

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 1242

Short Title: Protect Teachers from Lawsuits.

(Public)

Sponsors: Representatives Blust; Morris, Harrington, and Davis.

Referred to: Education.

April 12, 2001

A BILL TO BE ENTITLED

AN ACT TO ENACT THE MODEL EDUCATION QUALITY AND TEACHER PROTECTION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. This act may be known as the 'Teacher Protection Act'.

SECTION 2. Chapter 115C of the General Statutes is amended by adding a new section to read:

"§ 115C-42.1. Teacher Protection Act.

(a) Legislative findings. – The General Assembly finds that ensuring the quality of primary and secondary public education is a compelling State interest. The educational environment of students is often not conducive to learning. Violence is sometimes a threat, while other times educators may lack the authority to maintain safety and discipline in the public schools. The filing of meritless lawsuits against school districts, teachers and administrators, and other school employees interferes with attempts to ensure the quality of public education, particularly where such lawsuits arise out of the good faith efforts of educators to maintain classroom discipline or address threats to student safety. Meritless litigation also diverts financial and personnel resources to litigation defense activities, and reduces the availability of such resources for educational opportunities for students. The General Assembly finds that legislation to deter merit less lawsuits and sanction deliberately false reports against educators is a rational and appropriate method to address this compelling public interest.

(b) Definitions. – As used in this section:

(1) 'Educational entity' means the State Board of Education or other local board of education.

(2) 'Employee' means any individual elected or appointed to an educational entity and any individual who is an employee of such an entity. This term does not include independent contractors.

(b) Liability. –

- 1 (1) An educational entity or its employees shall not be subject to liability
2 for any of the following:
3 a. Taking any action regarding the control, grading, suspension,
4 expulsion, or discipline of students while such students are on
5 the property of the educational entity or its employees.
6 b. The immunity provided by this subdivision shall not apply if
7 the action of the educational entity or its employee violated an
8 express law, rule, regulation or clearly articulated policy of the
9 state or educational entity. The burden of proof of such
10 violation shall rest with the plaintiff and must be established by
11 clear and convincing evidence to the court as part of a summary
12 proceeding.
- 13 (2) An educational entity and its employees shall not be subject to liability
14 for making a report consistent with federal law to the appropriate law
15 enforcement authorities or school officials if the individual making the
16 report has reasonable grounds to suspect that a student is:
17 a. Under the influence of alcoholic beverages or a controlled
18 substance not lawfully prescribed to that individual;
19 b. In possession of a firearm, alcoholic beverages, or a controlled
20 substance not lawfully prescribed to that individual;
21 c. Involved in the illegal sale or distribution of firearms, alcoholic
22 beverages, or a controlled substance.
- 23 (c) False reports. –
- 24 (1) Except as otherwise provided in this subsection, any person 18 years
25 of age or older who acts with specific intent in making a false
26 accusation of criminal activity against an employee of an educational
27 entity to law enforcement authorities, school district officials or
28 personnel, or both, shall be fined up to two thousand dollars (\$2,000).
- 29 (2) Except as otherwise provided in this subsection, any public school
30 student between the ages of 7 and 17 who acts with specific intent in
31 making a false accusation of criminal activity against an employee of
32 an educational entity to law enforcement authorities, school district
33 officials or personnel, or both, may, at the discretion of the court, be
34 subject to any of the following:
35 a. Expulsion;
36 b. Suspension for a period of time to be determined by the court;
37 c. Community service of a type and for a period of time to be
38 determined by the court;
39 d. Any other sanction as the court in its discretion may deem
40 appropriate.
- 41 (3) The provisions of this subsection do not apply to statements regarding
42 individuals elected or appointed to a school board.

1 (4) This subsection is in addition to and does not limit the civil or criminal
2 liability of those persons who make false statements alleging criminal
3 activity by others.

4 (d) Insurance. – Unless otherwise provided by statute, the existence of any policy
5 of insurance indemnifying an educational entity against liability for damages is not a
6 waiver of any defense otherwise available to the educational entity or its employees in
7 the defense of the claim.

8 (e) Applicability. – This section shall be supplemental to the State Tort Claims
9 Act.

10 **SECTION 3.** This act is effective when it becomes law.