

1 STATE OF OKLAHOMA

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

3 SENATE BILL 977

By: Marlatt

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5
6 AS INTRODUCED

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

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

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

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

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

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

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

11 As used in the School Protection Act:

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

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

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

21 A. Except as otherwise provided in this section, any person
22 eighteen (18) years of age or older who acts with specific intent in
23 making a false accusation of criminal activity against an education
24 employee to law enforcement authorities or school district

1 officials, or both, shall be guilty of a misdemeanor and, upon
2 conviction, punished by a fine of not more than Two Thousand Dollars
3 (\$2,000.00).

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

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

13 2. Any other sanction as the court in its discretion may deem
14 appropriate.

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

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

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

23 A. In any civil action or proceeding against a school or an
24 education employee in which the school or education employee

1 prevails, the court shall award costs and reasonable attorney fees
2 to the prevailing party. The court in its discretion may determine
3 whether the fees and costs are to be borne by the attorney of the
4 nonprevailing party, the nonprevailing party, or both. In any civil
5 action or proceeding by or between any education employee and a
6 school or other education employee, the provisions of this section
7 shall not apply.

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

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

13 Unless otherwise provided by law, the existence of any policy of
14 insurance indemnifying a school or an education employee against
15 liability for damages is not a waiver of any defense otherwise
16 available to the educational entity or its employees in the defense
17 of the claim.

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

21 The School Protection Act shall be in addition to and shall not
22 limit or amend The Governmental Tort Claims Act or any other
23 applicable law.

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1 SECTION 8. AMENDATORY 51 O.S. 2001, Section 155, as last
2 amended by Section 1, Chapter 381, O.S.L. 2004 (51 O.S. Supp. 2008,
3 Section 155), is amended to read as follows:

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

6 1. Legislative functions;

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

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

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

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

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

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

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

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

5 10. Natural conditions of property of the state or political
6 subdivision;

7 11. Assessment or collection of taxes or special assessments,
8 license or registration fees, or other fees or charges imposed by
9 law;

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

14 13. Inspection powers or functions, including failure to make
15 an inspection, review or approval, or making an inadequate or
16 negligent inspection, review or approval of any property, real or
17 personal, to determine whether the property complies with or
18 violates any law or contains a hazard to health or safety, or fails
19 to conform to a recognized standard;

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

22 15. Absence, condition, location or malfunction of any traffic
23 or road sign, signal or warning device unless the absence,
24 condition, location or malfunction is not corrected by the state or

1 political subdivision responsible within a reasonable time after
2 actual or constructive notice or the removal or destruction of such
3 signs, signals or warning devices by third parties, action of
4 weather elements or as a result of traffic collision except on
5 failure of the state or political subdivision to correct the same
6 within a reasonable time after actual or constructive notice.
7 Nothing herein shall give rise to liability arising from the failure
8 of the state or any political subdivision to initially place any of
9 the above signs, signals or warning devices. The signs, signals and
10 warning devices referred to herein are those used in connection with
11 hazards normally connected with the use of roadways or public ways
12 and do not apply to the duty to warn of special defects such as
13 excavations or roadway obstructions;

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

15 17. Misrepresentation, if unintentional;

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

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

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

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

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

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

- 17 a. in an effort to quell a riot,
- 18 b. in response to a natural disaster or military attack,
- 19 or
- 20 c. if participating in a military mentor program ordered
- 21 by the court;

22 24. Provision, equipping, operation or maintenance of any
23 prison, jail or correctional facility, or injuries resulting from
24 the parole or escape of a prisoner or injuries by a prisoner to any

1 other prisoner; provided, however, this provision shall not apply to
2 claims from individuals not in the custody of the Department of
3 Corrections based on accidents involving motor vehicles owned or
4 operated by the Department of Corrections;

5 25. Provision, equipping, operation or maintenance of any
6 juvenile detention facility, or injuries resulting from the escape
7 of a juvenile detainee, or injuries by a juvenile detainee to any
8 other juvenile detainee;

9 26. Any claim or action based on the theory of manufacturer's
10 products liability or breach of warranty, either expressed or
11 implied;

12 27. Any claim or action based on the theory of indemnification
13 or subrogation;

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

16 29. Acts or omissions done in conformance with then current
17 recognized standards;

18 30. Maintenance of the state highway system or any portion
19 thereof unless the claimant presents evidence which establishes
20 either that the state failed to warn of the unsafe condition or that
21 the loss would not have occurred but for a negligent affirmative act
22 of the state;

23 31. Any confirmation of the existence or nonexistence of any
24 effective financing statement on file in the office of the Secretary

1 of State made in good faith by an employee of the office of the
2 Secretary of State as required by the provisions of Section 1-9-
3 320.6 of Title 12A of the Oklahoma Statutes;

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

5 33. Remedial action and any subsequent related maintenance of
6 property pursuant to and in compliance with an authorized
7 environmental remediation program, order, or requirement of a
8 federal or state environmental agency;

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

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

16 SECTION 9. This act shall become effective November 1, 2009.

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