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**HOUSE FLOOR AMENDMENTS**

2022 Regular Session

Amendments proposed by Representative McKnight to Engrossed House Bill No. 364 by Representative McKnight

1 AMENDMENT NO. 1

2 On page 1, line 15, after "board" and before "has the" insert "and accused of a violation of  
3 the disciplinary or conduct rules that carries a potential penalty of suspension of ten or more  
4 days or expulsion"

5 AMENDMENT NO. 2

6 On page 1, line 20, after "is the" and before "victim" delete "accuser or" and insert "alleged"

7 AMENDMENT NO. 3

8 On page 2, line 9, after "and the" and before "victim" delete "accuser or" and insert "alleged"

9 AMENDMENT NO. 4

10 On page 2, delete lines 17 through 24 and insert the following:

11 "E. When a violation is punishable by suspension of ten or more days or  
12 expulsion, or when a violation by a student organization is punishable by suspension  
13 or removal of the organization from the institution, the disciplinary procedures  
14 contained in the code of student conduct shall include but need not be limited to the  
15 following:

16 (1) Afford the accused student or organization the express presumption of  
17 innocence and set forth that he or the organization may not be deemed guilty of the  
18 violation until he or the organization formally acknowledges responsibility or the  
19 conclusion of a hearing where the institution has established every element of the  
20 alleged violation.

21 (2) Require the institution to maintain an administrative file of the  
22 disciplinary proceedings. The file shall include all documents and evidence in the  
23 institution's possession or control relevant to the alleged violation and the  
24 institution's investigation including but not limited to exculpatory evidence,  
25 documents submitted by any participant, and the institution's choice of a video  
26 recording, audio recording, or transcript of any disciplinary hearing ultimately held  
27 in the matter. The file shall not include privileged documents or internal  
28 memorandums that the institution does not intend to introduce as evidence at any  
29 hearing on the matter.

30 (3) Provide both the accused student or organization and the alleged victim  
31 reasonable continuing access to the administrative file and the ability to make copies  
32 of all evidence or documents in the file beginning at least seven business days prior  
33 to any disciplinary hearing, or sooner if otherwise specified under federal law, except  
34 that individual portions of the administrative file shall be redacted if disclosure of the  
35 evidence is required by law.

36 (4) Ensure that all disciplinary proceedings are carried out free from  
37 conflicts of interest by ensuring that there is no commingling of administrative or  
38 adjudicative roles. For purposes of this Paragraph, an institution shall be considered

1 to commingle such roles if any individual carries out more than one of the following  
2 roles with respect to any disciplinary proceeding:  
3 (a) Victim counselor and victim advocate.  
4 (b) Investigator.  
5 (c) Institutional prosecutor.  
6 (d) Adjudicator.  
7 (e) Appellate adjudicator."

8 AMENDMENT NO. 5

9 On page 3, at the beginning of line 2, delete "accuser or" and insert "alleged"

10 AMENDMENT NO. 6

11 On page 3, line 20, after "provide the" and before "or accused" delete "accuser" and insert  
12 "alleged victim"

13 AMENDMENT NO. 7

14 On page 3, line 26, after "is the" and before "victim" delete "accuser or" and insert "alleged"

15 AMENDMENT NO. 8

16 On page 4, at the beginning of line 2, after "the" and before "victim" delete "accuser or" and  
17 insert "alleged"

18 AMENDMENT NO. 9

19 On page 4, at the end of line 2, between "proceeding" and the period "." insert a comma ","  
20 and "if applicable"

21 AMENDMENT NO. 10

22 On page 4, at the beginning of line 3, change "J.(1)" to "J."

23 AMENDMENT NO. 11

24 On page 4, line 4, after "action" and before "to recover" insert "against the institution and  
25 its agents acting in their official capacities"

26 AMENDMENT NO. 12

27 On page 4, line 6, after "violated," and before "the court" delete "after being put on notice  
28 by the attorney general,"

29 AMENDMENT NO. 13

30 On page 4, delete lines 10 through 18 and insert the following:

31 "K. Nothing in this Section shall be construed to impair an institution's  
32 ability to take reasonable interim measures necessary to ensure the physical safety  
33 of members of the campus community during a timely investigation and adjudication  
34 of a student disciplinary issue including but not limited to the ability to make  
35 adjustments in student housing arrangements, impose conditions of mutual no-  
36 contact between the accused student and the alleged victim, temporarily suspend a  
37 student, or ban a student from campus. Such reasonable interim measures shall  
38 require the following:

1           (1) Within twenty-four hours of the alleged violation being deemed an  
2 immediate threat, written notice of the interim measure that explains the institution's  
3 reasons for enacting the measures.

4           (2) Within three business days of the written notice pursuant to Paragraph  
5 (1) of this Subsection, unless otherwise waived by the accused student, an interim  
6 measure hearing to determine whether there is substantial evidence that the student  
7 poses a risk to the physical safety of a member of the campus community and that  
8 the interim measure is appropriate to mitigate that risk. At the hearing, both the  
9 accused student and the alleged victim shall have the right to be represented as  
10 provided in Subsection B of this Section. An accused student's waiver of the right  
11 to an interim measure hearing shall not constitute an admission of guilt or a waiver  
12 of any additional rights provided for in this Section."