

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 CONFERENCE COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 SENATE BILL 612

By: Coates of the Senate

and

6 DeWitt, Kern and McDaniel  
7 (Randy) of the House  
8

9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to crimes and punishments; creating  
11 the Teacher's Protection from Abuse Act; providing  
12 short title; allowing certain person to seek relief  
13 under act; stating procedures to file for protective  
14 order; allowing certain forms and procedures to be  
15 adapted for the Teacher's Protection from Abuse Act;  
16 prohibiting certain orders under Individuals with  
17 Disabilities Education Act; construing court clerk's  
18 responsibility for certain forms; authorizing school  
19 to take certain actions; construing effect on  
20 criminal complaint and prosecution; defining terms;  
21 creating the School Protection Act; providing short  
22 title; stating purpose; criminalizing false  
23 accusation of criminal activity by certain school  
24 employee; setting penalty; providing community  
service or other sanction at discretion of court for  
certain aged offender; construing effect of certain  
statements; making certain penalty in addition to  
civil and criminal liability; construing effect of  
certain policies of indemnification; allowing the  
School Protection Act in addition to the Governmental  
Tort Claims Act; amending 51 O.S. 2001, Section 155,  
as last amended by Section 1, Chapter 381, O.S.L.  
2004 (51 O.S. Supp. 2006, Section 155), which relates  
to exemptions from liability; making gender neutral;  
exempting use of reasonable force by school employee  
under certain conditions; exempting certain actions  
for out-of-school suspensions; providing for

1 codification; providing an effective date; and  
2 declaring an emergency.

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

5 SECTION 1. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 61 of Title 22, unless there is  
7 created a duplication in numbering, reads as follows:

8 Sections 1 and 2 of this act shall be known and may be cited as  
9 the "Teacher's Protection from Abuse Act".

10 SECTION 2. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 61.1 of Title 22, unless there  
12 is created a duplication in numbering, reads as follows:

13 A. A teacher who is a victim of abuse as a result of a school  
14 relationship, as such terms are defined in this section, may seek  
15 relief under the provisions of the Protection from Domestic Abuse  
16 Act. The teacher seeking relief may file a petition for a  
17 protective order and shall have all rights of a plaintiff authorized  
18 by the Protection from Domestic Abuse Act. The procedures for a  
19 protective order under this section shall be substantially the same  
20 procedures required under the Protection from Domestic Abuse Act.  
21 The judge is authorized to adapt any form or procedure authorized by  
22 the Protection from Domestic Abuse Act as necessary to implement the  
23 provisions of this section and grant protection from abuse to a  
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1 teacher; provided, however, no court order granting a victim  
2 protective order to a teacher as a result of a school relationship  
3 shall deny services to or prohibit any student from attending school  
4 as may be required under the Individuals with Disabilities Education  
5 Act. Nothing in this section shall require the court clerk to  
6 revise or reprint any forms to effect the purposes of this section.

7 B. In addition to a protective order authorized for a teacher  
8 in this section, the school where such teacher is employed is  
9 authorized to take action to protect the property, teacher or other  
10 persons as necessary under the circumstances, including but not  
11 limited to seeking protection under the provisions of Section 1376  
12 of Title 21 of the Oklahoma Statutes, Sections 24-131 and 24-131.1  
13 of Title 70 of the Oklahoma Statutes, or as otherwise authorized by  
14 law or rule.

15 C. Nothing in this section shall require any person to seek a  
16 protective order under this section as a predicate action to making  
17 any criminal complaint against any person or for the purposes of  
18 prosecution of any crime.

19 D. As used in the Teacher's Protection from Abuse Act:

20 1. "Abuse" means any act of stalking or harassment, as such  
21 terms are defined in Section 60.1 of Title 22 of the Oklahoma  
22 Statutes, or any act of physical harm, or the threat of imminent  
23 physical harm which is committed against a teacher as a result of a  
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1 school relationship, as such terms are defined by paragraphs 2 and 3  
2 of this subsection;

3 2. "School relationship" means a relationship resulting from a  
4 position of authority between a teacher and the teacher's student,  
5 as such terms are defined in this subsection, and includes any  
6 adult, parent, stepparent or relative associated or living with such  
7 student who is at least eighteen (18) years of age;

8 3. "Teacher" means any person who is employed by a public or  
9 private school or career technology center as a classroom teacher,  
10 principal, superintendent, supervisor, counselor, librarian, school  
11 nurse, coach, assistant coach, or in any other instructional,  
12 supervisory or administrative capacity; and

13 4. "Student" means a person thirteen (13) through seventeen  
14 (17) years of age or an adult who is currently enrolled in a public  
15 or private school or career technology center or who was previously  
16 enrolled in such school or career technology center.

17 SECTION 3. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 24-206 of Title 70, unless there  
19 is created a duplication in numbering, reads as follows:

20 Sections 3 through 8 of this act shall be known and may be cited  
21 as the "School Protection Act".

22 SECTION 4. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 24-207 of Title 70, unless there  
24 is created a duplication in numbering, reads as follows:

1       The purpose of the School Protection Act is to provide teachers,  
2 principals, and other school professionals the tools they need to  
3 undertake reasonable actions to maintain order, discipline, and an  
4 appropriate educational environment.

5       SECTION 5.       NEW LAW       A new section of law to be codified  
6 in the Oklahoma Statutes as Section 24-208 of Title 70, unless there  
7 is created a duplication in numbering, reads as follows:

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

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

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

23       2. Any other sanction as the court in its discretion may deem  
24 appropriate.

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

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

6 SECTION 6. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 24-209 of Title 70, unless there  
8 is created a duplication in numbering, reads as follows:

9 Unless otherwise provided by law, the existence of any policy of  
10 insurance indemnifying a school or a school employee against  
11 liability for damages is not a waiver of any defense otherwise  
12 available to the educational entity or its employees in the defense  
13 of the claim.

14 SECTION 7. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 24-210 of Title 70, unless there  
16 is created a duplication in numbering, reads as follows:

17 The School Protection Act shall be in addition to the  
18 Governmental Tort Claims Act or any other applicable law.

19 SECTION 8. AMENDATORY 51 O.S. 2001, Section 155, as last  
20 amended by Section 1, Chapter 381, O.S.L. 2004 (51 O.S. Supp. 2006,  
21 Section 155), is amended to read as follows:

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

24 1. Legislative functions;

1        2. Judicial, quasi-judicial, or prosecutorial functions, other  
2 than claims for wrongful criminal felony conviction resulting in  
3 imprisonment provided for in Section 154 of this title;

4        3. Execution or enforcement of the lawful orders of any court;

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

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

12        6. Civil disobedience, riot, insurrection or rebellion or the  
13 failure to provide, or the method of providing, police, law  
14 enforcement or fire protection;

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

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

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

22        10. Natural conditions of property of the state or political  
23 subdivision;

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1 11. Assessment or collection of taxes or special assessments,  
2 license or registration fees, or other fees or charges imposed by  
3 law;

4 12. Licensing powers or functions including, but not limited  
5 to, the issuance, denial, suspension or revocation of or failure or  
6 refusal to issue, deny, suspend or revoke any permit, license,  
7 certificate, approval, order or similar authority;

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

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

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

1 Nothing herein shall give rise to liability arising from the failure  
2 of the state or any political subdivision to initially place any of  
3 the above signs, signals or warning devices. The signs, signals and  
4 warning devices referred to herein are those used in connection with  
5 hazards normally connected with the use of roadways or public ways  
6 and do not apply to the duty to warn of special defects such as  
7 excavations or roadway obstructions;

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

9 17. Misrepresentation, if unintentional;

10 18. An act or omission of an independent contractor or  
11 consultant or his or her employees, agents, subcontractors or  
12 suppliers or of a person other than an employee of the state or  
13 political subdivision at the time the act or omission occurred;

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

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

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

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

6        23. The activities of the National Guard, the militia or other  
7 military organization administered by the Military Department of the  
8 state when on duty pursuant to the lawful orders of competent  
9 authority:

- 10            a. in an effort to quell a riot,
- 11            b. in response to a natural disaster or military attack,
- 12                    or
- 13            c. if participating in a military mentor program ordered  
14                    by the court;

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

22        25. Provision, equipping, operation or maintenance of any  
23 juvenile detention facility, or injuries resulting from the escape  
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1 of a juvenile detainee, or injuries by a juvenile detainee to any  
2 other juvenile detainee;

3 26. Any claim or action based on the theory of manufacturer's  
4 products liability or breach of warranty, either expressed or  
5 implied;

6 27. Any claim or action based on the theory of indemnification  
7 or subrogation;

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

10 29. Acts or omissions done in conformance with then current  
11 recognized standards;

12 30. Maintenance of the state highway system or any portion  
13 thereof unless the claimant presents evidence which establishes  
14 either that the state failed to warn of the unsafe condition or that  
15 the loss would not have occurred but for a negligent affirmative act  
16 of the state;

17 31. Any confirmation of the existence or nonexistence of any  
18 effective financing statement on file in the office of the Secretary  
19 of State made in good faith by an employee of the office of the  
20 Secretary of State as required by the provisions of Section 1-9-  
21 320.6 of Title 12A of the Oklahoma Statutes;

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

23 33. Remedial action and any subsequent related maintenance of  
24 property pursuant to and in compliance with an authorized

1 environmental remediation program, order, or requirement of a  
2 federal or state environmental agency;

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

7 35. Actions taken in good faith by a school district employee  
8 for the out-of-school suspension of a student pursuant to applicable  
9 Oklahoma statutes.

10 SECTION 9. This act shall become effective July 1, 2007.

11 SECTION 10. It being immediately necessary for the preservation  
12 of the public peace, health and safety, an emergency is hereby  
13 declared to exist, by reason whereof this act shall take effect and  
14 be in full force from and after its passage and approval.

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