

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

DRAFT  
10.8.15

**BILL 8**

*Temporary storage location: S:\PUBLIC\LLS\2016A\Bills\Interim\School Safety and Youth in Crisis  
Committee\16-0402.wpd*

LLS NO. 16-0402.01 Richard Sweetman x 4333

**INTERIM COMMITTEE BILL**

**School Safety and Youth in Crisis Committee**

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**BILL TOPIC: "School Safety And Governmental Immunity"**

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**A BILL FOR AN ACT**

101 **CONCERNING THE APPLICABILITY OF GOVERNMENTAL IMMUNITY TO**  
102 **PUBLIC ENTITIES IN THE CONTEXT OF SCHOOL SAFETY.**

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**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/billssummaries>.)*

**School Safety and Youth in Crisis Committee.** Under current law, school districts and charter schools and their employees have a duty to exercise reasonable care to protect students, faculty, and staff from harm from reasonably foreseeable acts committed by another person, and

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

governmental immunity is waived with respect to a claim of a breach of this duty. The bill expands this duty and waiver to apply to all public entities and public employees; however, a public employee retains immunity unless his or her actions or omissions are willful and wanton.

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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 (3), (4), (6), (7), (9) (a), and (9) (b) (I) 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. (3) Recognition of duty of care.** All  
8 PUBLIC ENTITIES AND PUBLIC EMPLOYEES, INCLUDING BUT NOT LIMITED TO  
9 school districts and charter schools and their employees in this state, have  
10 a duty to exercise reasonable care to protect all students, faculty, and staff  
11 from harm from acts committed by another person when the harm is  
12 reasonably foreseeable, while such students, faculty, and staff are within  
13 the school facilities or are participating in school-sponsored activities.  
14 FOR THE PURPOSES OF THIS SECTION, ANY DETERMINATION OF THE  
15 REASONABLENESS OF THE ACTS OR OMISSIONS OF A PUBLIC ENTITY OR  
16 PUBLIC EMPLOYEE MUST INCLUDE CONSIDERATION OF THE PUBLIC ENTITY  
17 OR PUBLIC EMPLOYEE'S AVAILABLE RESOURCES.

18 (4) **Limited waiver of sovereign immunity.** Notwithstanding any  
19 other provision of this article, a public ~~school district or charter school~~  
20 ENTITY OR PUBLIC EMPLOYEE is immune from liability in all claims for  
21 injury that lie in tort or could lie in tort regardless of whether that may be  
22 the type of action or the form of relief chosen by the claimant except as  
23 otherwise provided in this section or in this article. In addition to any

1 other claims for which the "Colorado Governmental Immunity Act"  
2 waives sovereign immunity in this article, sovereign immunity is waived  
3 under the "Colorado Governmental Immunity Act" with respect to ~~school~~  
4 ~~districts and charter schools~~ PUBLIC ENTITIES AND PUBLIC EMPLOYEES for  
5 a claim of a breach of the duty of care established in subsection (3) of this  
6 section by the ~~school district, a charter school,~~ PUBLIC ENTITY or an  
7 PUBLIC employee ~~of the school district or charter school~~ arising from an  
8 incident of school violence on or after the effective date of this section,  
9 and, with respect to such claims, the provisions of article 12 of title 22,  
10 C.R.S., do not apply to school districts and charter schools. ~~An~~ A PUBLIC  
11 employee ~~of a public school, school district, or a charter school~~ is not  
12 subject to suit under this section in his or her individual capacity unless  
13 the PUBLIC employee's actions or omissions are willful and wanton.

14 (6) Nothing in this section shall be construed to constitute a  
15 waiver of sovereign immunity by a ~~school district or charter school~~  
16 PUBLIC ENTITY if the injury arises from any act, or failure to act, of an  
17 ~~employee~~ A PUBLIC EMPLOYEE of the ~~school district or charter school~~  
18 PUBLIC ENTITY if the act is the type of act for which the ~~school district or~~  
19 ~~charter school~~ PUBLIC employee would be or heretofore has been  
20 personally immune from liability.

21 (7) In addition to the immunity provided under this section, the  
22 ~~school district and charter school~~ PUBLIC ENTITY shall also have the same  
23 immunity as a ~~school district or charter school~~ PUBLIC employee for any  
24 act or failure to act for which a ~~school district or charter school~~ PUBLIC  
25 employee would be or heretofore has been personally immune from  
26 liability.

27 (9) (a) Except as provided in paragraph (b) of this subsection (9),

1 the maximum amount of damages that may be recovered under this article  
2 in any single occurrence from a ~~school district or charter school~~ PUBLIC  
3 EMPLOYEE OR PUBLIC ENTITY for a claim brought under this section is  
4 governed by the limits set forth in section 24-10-114 (1).

5 (b) (I) A plaintiff who files an action under this section for an  
6 incident of school violence that occurs on or after the effective date of  
7 this section and on or before July 1, 2017, shall file the action in the  
8 district court, and no compensatory damages shall be awarded. The court  
9 shall not issue a declaratory ~~judgement~~ JUDGMENT regarding the  
10 negligence of the public ~~school, school district, or charter school~~ ENTITY  
11 OR PUBLIC EMPLOYEE; however, in such action, the plaintiff is entitled to  
12 full discovery regarding the incident of school violence.

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.