

CHAPTER 185

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 07-227

BY SENATOR(S) Shaffer, Bacon, and Williams;
 also REPRESENTATIVE(S) Gagliardi and Massey, Casso, Fischer, Hodge, Kerr A., King, Labuda, Rose, Stafford, Stephens,
 Summers, and Todd.

AN ACT

CONCERNING IMMUNITY FOR PERSONS ACTING IN GOOD FAITH UNDER A SAFE SCHOOL PLAN.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-32-109.1 (9) (a), (9) (c), and (9) (e), Colorado Revised Statutes, are amended to read:

22-32-109.1. Board of education - specific powers and duties - safe schools.

(9) **Immunity.** (a) A school district board of education or A TEACHER OR any OTHER person acting in good faith in accordance with the provisions of subsection (2) of this section in carrying out the powers or duties authorized by said subsection shall be immune from ~~civil or criminal liability~~ CRIMINAL PROSECUTION OR CIVIL LIABILITY for such actions; except that a TEACHER OR ANY OTHER person acting willfully or wantonly in violation of said subsection shall not be immune from CRIMINAL PROSECUTION OR CIVIL liability pursuant to said subsection. A TEACHER OR ANY OTHER PERSON CLAIMING IMMUNITY FROM CRIMINAL PROSECUTION UNDER THIS PARAGRAPH (a) MAY FILE A MOTION THAT SHALL BE HEARD PRIOR TO TRIAL. AT THE HEARING, THE TEACHER OR OTHER PERSON CLAIMING IMMUNITY SHALL BEAR THE BURDEN OF ESTABLISHING THE RIGHT TO IMMUNITY BY A PREPONDERANCE OF THE EVIDENCE.

(c) If A TEACHER OR ANY OTHER PERSON DOES NOT CLAIM OR IS NOT GRANTED IMMUNITY FROM CRIMINAL PROSECUTION PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (9) AND a criminal action is brought against a teacher or any other person for actions taken pursuant to the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section, it shall be an affirmative defense in ~~such~~ THE criminal action that the teacher or such other person was acting in good faith and in compliance with the conduct and discipline

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

code and was not acting in a willful or wanton manner in violation of the conduct and discipline code.

(e) A teacher or any other person who acts in good faith and in compliance with the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section shall not have his or her contract nonrenewed or be subject to any disciplinary proceedings, including dismissal, as a result of such lawful actions, nor shall the actions of the teacher or other person be reflected in any written evaluation or other personnel record concerning such teacher or other person. A TEACHER OR ANY OTHER PERSON AGGRIEVED BY AN ALLEGED VIOLATION OF THIS PARAGRAPH (e) MAY FILE A CIVIL ACTION IN THE APPROPRIATE DISTRICT COURT WITHIN TWO YEARS AFTER THE ALLEGED VIOLATION.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 3, 2007