

1 State of Arkansas  
2 84th General Assembly  
3 Second Extraordinary Session, 2003  
4

# A Bill

Call Item 4

HOUSE BILL 1143

5 By: Representative Martin  
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## For An Act To Be Entitled

9 THE SCHOOL LAW ENFORCEMENT ACT OF 2004; AND FOR  
10 OTHER PURPOSES.

### Subtitle

12 THE SCHOOL LAW ENFORCEMENT ACT OF 2004.  
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14

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
16

17 SECTION 1. Arkansas Code Title 6, Chapter 10 is amended to add an  
18 additional subchapter to read as follows:

19 6-10-201. Title and definitions.

20 (a) This subchapter shall be known as the "School Law Enforcement  
21 Act".

22 (b) As used in this subchapter, the term "school law" means any  
23 provision of Title 6 of the Arkansas Code, as amended.  
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25 6-10-202. School Law Enforcement Division.

26 (a) There is created within the Department of Education a School Law  
27 Enforcement Division.

28 (b)(1) The Director of the School Law Enforcement Division shall be  
29 known as the "Arkansas School Law Counselor" and shall be appointed by the  
30 Director of the Department of Education subject to the approval of the State  
31 Board of Education.

32 (2) The Arkansas School Law Counselor shall be an attorney  
33 licensed to practice law in the State of Arkansas.

34 (3) The Arkansas School Law Counselor, may appoint assistants,  
35 investigators, and professional and clerical staff as are necessary for the  
36 efficient operation of the division.



1 (c) The division shall represent and protect the interest of the  
2 state.

3 (d) The division shall have the following functions, powers, and  
4 duties:

5 (1) To serve as a central coordinating agency and clearinghouse  
6 for receiving complaints of violations of school law;

7 (2) To assist, advise, and cooperate with federal, state, and  
8 local agencies and officials to protect and promote enforcement of school  
9 law;

10 (3) To investigate violations of school law enacted and rules  
11 and regulations of the State Board of Education; and

12 (4) To enforce the provisions of school law and to perform other  
13 functions as may be incidental to the powers and duties under this  
14 subchapter.

15 (e) The expenses of the division shall be paid from funds provided for  
16 that purpose by law or other available funds provided by the Department of  
17 Education.

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19 6-10-203. Injunctions.

20 The Arkansas School Law Counselor shall have authority to file an  
21 action in any court of competent jurisdiction for civil enforcement of any  
22 school law, including, but not limited to, the seeking of restitution, civil  
23 penalties, and an injunction prohibiting any person from violating school  
24 law.

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26 6-10-204. Investigations – Procedure – Confidential information.

27 (a) When the Arkansas School Law Counselor determines that an  
28 investigation should be made as to whether a person has violated a school  
29 law, upon request of a parent, student, state agency, or the General  
30 Assembly, the Arkansas School Law Counselor may:

31 (1) Require the requesting person to file a statement or report  
32 in writing as to the facts and circumstances concerning the matter, together  
33 with reasonably other related data;

34 (2) Examine under oath or take the deposition of any person in  
35 connection with the matter; and

36 (3) Examine evidence relating to the violation.

1           (b) Unless otherwise ordered by a court for good cause shown, no  
2 statement or documentary material produced pursuant to a demand under this  
3 section shall be produced for inspection or copying by, nor shall the  
4 contents be disclosed to, any person other than the authorized employee of  
5 the School Law Enforcement Division without the consent of the person who  
6 produced the material.

7           (c) The Arkansas School Law Counselor or any attorney designated by  
8 him or her may use the documentary material or copies thereof in the  
9 enforcement of school law by presentation before any court.

10           (d) No statements, documents, or other information maintained or  
11 produced as a result of an ongoing investigation of possible violations of  
12 school law shall be disclosed to any person other than those persons  
13 specifically authorized by the Arkansas School Law Counselor to receive the  
14 information.

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16           6-10-205. Failure to cooperate in investigations – Proceedings.

17           (a) If any person fails or refuses to file a statement, appear, or  
18 produce records as required by § 6-10-202, the Arkansas School Law Counselor,  
19 may file, in the circuit court of the county in which the person resides or  
20 Pulaski County a petition for an order of the court for the civil enforcement  
21 of school law.

22           (b) Upon the filing of the petition and service upon the person, the  
23 court shall have jurisdiction to hear and determine the matter and to enter  
24 the order, including temporary injunctions, as may be required to effectuate  
25 this subchapter.

26           (c) Willful concealment, destruction, alteration, or falsification of  
27 any documentary material which would be subject to subpoena by the court, or  
28 the disobedience of any order of the court, is declared to be unlawful and  
29 shall be punished as contempt of court.

30           (d) Any final order shall be subject to appeal to the Arkansas Supreme  
31 Court.

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33           6-10-206. Civil enforcement and remedies – Suspension or forfeiture of  
34 license.

35           (a) In any proceeding brought by the Arkansas School Law Counselor for  
36 civil enforcement of the provisions of school law, the circuit court may make

1 orders or judgments as may be necessary to:

2 (1) Prevent the violation of school law; and

3 (2) Assess penalties to be paid to the Department of Education  
4 not to exceed ten thousand dollars (\$10,000) per violation, against persons  
5 found to have violated school law.

6 (b) Upon petition of the Arkansas School Law Counselor, the court may  
7 order the suspension or forfeiture of any license issued by the Department of  
8 Education of any person violating a school law.

9 (c) Any person who violates the terms of an injunction issued under  
10 this subchapter shall forfeit and pay to the Department of Education a civil  
11 penalty of not more than ten thousand dollars (\$10,000) for any single action  
12 brought by the Arkansas School Law Counselor, or his or her designee.

13 (d) Upon successful prosecution of a matter, the School Law  
14 Enforcement Division shall be entitled to an award for all expenses  
15 reasonably incurred in the investigation and prosecution of suits, including,  
16 but not limited to, expenses for expert witnesses, to be paid by the  
17 defendant when judgment is rendered for the state, and, in addition, shall  
18 recover attorney's fees and costs.

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20 6-10-207. Voluntary compliance.

21 (a)(1) In the administration of this subchapter, the Arkansas School  
22 Law Counselor may accept an assurance of voluntary compliance with respect to  
23 any method, act, or practice deemed to violate any provisions of school law  
24 from any person who has engaged in or was about to engage in the method, act,  
25 or practice.

26 (2) Any assurance shall be in writing and may be enforced by  
27 petitioning the circuit court of the county in which the alleged violator  
28 resides or the Pulaski County Circuit Court.

29 (3) Assurance of voluntary compliance shall not be considered an  
30 admission of violation for any purpose.

31 (b) The assurance of voluntary compliance shall provide for the  
32 discontinuance by the person entering into the assurance of any method, act,  
33 or practice alleged to be a violation of school law, and it may include a  
34 stipulation for the payment by the person of reasonable expenses,  
35 investigative costs, and attorney's fees incurred by the School Law  
36 Enforcement Division.

1           (c) A finding by a circuit court that a violation of the assurance of  
 2 voluntary compliance has occurred shall prima facie establish that the person  
 3 subject to the assurance knows, or in the exercise of due care should know,  
 4 that he or she has in the past violated or is now violating the provisions of  
 5 school law.

6           (d) The assurance of voluntary compliance shall not be admissible into  
 7 evidence in any separate proceeding.

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 9           6-10-208. Statute of limitations.

10           Any civil action brought to enforce the provisions of school law may be  
 11 brought in any court of competent jurisdiction in this state during a period  
 12 of five (5) years commencing on the date of the occurrence of the violation,  
 13 or the date upon which the cause of action arises.

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 15           6-10-209. Staffing.

16           (a) The Director of the Department of Education may transfer any  
 17 unclassified position to the School Law Enforcement Division.

18           (b) Any restructuring of the Department of Education shall be  
 19 conducted in a manner that will provide sufficient personnel within the  
 20 department to provide administrative and technology support to the School Law  
 21 Enforcement Division at a level that is sufficient for the division to carry  
 22 out the duties set forth in this subchapter.

23           (c) The Department of Education and its various divisions may  
 24 coordinate and share certain administrative, custodial, legal, internal  
 25 finance, and other necessary personnel to effectuate the daily operations of  
 26 those divisions and the department.