



# *State of Tennessee*

## **PUBLIC CHAPTER NO. 407**

### **SENATE BILL NO. 729**

**By Gresham, Ketron, Gardenhire, Massey**

Substituted for: House Bill No. 1196

By Rudd, Rogers, Reedy, Daniel, Butt, Crawford, Littleton, Gravitt, Powers, Terry, Matheny,  
Matthew Hill, Weaver, Howell, Byrd, Mark White, Gant, Eldridge

AN ACT to amend Tennessee Code Annotated, Title 8; Title 16; Title 28; Title 29; Title 37; Title 38;  
Title 39; Title 40 and Title 49, relative to educator protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 1, is amended by adding the following language as a new part:

#### **49-1-1201.**

This part shall be known and may be cited as the "Tennessee Educators Protection Act."

#### **49-1-1202.**

The general assembly finds that ensuring the quality of elementary and secondary education in Tennessee is a compelling state interest. The filing of meritless litigation against teachers, administrators, and other school employees interferes with the quality of public and private education, particularly where the litigation arises out of the good faith efforts of educators to maintain classroom discipline or to address threats to student safety. Meritless litigation also diverts a school's financial and personnel resources to litigation defense activities, which reduces the availability of those resources for educational opportunities for students. The general assembly finds that legislation to deter the filing of meritless litigation and to sanction deliberately false reports levied against educators is a rational and appropriate method to serve this compelling state interest. This part is intended to reflect and expand upon federal educator protection statutes. This part does not apply to public or private educators who have been convicted of a crime or who have been terminated for misconduct.

#### **49-1-1203.** As used in this part:

(1) "Educational entity" means the state board of education, department of education, and any other body, board, or agency that governs a public or private elementary or secondary school, and includes, but is not limited to, local education agencies and local boards of education; and

(2) "Employee" means:

(A) An individual who is elected or appointed to an educational entity;

(B) An individual who is an employee of an educational entity or who provides student-related services to an educational entity on a contractual basis; or

(C) An authorized volunteer who provides student-related services to an educational entity.

#### **49-1-1204.**

(a) An employee is not civilly liable for taking any action related to the control, grading, suspension, expulsion, or discipline of a student that occurs while the student is on the property of the educational entity or under the supervision of the educational entity or the employee unless that action violates a law, rule, or clearly articulated state or school policy. The plaintiff bears the burden of proving by a preponderance of the evidence that the action of the employee violated a law, rule, or clearly articulated state or school policy.

(b) An employee is not liable for making a report consistent with federal or state law to the appropriate law enforcement authorities, or to an official of an educational entity, if the individual making the report has reasonable grounds to suspect that a student is:

(1) Under the influence of alcohol or a controlled substance that is not lawfully prescribed to the student;

(2) Involved in the illegal solicitation, sale, or distribution of alcohol or a controlled substance; or

(3) Involved in any other illegal activity.

**49-1-1205.**

An employee is not liable for punitive or exemplary damages for acts or omissions that occur within the course and scope of the employee's employment. For purposes of this section, an employee who acts with the specific intent to cause harm is not acting within the course and scope of the employee's employment.

**49-1-1206.**

(a) An employee may file a civil action for damages against any person eighteen (18) years of age or older who acts with the specific intent to cause harm by making an accusation of criminal activity the person knows or should know is false against that employee to law enforcement authorities, school district officials, or school district personnel.

(b) An employee may file a civil action for damages against the parent, guardian, or legal custodian of a student of the employee, if the student, who is under eighteen (18) years of age, acts with specific intent to cause harm to another by making an accusation of criminal activity the person knows or should know is false against that employee to law enforcement authorities, school district officials, or school district personnel.

(c) Any student found by a court with jurisdiction over an action filed pursuant to subsection (a) or (b) to have acted with the specific intent to cause harm by making an accusation of criminal activity the person knows or should have known is false against an employee to law enforcement authorities, school district officials, or school district personnel may be subject to one (1) or more of the following disciplinary actions, to be determined by the student's school:

(1) Expulsion;

(2) Suspension for a period of time;

(3) Community service; or

(4) Any other disciplinary action deemed appropriate by the school.

(d) This section does not apply to statements made regarding individuals elected or appointed to a local board of education.

(e) This section does not limit the civil or criminal liability of any person who makes a statement the person knows or should know is false alleging criminal activity by others.

**49-1-1207.**

Except as 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 that is available to the employee in defense of any claim.

**49-1-1208.**

(a) This part does not limit, modify, or supersede title 29, chapter 39.

(b) This part does not infringe on any right or protection provided under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, et seq., or Section 504 of the Rehabilitation Act, 29 U.S.C. § 794. Nothing in this part applies to an action brought under federal or state law by a student or the student's parent or representative based on the student's disability.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 3. This act shall take effect July 1, 2017, the public welfare requiring it.

SENATE BILL NO. 729

PASSED: May 4, 2017

  
RANDY McNALLY  
SPEAKER OF THE SENATE

  
BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 18<sup>th</sup> day of May 2017

  
BILL HASLAM, GOVERNOR