

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

April 13, 2015  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB15-213 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 3, strike lines 2 through 26 and substitute the  
2 following:

3           **"SECTION 1. Legislative declaration.** (1) The general  
4 assembly recognizes that:

5           (a) Colorado benefits from having an educated citizenry;

6           (b) Primary and secondary school students have limited autonomy  
7 during school hours and little say in the security provided during the  
8 school day; and

9           (c) Public school districts provide essential public services  
10 through primary and secondary schools and charter schools and unlimited  
11 liability against school districts could disrupt the provision of educational  
12 services.

13           (2) Therefore, the general assembly finds that public school  
14 districts and charter schools should be provided with protection from  
15 unlimited liability. However, the general assembly also finds and  
16 acknowledges that the sovereign immunity that has been extended to  
17 public school districts and to charter schools prior to the passage of this  
18 act can lead to inequitable results for students who are otherwise unable  
19 to protect themselves from serious bodily injury or death in the school  
20 environment. Moreover, the general assembly acknowledges that times  
21 have changed in this country and in this state because there have been so  
22 many acts of school violence in which students and teachers have been  
23 killed and injured by persons. In this state since April 20, 1999, there

1 have been three separate incidents of school violence in which students  
2 have been killed at their schools. In response to school violence, schools  
3 have begun to undertake actions to address security issues, undertake  
4 safety drills, train staff, and assess the risks to students from acts of  
5 school violence. Parents have a reasonable expectation that when they  
6 send their children to a public school that the school and its employees  
7 will have taken steps to keep the children safe. The general assembly  
8 finds that it is now foreseeable that violence in schools could occur.

9 (3) For the reasons stated in paragraphs (1) and (2) of this section,  
10 the general assembly therefore declares the purposes of this act are:

11 (a) To recognize and state that there is a limited duty of reasonable  
12 care upon public schools, charter schools, and their employees to provide  
13 for student safety and to protect students and employees in their schools;

14 (b) To waive on a limited basis governmental immunity, thereby  
15 allowing for recovery of capped damages where that duty of reasonable  
16 care has been breached by a school district, charter school, or their  
17 employees; and

18 (c) To waive on a limited basis governmental immunity to ensure  
19 that there is a robust and effective discovery through the legal system of  
20 the causes of acts of school violence.

21 (4) It is the intent of the general assembly in enacting this act to  
22 affirmatively recognize a statutory duty upon school districts, charter  
23 schools, and their employees to protect students, faculty, and staff from  
24 foreseeable harm caused by other persons. The general assembly hereby  
25 declares that the purpose of recognizing that this duty exists under this act  
26 is to create a tort remedy against school districts and charter schools in  
27 cases where a school district, charter school, or its employees knew or  
28 should have known of the danger that was presented and breached that  
29 duty of care.

30 (5) The general assembly also further states that its intent in  
31 enacting the provisions in this act regarding discovery and settlement is  
32 to provide a remedy for plaintiffs affected by acts of school violence and  
33 to achieve robust and vigorous discovery of events leading to those  
34 incidents of school violence.

35 **SECTION 2.** In Colorado Revised Statutes, **add** 24-10-106.3 as  
36 follows:

37 **24-10-106.3. Immunity and partial waiver - claims for serious**  
38 **bodily injury or death on public school property or at**  
39 **school-sponsored events - definitions.** (1) **Definitions.** FOR PURPOSES  
40 OF THIS SECTION, UNLESS THE".

- 1 Renumber succeeding sections accordingly.
- 2 Strike page 4.
- 3 Page 5, strike lines 1 through 17.
- 4 Renumber succeeding subsections accordingly.
- 5 Page 5, after line 21 insert:
  - 6 "(b) "CRIME OF VIOLENCE" MEANS THAT THE PERSON COMMITTED,
  - 7 CONSPIRED TO COMMIT, OR ATTEMPTED TO COMMIT ONE OF THE
  - 8 FOLLOWING CRIMES:
  - 9 (I) MURDER;
  - 10 (II) FIRST DEGREE ASSAULT;
  - 11 (III) SECOND DEGREE ASSAULT; OR
  - 12 (IV) SEXUAL ASSAULT, AS DEFINED IN SECTION 18-3-402, C.R.S."
- 13 Reletter succeeding paragraphs accordingly.
- 14 Page 5, strike lines 25 through 27 and substitute:
  - 15 "(I) ENGAGED IN A CRIME OF VIOLENCE; AND"
- 16 Page 6, line 2, strike "(b)" and substitute "(c)".
- 17 Page 6, line 17, strike "AND, SINCE".
- 18 Page 6, line 18, strike "JANUARY 1, 2013, HAVE HAD".
- 19 Page 7, line 8, strike "(3)" and substitute "(2)".
- 20 Page 7, strike line 11 and substitute "OR AFTER THE EFFECTIVE DATE OF
- 21 THIS ACT."
- 22 Page 8, line 2, strike "(3)" and substitute "(2)".
- 23 Page 8, strike lines 9 through 12 and substitute:
  - 24 "24-10-114 (1)."

1 Page 8, strike lines 15 through 17 and substitute "UNDER THIS SECTION,  
2 AN OFFER OF JUDGMENT BY A DEFENDANT UNDER SECTION 13-17-202,  
3 C.R.S., PRIOR TO THE COMPLETION OF DISCOVERY, IS NOT DEEMED  
4 REJECTED IF NOT ACCEPTED UNTIL FOURTEEN DAYS AFTER THE  
5 COMPLETION OF DISCOVERY AND THE PLAINTIFF IS NOT LIABLE FOR COSTS  
6 DUE TO NOT ACCEPTING SUCH AN OFFER OF JUDGMENT UNTIL FOURTEEN  
7 DAYS AFTER THE COMPLETION OF DISCOVERY. IF A DEFENDANT REFUSES  
8 TO ANSWER A COMPLAINT, OR A".

9 Page 9, strike lines 21 through 23 and substitute:

10 "SECTION 6. **Effective date - applicability.** This act takes effect  
11 upon passage and applies to claims asserted against a school district or  
12 charter school resulting from an incident of school violence that occurred  
13 on or after the effective date of this act."

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