

2016 Regular Session

HOUSE BILL NO. 862

BY REPRESENTATIVE FALCONER

LIABILITY/CIVIL: Provides relative to the liability of certain persons for the actions of persons with developmental disabilities

1 AN ACT

2 To enact R.S. 9:2800.23, relative to liability for damages caused by persons with  
3 developmental disabilities; to provide a limitation of liability for parents, tutors, and  
4 curators; to provide conditions upon which the limitation of liability is contingent;  
5 to provide for exceptions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:2800.23 is hereby enacted to read as follows:

8 §2800.23. Limitation of liability for damages caused by persons with developmental  
9 disabilities

10 A. Notwithstanding the provisions of Civil Code Articles 225, 2317, or  
11 2318, a parent, tutor, or curator of a student with developmental disabilities shall not  
12 be liable for any damage, injury, or loss caused by that student when all of the  
13 following conditions exist at the time the injury or loss occurred:

14 (1) The school developed and implemented a behavioral intervention plan  
15 as part of an Individualized Education Program pursuant to the Individuals with  
16 Disabilities Education Improvement Act of 2004.

17 (2) The parent, tutor, or curator of the student signed the Individualized  
18 Education Program.

19 (3) The parent, tutor, or curator relinquished physical care, custody, and  
20 control of the student to the school.

1           (4) The parent, tutor, or curator was not present or exercising any physical  
2           care, custody, or control over the student at the school or school-sanctioned event.

3           B. The limitation of liability provided by this Section shall not be applicable  
4           if the damage, injury, or loss was caused by the negligence of the parent, tutor or  
5           curator.

6           C. The provisions of this Section shall apply only to actions for the recovery  
7           of damages, injury, or loss sustained by an employee of the school which developed  
8           and implemented the behavioral intervention plan as provided by Paragraph (A)(1)  
9           of this Section and where the damages, injury, or loss sustained was caused by a  
10          violation of the behavioral intervention plan by an employee of the school.

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#### 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)]

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HB 862 Reengrossed

2016 Regular Session

Falconer

**Abstract:** Provides a limitation of liability for a parent, tutor, or curator of a student with developmental disabilities when the care, custody, and control of the student has been relinquished to the school.

Proposed law provides a limitation of liability for a parent, tutor, or curator of a student with developmental disabilities which is contingent on all the following factors existing at the time of the injury or loss:

- (1) The school developed and implemented a behavioral intervention plan as part of an Individualized Education Program pursuant to the Individuals with Disabilities Education Improvement Act of 2004.
- (2) The parent, tutor, or curator of the student signed the IEP.
- (3) The parent, tutor, or curator relinquished physical care, custody, and control of the student to the school.
- (4) The parent, tutor, or curator was not present or exercising any physical care, custody, or control over the student at the school or school sanctioned event.

Provides that proposed law shall not apply if the damage, injury, or loss was caused by the negligence of the parent, tutor, or curator and that the damage, injury, or loss must have been caused by a violation of the behavioral intervention plan by an employee of the school.

(Adds R.S. 9:2800.23)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Amends the exception to the proposed law limitation of liability from acts of gross negligence to acts of negligence by the parent, tutor, or curator.
2. Adds that the damages, injury, or loss sustained by an employee of the school must have been caused by a violation of the behavioral intervention plan by an employee of the school.