

By: Christian

H.B. No. 1408

A BILL TO BE ENTITLED

AN ACT

relating to the indemnification of a school district for a cause of action arising out of the discipline of a student by a professional employee of the district.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 111 to read as follows:

CHAPTER 111. INDEMNIFICATION OF SCHOOL DISTRICT FOR STUDENT

DISCIPLINARY ACTIONS

Sec. 111.001. DEFINITION. In this chapter, "professional employee of a school district" has the meaning assigned by Section 22.051, Education Code.

Sec. 111.002. STATE LIABILITY. In a cause of action based on conduct described in Section 111.004, the state shall indemnify a school district for actual damages, court costs, and attorney's fees adjudged against the district.

Sec. 111.003. SCHOOL DISTRICT GUIDELINES. The state is liable for indemnification under this chapter only if a school district has adopted guidelines regarding student discipline management procedures. The guidelines must:

(1) outline appropriate discipline management procedures; and

(2) require that disciplinary measures be justified under Section 9.62, Penal Code.

1 Sec. 111.004. CONDUCT COVERED. The state is liable for
2 indemnification under this chapter only if the damages:

3 (1) are based on an act or omission by a professional
4 employee of a school district:

5 (A) in the scope of the employee's employment
6 duties; and

7 (B) in which the employee has acted within
8 district guidelines established under Section 111.003; and

9 (2) arise out of a cause of action for the discipline
10 of a student by the employee.

11 Sec. 111.005. LIMITS ON AMOUNT OF RECOVERABLE DAMAGES. (a)
12 Except as provided by Subsection (b) or a specific appropriation,
13 state liability for indemnification under this chapter may not
14 exceed:

15 (1) \$100,000 for a single person indemnified and, if
16 more than one person is indemnified, \$300,000 for a single
17 occurrence in the case of personal injury, death, or deprivation of
18 a right, privilege, or immunity; and

19 (2) \$10,000 for each single occurrence of damage to
20 property.

21 (b) For the purposes of this section, a claim arises out of a
22 single occurrence if the claim arises from a common nucleus of
23 operative facts, regardless of the number of claimants or the
24 number of separate acts or omissions.

25 Sec. 111.006. DEFENSE BY ATTORNEY GENERAL. (a) The
26 attorney general shall defend a school district in a cause of action
27 covered by this chapter.

1 (b) The attorney general may settle or compromise the
2 portion of a lawsuit that may result in state liability under this
3 chapter.

4 Sec. 111.007. SERVICE OF PROCESS OR TIMELY NOTICE TO
5 ATTORNEY GENERAL REQUIRED. The state is not liable for the defense
6 of an action covered by this chapter or for damages, court costs, or
7 attorney's fees unless:

8 (1) the attorney general has been served in the case
9 and the state has been given an opportunity to defend the suit; or

10 (2) the school district against whom the action is
11 brought delivers to the attorney general all process served on the
12 district or the professional employee of the school district not
13 later than the 10th day after the date of service.

14 Sec. 111.008. SECURITY OR BOND. In a cause of action
15 defended by the attorney general under this chapter, the attorney
16 general or the school district represented may not be required to
17 advance security for cost or to give bond on appeal or on review by
18 writ of error.

19 Sec. 111.009. FUNDS FOR DEFENSE. (a) Only funds
20 appropriated from the general revenue fund to the attorney general
21 may be used to conduct the defense of an action that the attorney
22 general is required to defend under this chapter.

23 (b) Conducting the defense of an action covered by this
24 chapter includes investigating, taking depositions, making
25 discovery, preparing for trial, preparing exhibits or other
26 evidence, and participating in actual trial.

27 Sec. 111.010. NO WAIVER OF DEFENSES. This chapter does not

1 waive a defense, immunity, or jurisdictional bar available to the
2 state or a school district.

3 SECTION 2. The change in law made by this Act applies only
4 to indemnification in connection with a cause of action that
5 accrues on or after the effective date of this Act. Indemnification
6 in connection with a cause of action that accrues before the
7 effective date of this Act is governed by the law in effect
8 immediately before that date, and that law is continued in effect
9 for that purpose.

10 SECTION 3. This Act takes effect September 1, 2007.