

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

DRAFT
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BILL 3

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Committee\16-0319.wpd*

LLS NO. 16-0319 Richard Sweetman x 4333

INTERIM COMMITTEE BILL

School Safety and Youth in Crisis Committee

BILL TOPIC: "Preserving School District Governmental Immunity"

A BILL FOR AN ACT

101 **CONCERNING MEASURES THAT A SCHOOL DISTRICT OR CHARTER**
102 **SCHOOL MAY TAKE TO PREVENT A WAIVER OF GOVERNMENTAL**
103 **IMMUNITY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

School Safety and Youth in Crisis Committee. Any governmental immunity provided to a school district or charter school is not waived if the school district or charter school can demonstrate to the

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

satisfaction of a court that the school district or charter school is in full compliance with certain provisions of law concerning safe school plans, agreements with state agencies, school response frameworks, safety and security policies, information sharing, open school policies, and employee screenings.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-10-106.3, **amend**
3 (4) as follows:

4 **24-10-106.3. Immunity and partial waiver - claims for serious**
5 **bodily injury or death on public school property or at**
6 **school-sponsored events resulting from incidents of school violence**
7 **- short title - definitions - repeal.** (4) (a) **Limited waiver of sovereign**
8 **immunity.** Notwithstanding any other provision of this article, a public
9 school district or charter school is immune from liability in all claims for
10 injury that lie in tort or could lie in tort regardless of whether that may be
11 the type of action or the form of relief chosen by the claimant except as
12 otherwise provided in this section or in this article. In addition to any
13 other claims for which the "Colorado Governmental Immunity Act"
14 waives sovereign immunity in this article, AND EXCEPT AS DESCRIBED IN
15 PARAGRAPH (b) OF THIS SUBSECTION (4), sovereign immunity is waived
16 under the "Colorado Governmental Immunity Act" with respect to school
17 districts and charter schools for a claim of a breach of the duty of care
18 established in subsection (3) of this section by the school district, a
19 charter school, or an employee of the school district or charter school
20 arising from an incident of school violence on or after the effective date
21 of this section, and, with respect to such claims, the provisions of article
22 12 of title 22, C.R.S., do not apply to school districts and charter schools.
23 An employee of a public school, school district, or a charter school is not

1 subject to suit under this section in his or her individual capacity unless
2 the employee's actions or omissions are willful and wanton.

3 (b) (I) ANY GOVERNMENTAL IMMUNITY PROVIDED TO A SCHOOL
4 DISTRICT OR CHARTER SCHOOL BY THIS ARTICLE IS NOT WAIVED, AS
5 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (4), IF THE SCHOOL
6 DISTRICT OR CHARTER SCHOOL DEMONSTRATES TO THE SATISFACTION OF
7 A COURT THAT THE SCHOOL DISTRICT OR CHARTER SCHOOL IS IN FULL
8 COMPLIANCE WITH THE PROVISIONS OF SECTION 22-32-109.1, C.R.S.

9 (II) THE FAILURE OF A SCHOOL DISTRICT OR CHARTER SCHOOL TO
10 SATISFY THE CONDITION DESCRIBED IN SUBPARAGRAPH (I) OF THIS
11 PARAGRAPH (b) MAY NOT SERVE AS THE BASIS FOR ANY CLAIM BASED ON
12 A THEORY OF NEGLIGENCE PER SE.

13 **SECTION 2. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly (August
16 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
17 referendum petition is filed pursuant to section 1 (3) of article V of the
18 state constitution against this act or an item, section, or part of this act
19 within such period, then the act, item, section, or part will not take effect
20 unless approved by the people at the general election to be held in
21 November 2016 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.