

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 606

By: Lamb

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6  
7 AS INTRODUCED

8 An Act relating to schools; creating the School  
9 Protection Act; providing short title; stating  
10 purpose; defining terms; making it unlawful to make a  
11 false criminal report against an education employee;  
12 providing punishment; limiting application for  
13 statements against certain persons; providing for  
14 award of costs and certain fees; limiting amount that  
15 an attorney shall charge, demand, receive, or collect  
16 for services; providing that existence of liability  
17 insurance is not a waiver of any defense; providing  
18 for the applicability of other laws; amending 51 O.S.  
19 2001, Section 155, as last amended by Section 1,  
20 Chapter 381, O.S.L. 2004 (51 O.S. Supp. 2008, Section  
21 155), which relates to exemptions from liability;  
22 adding certain exemptions; providing for  
23 codification; and providing an effective date.  
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 6-140 of Title 70, unless there  
23 is created a duplication in numbering, reads as follows:  
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1 Sections 1 through 8 of this act shall be known and may be cited  
2 as the "School Protection Act".

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

6 The purpose of the School Protection Act is to provide teachers,  
7 principals, and other school professionals the tools they need to  
8 undertake reasonable actions to maintain order, discipline, and an  
9 appropriate educational environment.

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

13 As used in the School Protection Act:

14 1. "Education employee" means any individual who is an employee  
15 of a school;

16 2. "Harm" means physical, nonphysical, economic, and  
17 noneconomic losses; and

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

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

1       A. Except as otherwise provided in this section, any person  
2 eighteen (18) years of age or older who acts with specific intent in  
3 making a false accusation of criminal activity against an education  
4 employee to law enforcement authorities or school district  
5 officials, or both, shall be guilty of a misdemeanor and, upon  
6 conviction, punished by a fine of not more than Two Thousand Dollars  
7 (\$2,000.00).

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

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

17       2. Any other sanction as the court in its discretion may deem  
18 appropriate.

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

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

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

4 A. In any civil action or proceeding against a school or an  
5 education employee in which the school or education employee  
6 prevails, the court shall award costs and reasonable attorney fees  
7 to the prevailing defendant or defendants. The court in its  
8 discretion may determine whether the fees and costs are to be borne  
9 by the plaintiff's attorney, the plaintiff, or both. In any civil  
10 action or proceeding by or between any education employee and a  
11 school or other education employee, the provisions of this section  
12 shall not apply.

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

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

18 No attorney shall charge, demand, receive, or collect for  
19 services rendered, fees in excess of twenty-five percent (25%) of  
20 any civil judgment rendered against a school or education employee,  
21 or of any settlement made pursuant to the laws of this state.

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

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

6 SECTION 8. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 6-147 of Title 70, unless there  
8 is created a duplication in numbering, reads as follows:

9 The School Protection Act shall be in addition to and shall not  
10 limit or amend The Governmental Tort Claims Act or any other  
11 applicable law.

12 SECTION 9. AMENDATORY 51 O.S. 2001, Section 155, as last  
13 amended by Section 1, Chapter 381, O.S.L. 2004 (51 O.S. Supp. 2008,  
14 Section 155), is amended to read as follows:

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

- 17 1. Legislative functions;
- 18 2. Judicial, quasi-judicial, or prosecutorial functions, other  
19 than claims for wrongful criminal felony conviction resulting in  
20 imprisonment provided for in Section 154 of this title;
- 21 3. Execution or enforcement of the lawful orders of any court;
- 22 4. Adoption or enforcement of or failure to adopt or enforce a  
23 law, whether valid or invalid, including, but not limited to, any  
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1 statute, charter provision, ordinance, resolution, rule, regulation  
2 or written policy;

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

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

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

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

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

16 10. Natural conditions of property of the state or political  
17 subdivision;

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

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

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

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

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

18 Nothing herein shall give rise to liability arising from the failure  
19 of the state or any political subdivision to initially place any of  
20 the above signs, signals or warning devices. The signs, signals and  
21 warning devices referred to herein are those used in connection with  
22 hazards normally connected with the use of roadways or public ways  
23 and do not apply to the duty to warn of special defects such as  
24 excavations or roadway obstructions;

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

2 17. Misrepresentation, if unintentional;

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

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

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

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

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

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

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

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

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

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

22 27. Any claim or action based on the theory of indemnification  
23 or subrogation;

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

3 29. Acts or omissions done in conformance with then current  
4 recognized standards;

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

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

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

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

20 34. The use of necessary and reasonable force by a school  
21 district employee to control and discipline a student during the  
22 time the student is in attendance or in transit to and from the  
23 school, or any other function authorized by the school district; or  
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1        35. Actions taken in good faith by a school district employee  
2 for the out-of-school suspension of a student pursuant to applicable  
3 Oklahoma Statutes.

4        SECTION 10. This act shall become effective November 1, 2009.

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