

1 HB64
2 156488-5
3 By Representatives Jones, Henry, Baker, Greer, Wallace,
4 Baughn, Buttram, Chesteen, Patterson, Farley, Rich, Brown,
5 Hurst, Tuggle, Beckman, Millican, Merrill, Sanderford, Johnson
6 (W), Roberts, Williams (D), Moore (B), Johnson (K), Hammon,
7 Hubbard (M), McClendon, Nordgren, Butler, Standridge, Shiver,
8 Shedd, Collins, McClurkin, Drake, Treadaway, Sessions, Faust,
9 Hill, McMillan, Williams (P), Ball, Carns, Williams (J),
10 Davis, McCutcheon and Long
11 RFD: Judiciary
12 First Read: 14-JAN-14
13 PFD: 12/18/2013

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2 ENROLLED, An Act,

3 Relating to sovereign immunity, to specify in
4 statute that an officer, employee, or agent of the state,
5 including, but not limited to, an education employee, in his
6 or her official capacity, is immune from liability in any suit
7 pursuant to the Constitution of Alabama of 1901; and to
8 specify that these persons are not personally liable under
9 certain conditions.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. (a) For the purposes of this section,
12 "education employee" means a certified or noncertified
13 employee of the State Board of Education or any local board of
14 education and an employee of the Alabama Institute for Deaf
15 ~~and Blind or the Alabama School of Mathematics and Science.~~
16 and Blind, the Alabama School of Fine Arts, the Department of
17 Youth Services, or the Alabama School of Mathematics and
18 Science.

19 (b) An ~~education employee or an~~ officer, employee,
20 or agent of the state, including, but not limited to, an
21 education employee acting in his or her official capacity is
22 immune from civil liability in any suit pursuant to Article I,
23 Section 14, of the Constitution of Alabama of 1901.

24 (c) An ~~education employee or an~~ officer, employee,
25 or agent of the state, including, but not limited to, an

1 education employee, is immune from civil liability in his or
2 her personal capacity when the conduct made the basis of the
3 claim is based upon the agent's:

4 (1) Formulating plans, policies, or designs;

5 (2) Exercising his or her judgment in the
6 administration of a department or agency of government,
7 including, but not limited to, examples such as:

8 a. Making administrative adjudications;

9 b. Allocating resources;

10 c. Negotiating contracts; or

11 d. Hiring, firing, transferring, assigning, or
12 supervising personnel;

13 (3) Discharging duties imposed on a department or
14 agency by statute, rule, or regulation, insofar as the
15 statute, rule, or regulation prescribes the manner for
16 performing the duties and the state agent performs the duties
17 in that manner;

18 (4) Exercising judgment in the enforcement of the
19 criminal laws of the state, including, but not limited to, law
20 enforcement officers' arresting or attempting to arrest
21 persons; or

22 (5) Exercising judgment in the discharge of duties
23 imposed by statute, rule, or regulation in releasing
24 prisoners, counseling or releasing persons of unsound mind, or
25 educating students.

1 (d) Notwithstanding subsection (c), an education
2 employee, officer, employee, or agent of the state is not
3 immune from civil liability in his or her personal capacity
4 if:

5 (1) The Constitution or laws of the United States,
6 or the Constitution of this state, or laws, rules, or
7 regulations of this state enacted or promulgated for the
8 purpose of regulating the activities of a governmental agency
9 require otherwise; or

10 (2) The education employee, officer, employee, or
11 agent acts willfully, maliciously, fraudulently, in bad faith,
12 beyond his or her authority, or under a mistaken
13 interpretation of the law.

14 (e) This act shall not be construed to eliminate,
15 alter, or otherwise modify any other immunity regarding
16 officers, employees, or agents of the state established under
17 the constitution and laws of this state.

18 Section 2. This act shall become effective
19 immediately following its passage and approval by the
20 Governor, or its otherwise becoming law.

