

2020 Second Extraordinary Session

HOUSE BILL NO. 83

BY REPRESENTATIVES ROMERO, ADAMS, AMEDEE, BACALA, BRASS, BRYANT, BUTLER, CARPENTER, CARRIER, GARY CARTER, ROBBY CARTER, CORMIER, COUSSAN, COX, CREWS, DAVIS, DESHOTEL, DEVILLIER, EDMONDS, EDMONSTON, EMERSON, FIRMENT, FONTENOT, FREEMAN, FREIBERG, GADBERRY, GAROFALO, GOUDEAU, GREEN, HILFERTY, HODGES, HORTON, HUGHES, JAMES, JEFFERSON, JENKINS, MIKE JOHNSON, TRAVIS JOHNSON, JONES, JORDAN, LARVADAIN, LYONS, MACK, MCCORMICK, MCFARLAND, MCKNIGHT, MCMAHEN, MIGUEZ, MOORE, NELSON, NEWELL, ORGERON, CHARLES OWEN, ROBERT OWEN, PHELPS, PRESSLY, RISER, SCHAMERHORN, SEABAUGH, SELDERS, ST. BLANC, THOMAS, THOMPSON, TURNER, WHITE, WILLARD, WRIGHT, AND ZERINGUE

STUDENT/DISCIPLINE: Provides relative to student discipline (Item #42)

1 AN ACT
2 To amend and reenact R.S. 17:416(C)(4) and (5) and to enact R.S. 17:416(K) and (L),
3 relative to student discipline; to provide for judicial review of certain discipline
4 actions; to provide for discipline policies applicable during online instruction; to
5 provide for awarding of damages and attorney fees; to provide for applicability; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 17:416(C)(4) and (5) are hereby amended and reenacted and R.S.
9 17:416(K) and (L) are hereby enacted to read as follows:

10 §416. Discipline of students; suspension; expulsion

11 * * *

12 C.(1)

13 * * *

14 (4) The parent or tutor of the pupil who has been recommended for expulsion
15 pursuant to this Section may, within five days after the decision is rendered, request

1 the city or parish school board to review the findings of the superintendent or his
2 designee at a time set by the school board; otherwise the decision of the
3 superintendent shall be final. If requested, as herein provided, and after reviewing
4 the findings of the superintendent or his designee, the school board may affirm,
5 modify, or reverse the action previously taken. The parent or tutor of the pupil shall
6 have such right of review even if the recommendation for expulsion is reduced to a
7 suspension.

8 (5)(a) The parent or tutor of the pupil who has been recommended for
9 expulsion pursuant to this Section may, within ten days, appeal to the district court
10 for the parish in which the student's school is located, an adverse ruling of the school
11 board in upholding the action of the superintendent or his designee. The court may
12 reverse or revise the ruling of the school board upon a finding that the ruling of the
13 board was based on an absence of any relevant evidence in support thereof. The
14 parent or tutor of the pupil shall have such right to appeal to the district court even
15 if the recommendation for expulsion is reduced to a suspension.

16 (b) If a judgment is rendered in favor of a student who sought judicial review
17 of a decision of a school board pursuant to this Paragraph, the judgment may include
18 an award for reasonable attorney fees if the court finds any school official acted in
19 a grossly negligent manner; with deliberate disregard for the consequences of his
20 actions to the student; with willful or malicious indifference; with intent to deprive
21 the student, his parent, guardian, or tutor of due process; or initiated a charge that is
22 knowingly false. The court may award any damages appropriate under the
23 circumstances and render any other appropriate relief including but not limited to
24 requiring the school board to issue an official apology letter, which shall be provided
25 to the student, his parent, guardian, or tutor, and retained in the student's educational
26 records.

27 * * *

28 K. For the purposes of this Section, "virtual instruction" means instruction
29 provided to a student through an electronic delivery medium including but not

1 limited to electronic learning platforms that connect to a student in a remote location
2 to classroom instruction. A city or parish school board discipline policy shall clearly
3 define the rules of conduct and expectations of students engaged in virtual
4 instruction, shall provide for notice of such rule and expectations to the parents and
5 guardians of students, shall include clearly defined consequences of conduct, shall
6 be narrowly tailored to address compelling government interests, and shall take into
7 consideration the students' and their families' rights to privacy and other
8 constitutional rights while at home or in a location that is not school property.

9 Section 2. Any student who has been subjected to suspension or recommended for
10 expulsion for behavior displayed while participating in virtual instruction, as defined in R.S.
11 17:416(K) as enacted by this Act, between March 13, 2020, and December 31, 2020, shall
12 be entitled to the following:

13 (a) A hearing within thirty days conducted by the school board to determine whether
14 charges should be dismissed and to provide the student with any other relief including but
15 not limited to reinstating the student's enrollment status.

16 (b) Judicial review of any decision by the school board in the district court where
17 the student's school is located.

18 (c) De novo judicial review of the school board's decision. After such review, the
19 court may determine whether the student shall be cleared of the charge, whether any other
20 conditions placed on the student shall be removed, or if the student is eligible for any other
21 relevant relief.

22 (d) Reasonable attorney fees awarded to the student, his parent, guardian, or tutor
23 to clear a student's record.

24 Section 3. The provisions of this Act shall be given prospective and retroactive
25 application.

26 Section 4. No later than December 31, 2020, every public school board shall comply
27 with the provisions of R.S. 17:416.8 and convene a meeting of its disciplinary policy review
28 committee to update all policies and procedures relative to conduct that occurs at home or

1 other locations that are not school property where a student is participating in virtual
2 instruction.

3 Section 5. This Act shall become effective upon signature by the governor or, if not
4 signed by the governor, upon expiration of the time for bills to become law without signature
5 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
6 vetoed by the governor and subsequently approved by the legislature, this Act shall become
7 effective on the day following such approval.

8 Section 6. This Act shall be known and may be cited as the "Ka'Mauri Harrison
9 Act".

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 83 Reengrossed

2020 Second Extraordinary Session

Romero

Abstract: Provides for judicial review of certain student discipline cases; requires public school governing authorities to develop protocol for discipline of students participating in virtual instruction.

Present law provides for the discipline of students for disorderly conduct in school, on school playgrounds, while going to and from school, or during intermission or recess. Proposed law retains present law.

Present law, upon the recommendation of a principal for the expulsion of a student, provides for a hearing by the school board to determine the facts of the case and if the student's conduct warrants expulsion. Proposed law retains present law. Proposed law makes present law applicable even when a student's penalty is reduced to a suspension.

Present law authorizes a parent or tutor to appeal an expulsion to the district court for the parish in which the student's school is located. Proposed law makes present law applicable even when a student's penalty is reduced to a suspension.

Proposed law provides that a judgment may include awarding of damages and reasonable attorney fees if a court finds a school official's actions meet specified criteria.

Present law requires each public school board to review its discipline policies at least annually. Requires each public school board to have established a discipline policy review committee. Proposed law retains present law and requires such committees to meet no later than Dec. 31, 2020, and update all policies and procedures relative to conduct that occurs at home or any location that is not school property while a student is engaged in virtual instruction.

Proposed law provides for discipline procedures for students engaged in virtual instruction from Mar. 13, 2020, through Dec. 31, 2020.

Proposed law provides for prospective and retroactive applicability.

Proposed law may be cited as the "Ka'Mauri Harrison Act".

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 17:416(C)(4) and (5); Adds R.S. 17:416(K))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Education to the original bill:

1. Add provision that proposed law shall be known as the "Ka'Mauri Harrison Act".

The House Floor Amendments to the engrossed bill:

1. Broaden the definition of "virtual instruction" to mean instruction provided electronically to a student from any remote location, not just school property.
2. Change "attorney fees" to "reasonable attorney fees".
3. Limit applicability of certain disciplinary processes to instances of discipline for conduct by students engaged in virtual instruction between March 13, 2020, and Dec. 31, 2020.