

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

# A Bill

Act 540 of 1999  
SENATE BILL 482

5 By: Senators Mahony, Beebe  
6 By: Representative Luker  
7  
8

## For An Act To Be Entitled

9  
10 "AN ACT TO AUTHORIZE AND DIRECT THE DEPARTMENT OF  
11 EDUCATION TO ESTABLISH A SCHOOL WORKER DEFENSE PROGRAM  
12 ADVISORY BOARD; TO DECREASE THE PER INCIDENT COVERAGE  
13 OF PROTECTION FOR VARIOUS EDUCATIONAL ENTITIES AND  
14 PERSONNEL AGAINST LIABILITY FOR ACTS OR OMISSIONS IN  
15 THE PERFORMANCE OF THEIR DUTIES; AND FOR OTHER  
16 PURPOSES. "

## Subtitle

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18  
19 "AN ACT TO AUTHORIZE AND DIRECT THE  
20 DEPARTMENT OF EDUCATION TO ESTABLISH A  
21 DEFENSE PROGRAM ADVISORY BOARD. "  
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23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code 6-17-1113 is amended to read as follows:

27 "~~6-17-1113. Civil liability insurance~~ School Worker Defense Program.

28 (a) The Department of Education is authorized and directed to establish  
29 a ~~self-insurance fund~~ School Worker Defense Program ~~or to negotiate for and~~  
30 ~~procure a group or blanket policy or policies of insurance, or both, insuring~~  
31 for the protection of education service cooperatives, education service  
32 cooperative board members, school districts, school board members, school  
33 treasurers/bookkeepers, school nurses, school secretaries, substitute  
34 teachers, authorized volunteers, volunteers in a registered volunteers  
35 program, school custodians, food service workers employed by public schools,  
36 bus drivers and mechanics employed by public schools, maintenance personnel

1 employed by public schools, each employee of a public school district, each  
 2 employee of the Arkansas School for Mathematics and Sciences, and each  
 3 employee of the Arkansas School for the Deaf and the Arkansas School for the  
 4 Blind who is required to hold a teaching certificate issued by the Department  
 5 of Education, each teacher's aide and each student teacher in a public school  
 6 district, in the Arkansas School for Mathematics and Sciences, or in the  
 7 Arkansas School for the Deaf or the Arkansas School for the Blind, and each  
 8 member of the dormitory staff of the Arkansas School for Mathematics and  
 9 Sciences, Arkansas School for the Deaf or the Arkansas School for the Blind  
 10 against civil liability, attorney's fees, and costs of defense for acts or  
 11 omissions of each employee or volunteer in the performance of his or her  
 12 duties as a volunteer or his or her official duties as a school employee,  
 13 including civil liability for administering corporal punishment to students in  
 14 the amount of two hundred fifty thousand dollars (\$250,000) for incidents  
 15 which occurred prior to July 1, 1999 and one hundred fifty thousand dollars  
 16 (\$150,000) for each incident which occurred after June 30, 1999.

17 (b) The School Worker Defense Program is further authorized to provide  
 18 limited financial reimbursement not to exceed five thousand dollars (\$5,000)  
 19 for attorney's fees and costs for the defense of criminal charges if the  
 20 covered person is exonerated by a court of law or all charges are subsequently  
 21 withdrawn or dismissed, unless such withdrawal or dismissal is conditioned  
 22 upon termination of employment. The School Worker Defense Program Advisory  
 23 Board may authorize reimbursement under this section in excess of five  
 24 thousand dollars (\$5,000) in matters that the board finds to require  
 25 extraordinary attorney's fees and costs.

26 ~~(b)(c) The premium on such policy or policies cost of the School Worker~~  
 27 ~~Defense Program shall be paid annually out of funds in the Public School Fund~~  
 28 ~~that are designated set aside for distribution to the various school districts~~  
 29 ~~under Acts 1977, No. 384 [repealed] that specific purpose.~~

30 (d) The investigation of any incident or the defense of any protected  
 31 person does not waive or forfeit any immunity or authorization to provide for  
 32 hearing and settling claims extended to educational entities and their  
 33 personnel by the laws of the State of Arkansas.

34 (e) The defense fund and protection program authorized herein shall be  
 35 a part of and administered by the Department of Education. Any person  
 36 entitled to payment under the School Worker Defense Program may appeal the

1 decision of the Department of Education to the School Worker Defense Program  
 2 Advisory Board.

3 ~~(e)~~(f) The Department of Education shall adopt appropriate rules and  
 4 regulations necessary to carry out the purposes of this section.

5 ~~(d)~~(g) Any school districts previously covered by or monies expended  
 6 pursuant to the self-insurance program of the Department of Education or the  
 7 School worker Defense Program shall be deemed a proper expenditure of state  
 8 funds.”

9  
 10 SECTION 2. (a) The School Worker Defense Program Advisory Board is  
 11 created. The board shall be composed of seven members as follows:

12 (1) The Executive Director of the Arkansas Association of  
 13 Educational Administrators or his designee;

14 (2) The President of the Arkansas Rural Education Association or  
 15 his designee;

16 (3) The Executive Director of the Arkansas School Boards  
 17 Association or his designee;

18 (4) The Executive Director of the Arkansas Education Association  
 19 or his designee;

20 (5) The designee of the Attorney General;

21 (6) The Director of the Department of Finance and Administration  
 22 or his designee; and

23 (7) The Director of the Department of the Education or his  
 24 designee; provided, however, that no employee of the Department of Education  
 25 who is charged with administering the defense fund and protection program  
 26 shall be eligible to serve as such designee of the director.

27 (b) The Director of the Department of Education shall call an  
 28 organizational meeting of the board and preside as chairman until officers are  
 29 selected. Members of the board shall biannually elect a chairman, a vice-  
 30 chairman and a secretary from the membership of the Board, whose duties shall  
 31 be those customarily exercised by those officers or specifically designated by  
 32 the board.

33 (c) The advisory board shall meet within the State of Arkansas and may  
 34 meet as often as it deems necessary for the purpose of carrying out its duties  
 35 under the provisions of this section. In an emergency situation, the chairman  
 36 of the board may approve payment of a claim without a meeting of the board.

1       (d) The Department of Education shall provide support staff for the  
 2 board.

3       (e) A majority of the members of the advisory board shall constitute a  
 4 quorum for the purpose of a meeting.

5       (f) The board shall have final authority to hear and adjudicate any  
 6 appeal filed by a school worker for protection against liability pursuant to  
 7 Arkansas Code 6-17-1113.

8       (g) The Department of Education may promulgate rules and regulations as  
 9 necessary for the proper administration of this section to establish a school  
 10 worker defense advisory board.

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 12       SECTION 3. All provisions of this act of a general and permanent nature  
 13 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
 14 Revision Commission shall incorporate the same in the Code.

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 16       SECTION 4. If any provision of this act or the application thereof to  
 17 any person or circumstance is held invalid, such invalidity shall not affect  
 18 other provisions or applications of the act which can be given effect without  
 19 the invalid provision or application, and to this end the provisions of this  
 20 act are declared to be severable.

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 22       SECTION 5. All laws and parts of laws in conflict with this act are  
 23 hereby repealed.

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 26   APPROVED: 3/11/1999  
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