

April 9, 2009

H 1301. IMPROVE SCHOOL DISCIPLINE. Filed 4/8/09. *TO AMEND THE LAWS RELATED TO SCHOOL DISCIPLINE.*

Amends GS 115C-390 to allow specified educational personnel to maintain order and proper discipline (was, except as restricted or prohibited by rules adopted by local boards of education). Provides that such personnel shall not be held civilly liable unless the trier of fact specifically finds that excessive force was used. Provides that a person wishing to file an action against such personnel regarding alleged use of excessive force must first appeal to the local board of education and that a finding by the board that excessive force was not used creates a rebuttable presumption that reasonable force was used. The amendment to GS 115C-390 is effective December 1, 2009, and applies to actions filed on or after that date. Amends GS 115C-391 to repeal language stating that, except as otherwise provided, physical restraint of students is not considered reasonable force and is prohibited.

Enacts new GS 115C-42.1 as the Teacher Protection Act, providing that an educational entity and its employees are not subject to liability (1) for making a report consistent with federal law to the appropriate law enforcement authorities or school officials if the individual making the report has reasonable grounds to suspect that a student is under the influence of alcoholic beverages or a controlled substance not lawfully prescribed to that student; is in possession of a firearm, alcoholic beverages, or a controlled substance not lawfully prescribed to that student; or is involved in the illegal sale or distribution of firearms, alcoholic beverages, or controlled substances or (2) for taking any action regarding the control, grading, suspension, expulsion, or discipline of students while they are on the property of the educational entity or its employees unless the educational entity or its employee violated an express law, rule, or clearly articulated policy of the state or educational entity. Provides that an adult who with specific intent makes a false accusation of criminal activity against an employee of an educational entity (other than individuals elected or appointed to a school board) to law enforcement authorities, school district officials or personnel, or both, may be fined up to \$2,000. Provides that a court may expel, suspend, or impose other sanctions against any public school student between the ages of 7 and 17 who makes such a false report. Also provides that the existence of any insurance policy indemnifying an educational entity against liability is not a waiver of any defense otherwise available to the educational entity or its employees in connection with a claim. The act is supplemental to the State Tort Claims Act.

Intro. by Blust.

GS 115C