An Act

(1ST EXTRAORDINARY SESSION)
ENROLLED HOUSE
BILL NO. 1009

By: Shannon, Stiles, Cockroft, Ritze and Wright of the House

and

Bingman, Sykes, Jolley and Shortey of the Senate

An Act relating to schools; repealing 70 O.S. 2011, Sections 6-140, 6-141, 6-142, 6-143, 6-144, 6-145, 6-146, 6-147 and 6-148, which relate to the School Protection Act; creating the School Protection Act; stating purpose; defining terms; prohibiting certain acts and providing penalties therefor; providing for award of costs and reasonable attorney fees, with exception; authorizing expert witness fees; providing that insurance policies do not constitute waiver of any defense; prohibiting certain acts and making violations subject to out-of-school suspension; providing penalty is in addition to criminal liability; providing that certain education employees shall be entitled to leave of absence without loss of benefits; providing that the School Protection Act is in addition to and does not limit or amend The Governmental Tort Claims Act; providing for codification; and declaring an emergency.

SUBJECT: School Protection Act

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. REPEALER 70 O.S. 2011, Sections 6-140, 6-141, 6-142, 6-143, 6-144, 6-145, 6-146, 6-147 and 6-148, are hereby repealed.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-149.1 of Title 70, unless there is created a duplication in numbering, reads as follows:

Sections 2 through 10 of this act shall be known and may be cited as the "School Protection Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-149.2 of Title 70, unless there is created a duplication in numbering, reads as follows:

The purpose of the School Protection Act is to provide teachers, principals, and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline, and an appropriate educational environment.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-149.3 of Title 70, unless there is created a duplication in numbering, reads as follows:

As used in the School Protection Act:

1. "Education employee" means any individual who is an employee of a school; and

2. "School" means a public school district, governmental entity that employs teachers as defined in Section 1-116 of Title 70 of the Oklahoma Statutes, or private kindergarten, elementary, or secondary school.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-149.4 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided in this section, any person eighteen (18) years of age or older who acts with specific intent in making a false accusation of criminal activity against an education employee to law enforcement authorities or school district officials, or both, shall be guilty of a misdemeanor and, upon conviction, punished by a fine of not more than Two Thousand Dollars ($2,000.00).

B. Except as otherwise provided in this section, any student between seven (7) years of age and seventeen (17) years of age who acts with specific intent in making a false accusation of criminal

activity against an education employee to law enforcement authorities or school district officials, or both, shall, upon conviction, at the discretion of the court, be subject to any of the following:

1. Community service of a type and for a period of time to be determined by the court; or

2. Any other sanction as the court in its discretion may deem appropriate.

C. The provisions of this section shall not apply to statements regarding individuals elected or appointed to an educational entity.

D. This section is in addition to and does not limit the civil or criminal liability of a person who makes false statements alleging criminal activity by another.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-149.5 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. In any civil action or proceeding against a school or an education employee, the court may award costs and reasonable attorney fees to the prevailing party. In any civil action or proceeding by or between any education employee and a school or other education employee, the provisions of this section shall not apply.

B. Expert witness fees may be included as part of the costs awarded under this section.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-149.6 of Title 70, unless there is created a duplication in numbering, reads as follows:

Unless otherwise provided by law, the existence of any policy of insurance indemnifying a school or an education employee 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 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-149.7 of Title 70, unless there is created a duplication in numbering, reads as follows:

No student enrolled in a school shall assault, attempt to cause physical bodily injury, or act in a manner that could reasonably cause bodily injury to an education employee or a person who is volunteering for the school. Any student in grades six through twelve who violates the provisions of this section shall be subject to out-of-school suspension as provided for in Section 24-101.3 of Title 70 of the Oklahoma Statutes. This section shall be in addition to and does not limit the criminal liability of a person who causes or commits an assault, battery, or assault and battery upon a school employee as provided for in Section 650.7 of Title 21 of the Oklahoma Statutes.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-149.8 of Title 70, unless there is created a duplication in numbering, reads as follows:

An education employee who is injured as a result of an assault or battery upon the person of the employee while the employee is in the performance of any duties as an education employee shall be entitled to a leave of absence from employment with the school without a loss of leave benefits.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-149.9 of Title 70, unless there is created a duplication in numbering, reads as follows:

The School Protection Act shall be in addition to and shall not limit or amend The Governmental Tort Claims Act or any other applicable law.

SECTION 11. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 5th day of September, 2013.

Presiding Officer of the House of Representatives

Passed the Senate the 9th day of September, 2013.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 9th day of September, 20 13, at 6:39 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 10th day of September, 20 13, at 4:26 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 10th day of September, 20 13, at 4:47 o'clock P M.

By: Chris Morris