

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 971
HOUSE BILL 381

AN ACT FOR THE DEFENSE OF CERTAIN PUBLIC SCHOOL EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115-146.1 is added to the General Statutes as follows:

"§ 115-146.1. Scope of duty of teachers to include some medical care. — It is within the scope of duty of teachers, including substitute teachers, teachers' aides, student teachers or any other public school employee when given such authority by the board of education or its designee, (a) to administer any drugs or medication prescribed by a doctor upon written request of the parents, (b) to give emergency health care when reasonably apparent circumstances indicate that any delay would seriously worsen the physical condition or endanger the life of the pupil, and (c) to perform any other first aid or life savings techniques in which the employee has been trained in a program approved by the State Board of Education. Provided, that no one shall be required to administer drugs or medication or attend life saving techniques' training programs.

At the commencement of each school year, but prior to the beginning of classes, and thereafter as circumstances require, the principal of each school shall determine which persons will participate in the medical care program."

Sec. 2. A new Article is added to Chapter 143 of the General Statutes to read as follows:

"ARTICLE 31B.

"Defense of Public School Employees.

"§ 143-300.7. Definition of public school employee. — For the purpose of this Article, a public school employee is a person whose major responsibility is to teach or directly supervise teaching and who is employed in either a full-time or part-time capacity, including, but not limited to, the superintendent, assistant or associate superintendent, principal, assistant principal, classroom teacher, substitute teacher, supervisor, teacher aide, student teacher, or school nurse.

"§ 143-300.8. Defense of public school employees. — Except as provided in G.S. 143-300.9, the State shall provide defense counsel for the employee against whom a claim is made or civil action is commenced for personal injury on account of an act done or omission made in the course of the employee's duties under G.S. 115-146.1; provided that, no later than 30 days after the employee is notified of a claim or 10 days after the employee is served with complaint of the injured party, the employee gives written notice of the claim or action to the Attorney General which notice shall include:

- (1) the name and address of the claimant and his attorney;
- (2) a concise statement of the basis of the claim;
- (3) the name and address of any other employees involved; and
- (4) a copy of any correspondence received by the employee and legal documents served on the employee pertaining to the claim or civil action.

"§ 143-300.9. Refusal of defense. — The Attorney General may refuse to defend an employee for any of the reasons listed in G.S. 143-300. 4(a).

"§ 143-300.10. **Payment of judgments and settlement of claims.** — (a) Any final judgment awarded against an employee in an action which meets the requirements of G.S. 143-300.8, or any amount payable under a settlement of such an action, shall be paid from the appropriation for the payment of State Tort Claims, except that no payment shall be made from that appropriation for any judgment for punitive damages. Nothing in this section shall be deemed to waive the sovereign immunity of the State with respect to a claim covered under this section or authorize the payment of any judgment or settlement against a public school employee in excess of the limit provided in the Tort Claims Act.

(b) The Attorney General may settle any claim to which this Article applies which he finds valid. In any case in which the Attorney General has stated in writing that private counsel ought to be provided because of a conflict with the interests of the State, any settlement shall be approved by the private counsel and the Attorney General.

(c) The coverage afforded an employee under this Article is excess coverage over any commercial insurance liability that the employee may have.

"§ 143-300.11. **Employee's obligation for attorney fees.** — If any employee has been defended by the Attorney General, or if the State has provided private counsel for an employee, and judgment rendered on the claim establishes that the act or omission complained of did not meet the requirements of G.S. 115-146.1, the judgment against the employee may provide for payment to the State of its costs including a reasonable attorney fee.

"§ 143-300.12. **Protection is additional.** — The protection to employees provided in this Article is in addition to any other protection provided in the General Statutes."

Sec. 3. Section 2 of this act shall become effective July 1, 1979 and applies to all civil actions commenced on or after that date, and to all claims based upon conduct occurring on or after that date.

Sec. 4. Section 1 of this act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.