political subdivision to correct the same  
19 within a reasonable time after actual or constructive notice.

20 Nothing herein shall give rise to liability arising from the failure  
21 of the state or any political subdivision to initially place any of  
22 the above signs, signals or warning devices. The signs, signals and  
23 warning devices referred to herein are those used in connection with  
24 hazards normally connected with the use of roadways or public ways

1 and do not apply to the duty to warn of special defects such as  
2 excavations or roadway obstructions;

3 16. Any claim which is limited or barred by any other law;

4 17. Misrepresentation, if unintentional;

5 18. An act or omission of an independent contractor or  
6 consultant or his or her employees, agents, subcontractors or  
7 suppliers or of a person other than an employee of the state or  
8 political subdivision at the time the act or omission occurred;

9 19. Theft by a third person of money in the custody of an  
10 employee unless the loss was sustained because of the negligence or  
11 wrongful act or omission of the employee;

12 20. Participation in or practice for any interscholastic or  
13 other athletic contest sponsored or conducted by or on the property  
14 of the state or a political subdivision;

15 21. Participation in any activity approved by a local board of  
16 education and held within a building or on the grounds of the school  
17 district served by that local board of education before or after  
18 normal school hours or on weekends;

19 22. Any court-ordered or Department of Corrections approved  
20 work release program; provided, however, this provision shall not  
21 apply to claims from individuals not in the custody of the  
22 Department of Corrections based on accidents involving motor  
23 vehicles owned or operated by the Department of Corrections;

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1        23. The activities of the National Guard, the militia or other  
2 military organization administered by the Military Department of the  
3 state when on duty pursuant to the lawful orders of competent  
4 authority:

- 5            a. in an effort to quell a riot,
- 6            b. in response to a natural disaster or military attack,
- 7                    or
- 8            c. if participating in a military mentor program ordered  
9                    by the court;

10        24. Provision, equipping, operation or maintenance of any  
11 prison, jail or correctional facility, or injuries resulting from  
12 the parole or escape of a prisoner or injuries by a prisoner to any  
13 other prisoner; provided, however, this provision shall not apply to  
14 claims from individuals not in the custody of the Department of  
15 Corrections based on accidents involving motor vehicles owned or  
16 operated by the Department of Corrections;

17        25. Provision, equipping, operation or maintenance of any  
18 juvenile detention facility, or injuries resulting from the escape  
19 of a juvenile detainee, or injuries by a juvenile detainee to any  
20 other juvenile detainee;

21        26. Any claim or action based on the theory of manufacturer's  
22 products liability or breach of warranty, either expressed or  
23 implied;

1 27. Any claim or action based on the theory of indemnification  
2 or subrogation;

3 28. Any claim based upon an act or omission of an employee in  
4 the placement of children;

5 29. Acts or omissions done in conformance with then current  
6 recognized standards;

7 30. Maintenance of the state highway system or any portion  
8 thereof unless the claimant presents evidence which establishes  
9 either that the state failed to warn of the unsafe condition or that  
10 the loss would not have occurred but for a negligent affirmative act  
11 of the state;

12 31. Any confirmation of the existence or nonexistence of any  
13 effective financing statement on file in the office of the Secretary  
14 of State made in good faith by an employee of the office of the  
15 Secretary of State as required by the provisions of Section 1-9-  
16 320.6 of Title 12A of the Oklahoma Statutes;

17 32. Any court-ordered community sentence; ~~or~~

18 33. Remedial action and any subsequent related maintenance of  
19 property pursuant to and in compliance with an authorized  
20 environmental remediation program, order, or requirement of a  
21 federal or state environmental agency;

22 34. The use of necessary and reasonable force by a school  
23 district employee to control and discipline a student during the  
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1 time the student is in attendance or in transit to and from the  
2 school, or any other function authorized by the school district; or

3 35. Actions taken in good faith by a school district employee  
4 for the out-of-school suspension of a student pursuant to applicable  
5 Oklahoma Statutes.

6 SECTION 9. This act shall become effective November 1, 2008."

7 Passed the House of Representatives the 24th day of April, 2008.

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10 \_\_\_\_\_  
Presiding Officer of the House of  
11 Representatives

12 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2008.

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Presiding Officer of the Senate

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