

2018 Regular Session

SENATE BILL NO. 298

BY SENATOR MILKOVICH

SCHOOLS. Provide relative to school safety. (gov sig)

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AN ACT

To enact R.S. 17:416.22, relative to school personnel and school discipline; to provide for circumstances under which a school employee may remove or may have a student removed from the school grounds; to provide for the role of law enforcement agencies; to provide for parental notification; to provide relative to referral for counseling and other services; to provide for student placement in an alternative educational setting; to provide for school employee rights; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:416.22 is hereby enacted to read as follows:

**§416.22. Safe Schools Act**

**A. This Section shall be known and may be cited as the "Safe Schools Act".**

**B.(1) Notwithstanding any other provision of law to the contrary, including R.S. 17:416 through 416.20, a school employee has the right to personally remove and the duty to request to have a student removed from the school grounds when the employee has reasonable belief that the student's**

1 behavior poses a significant threat to the safety of another person on school  
2 grounds.

3 (2)(a) A school employee who is in reasonable apprehension that he or  
4 another person on the school grounds is in danger of imminent physical harm  
5 from a student may contact law enforcement and have the student immediately  
6 removed from the school grounds and placed in the custody of the appropriate  
7 law enforcement agency.

8 (b) As soon as practicable after removal from the school grounds, the  
9 student's parent or legal guardian shall be given oral notification of the action.

10 (3)(a) Upon the first removal from a school pursuant to the provisions  
11 of this Section, the student and his parent or legal guardian shall be referred to  
12 the appropriate local or state agency for evaluation and counseling, including  
13 such services as may be provided through informal family services as provided  
14 pursuant to Chapter 5 of Title VII of the Louisiana Children's Code.

15 (b) Within three school days after the student has been removed from the  
16 school grounds pursuant to this Section, a court hearing shall be held in a venue  
17 determined pursuant to Article 729.1 of the Louisiana Children's Code to  
18 determine whether the student shall continue to be excluded from the school  
19 and the appropriate educational setting for the student.

20 (i) The court shall give notice of the date and time of the hearing to the  
21 student, the student's parent or legal guardian, the school governing authority,  
22 the school principal, and the school employee who initiated the student's  
23 removal from the school grounds.

24 (ii) The school principal and the school employee who initiated the  
25 student's removal from the school grounds shall have the right to testify in  
26 person or appear through counsel at the hearing.

27 (iii) The court may also order the student and his parent or legal  
28 guardian to participate in services available through the state's Coordinated  
29 System of Care.

1            (iv) The court shall exclude the student from being readmitted to the  
2            school and the school grounds if it is proven through a preponderance of  
3            evidence that the student poses an unreasonable risk to others on the school  
4            grounds.

5            (c) The student shall be assigned school work missed while he is absent  
6            from the classroom and shall receive credit for school work if it is completed  
7            satisfactorily and timely as determined by the student's teachers.

8            (4)(a) Upon a second removal from a school pursuant to the provisions  
9            of this Section, the student shall be placed in an alternative educational  
10           program.

11           (b) The student and his parent or legal guardian shall be referred to the  
12           court of competent jurisdiction for families in need of services as provided in  
13           Chapter 2 of Title VII of the Louisiana Children's Code.

14           (c) The student will not be allowed to return to a regular education  
15           program until the court determines that the student does not pose an  
16           unreasonable risk to others on the school grounds.

17           C. A school employee who invokes his rights under the provisions of this  
18           Section shall not be suspended from duty for use of such force or for requesting  
19           a student to be removed from the grounds by law enforcement, unless clear and  
20           convincing evidence is shown that the removal or requested removal was  
21           conducted in bad faith.

22           D. Anyone who retaliates against a school employee who invokes his  
23           rights under the provisions of this Section shall be subject to the appropriate  
24           criminal penalties, including those of R.S. 14:34.3 and 38.2.

25           E. No public school governing authority or State Board of Elementary  
26           and Secondary Education shall adopt any rule or policy that negatively impacts  
27           the evaluation of a school district, a school, or a school employee based solely on  
28           the number of suspensions or other forms of discipline imposed upon students.

29           F. Notwithstanding any provision of law to the contrary, a school

1           governing authority may designate school personnel or private individuals who  
 2           may possess firearms on the school grounds to protect students or other  
 3           persons. Such designation shall be based on a thorough background check and  
 4           consideration of the individual's past military training, experience in law  
 5           enforcement, or training, work, or certification in security. The school  
 6           governing authority shall prescribe the requirements, guidelines, and  
 7           procedures which govern the possession of firearms on school grounds for the  
 8           protection of students or other persons.

9           Section 2. This Act shall become effective upon signature by the governor or, if not  
 10          signed by the governor, upon expiration of the time for bills to become law without signature  
 11          by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 12          vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 13          effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Cheryl Serrett.

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	DIGEST	
SB 298 Original	2018 Regular Session	Milkovich

Proposed law provides for the "Safe Schools Act" as follows:

- (1) Provides that notwithstanding any provision of present law, a school employee has the right to personally remove and the duty to request to have a student removed from the school grounds when the employee has reasonable belief that the student's behavior poses a significant threat to the safety of another person on school grounds.
- (2) Provides that a school employee who is in reasonable apprehension that he or another person on school grounds is in danger of imminent physical harm from a student may contact law enforcement and have the student removed immediately from the school grounds and placed in the custody of the appropriate law enforcement agency.
- (3) Provides that the student's parent or legal guardian shall be given oral notification as soon as practicable after the student's removal from the school grounds.
- (4) Provides that upon the first removal from the school grounds pursuant to the provisions of proposed law:
  - (a) The student and his parent or legal guardian shall be referred to the appropriate local or state agency for evaluation and counseling, including such services as may be provided through informal family services as provided pursuant to Chapter 5 of Title VII of the Louisiana Children's Code.
  - (b) Within three school days after the student has been removed from the school

- grounds pursuant to proposed law, a court hearing shall be held in a venue determined pursuant to Article 729.1 of the Louisiana Children's Code to determine whether the student shall continue to be excluded from the school and the appropriate educational setting for the student. The court shall give notice of the date and time of the hearing to the student, the student's parent or legal guardian, the school governing authority, the school principal, and the school employee who initiated the student's removal from the school grounds.
- (c) The court may also order the student and his parent or legal guardian to participate in services available through the state's Coordinated System of Care.
- (d) The court shall exclude the student from being readmitted to the school and the school grounds if it is proven through a preponderance of evidence that the student poses an unreasonable risk to others on the school grounds.
- (e) The student shall be assigned school work missed while he is absent from the classroom and shall receive credit for school work if it is completed satisfactorily and timely as determined by the student's teachers.
- (5) Provides that upon the second removal from a school pursuant to the provisions of proposed law:
- (a) The student shall be placed in an alternative educational program.
- (b) The student and his parent or legal guardian shall be referred to the court of competent jurisdiction for families in need of services as provided in Chapter 2 of Title VII of the Louisiana Children's Code.
- (c) The student will not be allowed to enroll in another educational program unless the court determines the student does not pose an unreasonable risk to others on the school grounds.
- (6) Provides that a school employee who evokes his rights shall not be suspended from duty for use of such force, unless clear and convincing evidence is shown that the removal or request for removal was conducted in bad faith.
- (7) Provides that anyone who retaliates against a school employee who invokes his rights under the provisions of proposed law shall be subject to the appropriate criminal penalty provided in present law, including the penalties provided for assault and for battery of a school teacher.
- (8) Prohibits a public school governing authority and the State Board of Elementary and Secondary Education from adopting any rule or policy that negatively impacts the evaluation of a school district, school, or school employee based solely on the number of suspensions or other forms of discipline imposed upon students.
- (9) Allows a school governing authority to designate school personnel or private individuals who may possess firearms on the school grounds to protect students or other persons. Such designation shall be based on a thorough background check and consideration of the individual's past military training, experience in law enforcement, or training, work, or certification in security. The school governing authority shall prescribe the requirements, guidelines, and procedures which shall govern the possession of firearms on school grounds for the protection of students or other persons.

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

(Adds R.S. 17:416.22)