

2020 First Extraordinary Session

HOUSE BILL NO. 59

BY REPRESENTATIVE MINCEY

1 AN ACT

2 To enact R.S. 17:439.1 and 3391, relative to limitations of liability; to provide for the
3 limitation of liability during the COVID-19 public health emergency; to provide
4 relative to the liability of public and nonpublic schools, public and nonpublic school
5 systems, and charter school governing boards under certain circumstances; to
6 provide for liability related to school sponsored events; to provide relative to the
7 liability of public and nonpublic postsecondary education systems and institutions;
8 to provide for an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 17:439.1 and 3391 are hereby enacted to read as follows:

11 §439.1. Immunity from claims or causes of action related to the COVID-19 public
12 health emergency

13 A. Notwithstanding any other provision of law to the contrary, public and
14 nonpublic schools, public and nonpublic school systems, public and nonpublic
15 school governing authorities, and charter school governing authorities, and the
16 officers, employees, and agents thereof shall not be held liable for any civil damages
17 for injury or death resulting from or related to actual or alleged exposure to COVID-
18 19 or acts undertaken in the effort to respond or adapt to the COVID-19 public health
19 emergency.

20 B. There shall be no cause of action related to a person contracting COVID-
21 19 at a public or nonpublic school, other public or nonpublic school facility, on a
22 public or nonpublic school bus, or at a public or nonpublic school sponsored event,
23 which is based on the actions or failure to act by school officers, employees, or
24 agents in response to the COVID-19 public health emergency.

1 C. This Section shall not affect the right of any person to receive benefits
2 provided under the Louisiana Workers' Compensation Law.

3 D. The provisions of this Section shall be limited to claims related to the
4 COVID-19 public health emergency.

5 E.(1) Public and nonpublic schools, public and nonpublic school systems,
6 public or nonpublic school governing authorities, charter school governing
7 authorities, and the officers, employees, and agents thereof may not avail themselves
8 of the immunity provided by this Section if the action or failure to act was in
9 violation of a policy, rule, or regulation adopted by the public or nonpublic school,
10 public or nonpublic school system, public or nonpublic school governing authority,
11 or charter school governing authority or was in violation of any procedure mandated
12 by law or by rule or regulation adopted by a federal or state agency in accordance
13 with the Administrative Procedure Act, and such action or inaction is determined to
14 be grossly negligent or wanton or reckless misconduct.

15 (2) A public school governing authority shall not adopt a policy, rule, or
16 regulation that imposes a lesser standard than what is prescribed in a rule or
17 regulation adopted by the State Board of Elementary and Secondary Education in
18 accordance with the Administrative Procedure Act.

19 * * *

20 §3391. Immunity from claims or causes of action related to the COVID-19 public
21 health emergency

22 A. Notwithstanding any other provision of law to the contrary, public and
23 nonpublic postsecondary education systems, public and nonpublic postsecondary
24 education institutions, and public and nonpublic postsecondary education
25 management boards, and the officers, employees, and agents thereof shall not be held
26 liable for any civil damages for injury or death resulting from or related to actual or
27 alleged exposure to COVID-19 or acts undertaken in the effort to respond or adapt
28 to the COVID-19 public health emergency.

29 B. There shall be no cause of action related to a person contracting COVID-
30 19 at a public or nonpublic postsecondary education institution, other public or

1 nonpublic postsecondary education facility, or at a public or nonpublic
 2 postsecondary education institution sponsored event, which is based on the actions
 3 or failure to act by the institution's officers, employees, or agents in response to the
 4 COVID-19 public health emergency.

5 C. This Section shall not affect the right of any person to receive benefits
 6 provided under the Louisiana Workers' Compensation Law.

7 D. The provisions of this Section shall be limited to claims related to the
 8 COVID-19 public health emergency.

9 E. The public and nonpublic postsecondary education systems, public and
 10 nonpublic postsecondary education institutions, and public and nonpublic
 11 postsecondary education management boards, and the officers, employees, and
 12 agents thereof may not avail themselves of the immunity provided for by this Section
 13 if the action or failure to act was in violation of a policy, rule, or regulation adopted
 14 by the public or nonpublic postsecondary education system, public or nonpublic
 15 postsecondary education institution, or public or nonpublic postsecondary education
 16 management board or was in violation of any procedure mandated by law or by rule
 17 or regulation adopted by a federal or state agency in accordance with the
 18 Administrative Procedure Act, and such action or inaction is determined to be
 19 grossly negligent or wanton or reckless misconduct.

20 Section 2. Not later than July 15, 2020, the State Board of Elementary and
 21 Secondary Education shall adopt emergency rules informed by the Centers for Disease
 22 Control and Prevention guidelines to provide minimum standards, policies, medical
 23 exceptions, and regulations to govern the reopening of schools for the 2020-2021 school year
 24 to ensure that students, faculty, staff, and others on school property are protected to the
 25 extent possible and practical from COVID-19. Prior to the beginning of the 2020-2021
 26 school year, each public school governing authority shall implement policies, rules, and
 27 regulations in accordance with the rules and regulations adopted by the State Board of
 28 Elementary and Secondary Education.

29 Section 3. The Board of Supervisors of Louisiana State University and Agricultural
 30 and Mechanical College, the Board of Supervisors of Southern University and Agricultural

1 and Mechanical College, the Board of Supervisors for the University of Louisiana System,
 2 and the Board of Supervisors of Community and Technical Colleges shall adopt policies
 3 informed by the Centers for Disease Control and Prevention guidelines to provide minimum
 4 standards, policies, medical exceptions, and regulations to govern the reopening of schools
 5 for the 2020-2021 school year to ensure that students, faculty, staff, and others on school
 6 property are protected to the extent possible and practical from COVID-19.

7 Section 4. Due to the threat posed by COVID-19 as provided in Proclamation
 8 Number 25 JBE 2020 and any subsequent proclamation, declaring the existence of a
 9 statewide public health emergency, this Act shall be retroactive to March 11, 2020.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____