

By: Senator(s) Hewes

To: Judiciary

SENATE BILL NO. 2749

1 AN ACT TO CREATE THE QUALITY EDUCATION AND TEACHER AND
2 PRINCIPAL PROTECTION ACT; AND FOR RELATED PURPOSES.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

4 **SECTION 1.** This act may be known as the "Quality Education
5 and Teacher and Principal Protection Act."

6 **SECTION 2.** The Legislature finds that ensuring the quality
7 of primary and secondary public education is a compelling state
8 interest. The educational environment of students is often not
9 conducive to learning. Violence is sometimes a threat, while
10 other times educators may lack the authority to maintain safety
11 and discipline in the public schools. The filing of meritless
12 lawsuits against school districts, teachers and administrators,
13 and other school employees interferes with attempts to ensure the
14 quality of public education, particularly where such lawsuits
15 arise out of the good-faith efforts of educators to maintain
16 classroom discipline or address threats to student safety.
17 Meritless litigation also diverts financial and personnel
18 resources to litigation defense activities, and reduces the
19 availability of such resources for educational opportunities for
20 students. The Legislature finds that legislation to deter
21 meritless lawsuits and sanction deliberately false reports against
22 educators is a rational and appropriate method to address this
23 compelling public interest.

24 **SECTION 3.** As used in this act:

25 (a) "Educational entity" means the State Board of
26 Education or any other body, board or agency that governs one or
27 more public primary or secondary schools.



28 (b) "Employee" means any individual elected or
29 appointed to an educational entity and any individual who is an
30 employee of an educational entity or who provides student-related
31 services to that educational entity on a contractual basis. [The
32 term "employee" also means an authorized volunteer who provides
33 student-related services to the educational entity.]

34 **SECTION 4.** (1) An educational entity or its employees shall
35 not be subject to liability taking any action regarding the
36 supervision, grading, suspension, expulsion or discipline of
37 students while such students are on the property of the
38 educational entity or are under the supervision of the educational
39 entity or its employees. However, this immunity shall not apply
40 if such action violated an express statute, rule, regulation or
41 clearly articulated policy of the state or educational entity.
42 The burden of proof of such a violation shall rest with the
43 plaintiff and must be established by clear and convincing evidence
44 to the court as part of a summary proceeding.

45 (2) An educational entity and its employees shall not be
46 subject to liability for making a report consistent with federal
47 law to the appropriate law enforcement authorities or officials of
48 an educational entity if the individual making the report has
49 reasonable grounds to suspect that a student is:

50 (a) Under the influence of alcoholic beverages or a
51 controlled substance not lawfully prescribed to that individual;

52 (b) In possession of a firearm, alcoholic beverages, or
53 a controlled substance not lawfully prescribed to that individual;

54 (c) Involved in the illegal solicitation, sale or
55 distribution of firearms, alcoholic beverages or a controlled
56 substance not lawfully prescribed to that individual.

57 **SECTION 5.** (1) An educational entity shall not be liable
58 for punitive or exemplary damages. An employee shall not be
59 liable for punitive or exemplary damages for acts or omissions
60 within the course and scope of employment.



61 (2) For the purposes of this act, an employee who acts with
62 specific intent to cause harm shall not be considered as acting
63 within the course and scope of employment.

64 **SECTION 6.** (1) Except as otherwise provided in this act,
65 any person eighteen (18) years of age or older who acts with
66 specific intent in making a false accusation of criminal activity
67 against an employee of an educational entity to law enforcement
68 authorities, school district officials or personnel, or both,
69 shall be fined up to Two Thousand Dollars (\$2,000.00).

70 (2) Except as otherwise provided in this act, any public
71 school student between the ages of seven (7) and seventeen (17)
72 who acts with specific intent in making a false accusation of
73 criminal activity against an employee of an educational entity to
74 law enforcement authorities, school district officials or
75 personnel, or both, may, at the discretion of the court, and in
76 accordance with the provisions of the federal Individuals with
77 Disabilities Education Act, 20 USCA Section 1400 et seq., be
78 subject to any of the following:

79 (a) Expulsion;

80 (b) Suspension for a period of time to be determined by
81 the court;

82 (c) Community service of a type and for a period of
83 time to be determined by the court;

84 (d) Any other sanction as the court in its discretion
85 may deem appropriate.

86 (3) The provisions of this act do not apply to statements
87 regarding individuals elected or appointed to a school board.

88 (4) This act is in addition to and does not limit the civil
89 or criminal liability of those persons who make false statements
90 alleging criminal activity by others.

91 **SECTION 7.** (1) In any civil action or proceeding against an
92 educational entity or its employee in which the educational entity
93 or its employee prevails, the court shall award costs and



94 reasonable attorney's fees to the prevailing defendant or
95 defendants. The court in its discretion may determine whether
96 such fees and costs are to be borne by the plaintiff's attorney,
97 the plaintiff, or both.

98 (2) Expert witness fees may be included as part of the costs
99 awarded under this section.

100 (3) The provisions of this act shall be deemed to be
101 substantive state law.

102 **SECTION 8.** (1) No attorney shall charge, demand, receive or
103 collect for services rendered, fees in excess of twenty-five
104 percent (25%) of any civil judgment rendered against an
105 educational entity or its employee, or of any settlement made
106 pursuant to Section ___ of the [state] General Laws.

107 (2) Any interested person may file a civil action or
108 petition the appropriate court to rescind any provision of the
109 attorney fee contract inconsistent with this act and to compel the
110 disgorgement of any fees paid in excess of the amounts allowed
111 under this act. In addition, a court with jurisdiction over the
112 matter shall impose a fine against the attorney that is equal to
113 or less than the amount of money sought by the attorney in excess
114 of the amount permitted by this act, but in any event not less
115 than Two Thousand Dollars (\$2,000.00).

116 **SECTION 9.** Unless otherwise provided by statute, the
117 existence of any policy of insurance indemnifying an educational
118 entity against liability for damages is not a waiver of any
119 defense otherwise available to the educational entity or its
120 employees in the defense of the claim.

121 **SECTION 10.** This act shall be supplemental to the [state]
122 Tort Claims Act.

123 **SECTION 11.** This act shall not infringe on any right
124 provided under the federal Individuals with Disabilities Education
125 Act, 20 USC Section 1400 et seq.



126 **SECTION 12.** This act shall take effect and be in force from
127 and after July 1, 2002.

