

2020 First Extraordinary Session

HOUSE BILL NO. 59

BY REPRESENTATIVE MINCEY

LIABILITY/PUBLIC: Provides relative to limitations of liability for public and private school districts and postsecondary institutions during a declared state of emergency or a public health emergency (Item #40)

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 declared states of emergency or public health
4 emergencies; to provide relative to the liability of public and private schools, public
5 and private school districts, and charter school governing boards under certain
6 circumstances; to provide for liability related to school sponsored events; to provide
7 relative to the liability of public and private postsecondary education systems and
8 institutions; 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 a declared state of
12 emergency or public health emergency for an infectious disease

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

1 declared state of emergency or public health emergency related to an infectious
2 disease.

3 B. There shall be no cause of action related to a person contracting an
4 infectious disease at a public or private postsecondary education institution, other
5 public or private postsecondary education facility, or at a public or private
6 postsecondary education institution sponsored event, which is based on the actions
7 or failure to act by the institution's officers, employees, or agents in response to the
8 declared state of emergency or public health emergency.

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

11 D. The provisions of this Section shall be limited to claims related to the
12 infectious disease which is the subject of the declared state of emergency or public
13 health emergency.

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

25 Section 2. Due to the threat posed by COVID-19 as provided in Proclamation
26 Number 25 JBE 2020 and any subsequent proclamation, declaring the existence of a
27 statewide public health emergency, this Act shall be retroactive to March 11, 2020.

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 59 Reengrossed

2020 First Extraordinary Session

Mincey

Abstract: Provides relative to immunity from civil liability for public and private schools, charter schools, and public and private postsecondary education institutions during a state of emergency or a public health emergency for infectious disease.

Proposed law provides for immunity for public, private, and charter schools from civil liability from damages resulting from exposure to infectious disease or acts undertaken in an effort to respond to a declared state of emergency or public health emergency related to an infectious disease.

Proposed law prohibits causes of action related to the contraction of an infectious disease at a public, private, or charter school facility, bus, or event and at a public or private postsecondary education facility or event based on the actions or failure to act of school agents.

Proposed law provides that schools and postsecondary institutions will not be immune from civil liability for damages resulting from actions or inactions that (1) are in violation of a policy adopted by the school and (2) are determined to be grossly negligent or wanton or reckless misconduct.

Provides that the provisions of proposed law are to be applied retroactively to March 11, 2020, as well as prospectively.

(Adds R.S. 17:439.1 and 3391)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Add charter schools to the list of protected public school entities.
2. Extend the proposed law immunity from civil liability to public postsecondary education institutions.

The House Floor Amendments to the engrossed bill:

1. Add private schools to the list of protected school entities.
2. Add private postsecondary education systems to list of protected postsecondary education systems.
3. Provide an exception that public and private schools and public and private postsecondary education systems will not be immune for certain actions or inactions.
4. Provide that proposed law shall be retroactive to March 11, 2020.