

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

A Bill

HOUSE BILL 2624

5 By: Representative King
6
7

For An Act To Be Entitled

9 AN ACT FOR EDUCATION QUALITY AND TEACHER
10 PROTECTION; AND FOR OTHER PURPOSES.
11

Subtitle

13 AN ACT FOR EDUCATION QUALITY AND TEACHER
14 PROTECTION.
15
16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
18

19 SECTION 1. Title.

20 This act may be known and may be cited as the "Education Quality and
21 Teacher Protection Act".
22

23 SECTION 2. Findings and Purpose.

24 (a) The Legislature finds that:

25 (1) Ensuring the quality of primary and secondary public
26 education is a compelling state interest;

27 (2) The educational environment of students is often not
28 conducive to learning because:

29 (A) Violence is sometimes a threat; and

30 (B) Educators may lack the authority to maintain safety
31 and discipline in the public schools;

32 (3) The filing of meritless lawsuits against school districts,
33 teachers, administrators, and other school employees interferes with attempts
34 to ensure the quality of public education, particularly when such lawsuits
35 arise out of the good-faith efforts of educators to maintain classroom
36 discipline or address threats to student safety;

1 (4) Meritless litigation also diverts financial and personnel
2 resources to litigation defense activities, reducing the availability of
3 those resources for educational opportunities for students; and

4 (5) It is rational and appropriate to address this compelling
5 public interest through legislation.

6 (b) The purpose of this act is to deter meritless lawsuits, sanction
7 deliberately false reports against educators, and to ensure the quality of
8 primary and secondary public education in the State of Arkansas.

9
10 SECTION 3. Definitions.

11 As used in this act, unless the context otherwise requires:

12 (1) "Educational entity" means the State Board of Education or any
13 other body, board, or agency that governs one (1) or more public primary or
14 secondary schools; and

15 (2)(A) "Employee" means any individual elected or appointed to an
16 educational entity, any individual who is an employee of such an entity, and
17 any individual employed by a public school.

18 (B) "Employee" does not include independent contractors.

19
20 SECTION 4. Liability.

21 (a) An educational entity or its employees shall not be subject to
22 liability for any of the following:

23 (1) Taking any action regarding the control, grading,
24 suspension, expulsion, or discipline of students while the students are on
25 the property of the educational entity or are under the supervision of the
26 educational entity or its employees; and

27 (2) Using corporal punishment when and to the extent that the
28 employee reasonably believes it necessary and appropriate to maintain
29 discipline or to promote student welfare.

30 (3)(A) The immunity provided by this subsection shall not apply
31 if the action of the educational entity, or its employee violates an express
32 law, rule, regulation or clearly articulated policy of the state or
33 educational entity.

34 (B) The burden of proof of the violation shall rest with
35 the plaintiff and must be established by clear and convincing evidence to the
36 court as part of a summary proceeding.

1 (b) An educational entity and its employees shall not be subject to
2 liability for making a report consistent with federal law to the appropriate
3 law enforcement authorities or school officials if the individual making the
4 report has reasonable grounds to suspect that a student is:

5 (1) Under the influence of alcoholic beverages or a controlled
6 substance not lawfully prescribed to that individual;

7 (2) In possession of a firearm, alcoholic beverage, or a
8 controlled substance not lawfully prescribed to that individual; or

9 (3) Involved in the illegal sale or distribution of firearms,
10 alcoholic beverages, or a controlled substance.

11
12 SECTION 5. Punitive and exemplary damages.

13 (a)(1) An educational entity shall not be liable for punitive or
14 exemplary damages.

15 (2) An employee shall not be liable for punitive or exemplary
16 damages for acts or omissions within the course and scope of employment.

17 (b) For the purposes of this section, an employee of an educational
18 entity shall not be considered as acting within the course and scope of
19 employment if the employee acted with specific intent to cause harm.

20
21 SECTION 6. False Reports.

22 (a) Any person eighteen (18) years of age or older, who acts with the
23 intent of making a false accusation of criminal activity against an
24 educational entity or employee of an educational entity to law enforcement
25 authorities, school district officials or personnel, or both, shall be guilty
26 of a misdemeanor and shall be fined up to two thousand dollars (\$2,000).

27 (b) Any public school student between the ages of seven (7) and
28 seventeen (17), who acts with the intent of making a false accusation of
29 criminal activity against an employee of an educational entity to law
30 enforcement authorities, school district officials or personnel, or both,
31 may, at the discretion of a court of competent jurisdiction, be subject to
32 any of the following:

33 (1) Expulsion;

34 (2) Suspension for a period of time to be determined by the
35 court;

36 (3) Community service of a type and for a period of time to be

1 determined by the court; or

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

4 (c) The provisions of this section do not apply to statements
5 regarding individuals elected or appointed to a school board.

6 (d) This section is in addition to and does not limit the civil or
7 criminal liability of those persons who make false statements alleging
8 criminal activity by others.

9
10 SECTION 7. Frivolous actions - attorney's fees - costs.

11 (a)(1) In any civil action or proceeding against an educational entity
12 or its employee in which the educational entity or its employee prevails, the
13 court shall award costs and reasonable attorney's fees to the prevailing
14 defendant or defendants.

15 (2) The court in its discretion may determine whether the fees
16 and costs are to be borne by the plaintiff's attorney, the plaintiff, or
17 both.

18 (b) Expert witness fees may be included as part of the costs awarded
19 under this section.

20 (c) The provisions of this section shall be deemed to be substantive
21 state law.

22
23 SECTION 8. Contingency fees - penalty.

24 (a) No attorney shall charge, demand, receive, or collect for services
25 rendered, fees in excess of twenty five percent (25%) of any civil judgement
26 rendered against an educational entity or its employee, or of any settlement.

27 (b)(1) Any interested person may file a civil action or petition the
28 appropriate court to rescind any provision of the attorney fee contract
29 inconsistent with this section and to compel the disgorgement of any fees
30 paid in excess of the amounts allowed under this section.

31 (2)(A) If the plaintiff prevails, a court with jurisdiction over
32 the matter shall impose a fine against the attorney;

33 (B) The fine shall not be less than the amount of money
34 charged by the attorney over the amount permitted by this section; and

35 (C) The fine shall not be less than two thousand dollars
36 (\$2,000).

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SECTION 9. Insurance.

Unless otherwise provided by statute, the existence of any policy of insurance indemnifying an educational entity against liability for damages is not a waiver of any defense otherwise available to the educational entity or its employees in the defense of the claim.

SECTION 10. Applicability.

This section shall be supplemental to the immunity and other provisions under the Arkansas Code beginning at § 21-9-301.