

By Senator Cowin

11-662-01

1 A bill to be entitled
2 An act relating to liability of primary and
3 secondary educational institutions and
4 personnel; creating the "Teacher Protection
5 Act"; providing legislative findings; providing
6 definitions; providing that educational
7 entities and their employees are not subject to
8 liability for certain acts relating to control
9 and discipline of students; providing
10 exceptions; prohibiting punitive and exemplary
11 damages; providing penalties for filing false
12 accusations of criminal activity against
13 employees of educational entities; providing
14 that maintenance of insurance is not a waiver
15 of defenses; providing applicability; providing
16 an effective date.

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18 Be It Enacted by the Legislature of the State of Florida:

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20 Section 1. This act may be cited as the "Teacher
21 Protection Act."22 Section 2. Legislative findings.--The Legislature
23 finds that ensuring the quality of primary and secondary
24 public education is a compelling state interest. The
25 educational environment of students is often not conducive to
26 learning. Violence is sometimes a threat, while at other times
27 educators may lack the authority to maintain safety and
28 discipline in the public schools. The filing of meritless
29 lawsuits against school districts, teachers and
30 administrators, and other school employees interferes with
31 attempts to ensure the quality of public education,

1 particularly where such lawsuits arise out of the good-faith
2 efforts of educators to maintain classroom discipline or
3 address threats to student safety. Meritless litigation also
4 diverts financial and personnel resources to
5 litigation-defense activities and reduces the availability of
6 such resources for educational opportunities for students. The
7 Legislature finds that legislation to deter meritless lawsuits
8 and sanction deliberately false reports against educators is a
9 rational and appropriate method by which to address this
10 compelling public interest.

11 Section 3. Definitions.--As used in this act, the
12 term:

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

16 (2) "Employee" includes an individual elected or
17 appointed to an educational entity and an individual who is an
18 employee of such an entity. The term does not include an
19 independent contractor.

20 Section 4. Liability.--

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

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

28 (b) Using corporal punishment when and to the extent
29 that the employee believes it necessary and appropriate to
30 maintain discipline or to promote student welfare, so long as
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1 the corporal punishment was administered in accordance with
2 rules adopted by the school board.

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4 The immunity provided in this subsection does not apply if the
5 action of the educational entity or its employee violated an
6 express law or rule or a clearly articulated policy of the
7 state or the educational entity. The burden of proof of such
8 violation rests with the plaintiff and must be established to
9 the court by clear and convincing evidence as part of a
10 summary proceeding.

11 (2) An educational entity and its employees are not
12 subject to liability for making a report consistent with
13 federal law to the appropriate law enforcement authorities or
14 school officials if the individual making the report has
15 reasonable grounds to suspect that a student is:

16 (a) Under the influence of alcoholic beverages or a
17 controlled substance not lawfully prescribed to that student;

18 (b) In possession of a firearm, alcoholic beverages,
19 or a controlled substance not lawfully prescribed to that
20 student;

21 (c) Involved in the unlawful sale or distribution of
22 firearms, alcoholic beverages, or a controlled substance; or

23 (d) A victim of sexual or physical abuse.

24 Section 5. Punitive and exemplary damages.--

25 (1) An educational entity is not liable for punitive
26 or exemplary damages. An employee is not liable for punitive
27 or exemplary damages for acts or omissions within the course
28 and scope of employment.

29 (2) For the purposes of this section, an employee is
30 not acting within the course and scope of employment if the
31 employee acted with specific intent to cause harm.

1 Section 6. False reports.--

2 (1) Except as otherwise provided in this section, any
3 person 18 years of age or older who acts with specific intent
4 in making a false accusation of criminal activity against an
5 employee of an educational entity to law enforcement
6 authorities or school district officials or personnel, or
7 both, is guilty of a noncriminal violation and shall be fined
8 up to \$2,000.

9 (2) Except as otherwise provided in this section, any
10 public school student 7 years of age or older, but less than
11 18 years of age, who acts with specific intent in making a
12 false accusation of criminal activity against an employee of
13 an educational entity to law enforcement authorities or school
14 district officials or personnel, or both, may, at the
15 discretion of the court, be subject to any of the following;

16 (a) Expulsion.

17 (b) Suspension for a period of time to be determined
18 by the court.

19 (c) Community service of a type and for a period of
20 time to be determined by the court.

21 (d) Any other sanction the court in its discretion
22 deems appropriate or that is within the policies of the school
23 board.

24 (3) This section does not apply to statements
25 regarding individuals elected or appointed to a school board.

26 (4) This section does not limit the civil or criminal
27 liability of those persons who make false statements alleging
28 criminal activity by others and is cumulative to the laws
29 prohibiting or imposing liability for that conduct.

30 Section 7. Insurance.--Unless otherwise provided by
31 statute, the existence of any policy of insurance indemnifying

1 an educational entity against liability for damages is not a
2 waiver of any defense otherwise available to the educational
3 entity or its employees in the defense of the claim.

4 Section 8. Applicability.--This section is
5 supplemental to any other statute relating to tort claims.

6 Section 9. This act shall take effect July 1, 2001.

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9 SENATE SUMMARY

10 Provides that educational entities and their employees,
11 as defined, are not liable for acts taken pursuant to
12 laws, rules, and policies in maintaining control of, or
13 disciplining, students. Exemplary and punitive damages
are prohibited. Provides penalties for persons filing
false reports of criminal activity on the part of
employees of educational entities.

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