ENROLLED

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 AND SENATORS ABRAHAM, BARROW, BERNARD, BOUIE, CARTER, CATHEY, CONNICK, CORTEZ, FESI, FIELDS, HARRIS, HENRY, HEWITT, JOHNS, LUNEAU, MCMATH, ROBERT MILLS, MIZELL, MORRIS, REESE, SMITH, TALBOT, TARVER, WARD, AND WOMACK

AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

§416. Discipline of students; suspension; expulsion

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C.(1)

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

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

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

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

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K. For the purposes of this Section, "virtual instruction" means instruction provided to a student through an electronic delivery medium including but not limited to electronic learning platforms that connect to a student in a remote location

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to classroom instruction. A city or parish school board discipline policy shall clearly define the rules of conduct and expectations of students engaged in virtual instruction, shall provide for notice of such rules and expectations to the parents and guardians of students, shall include clearly defined consequences of conduct, shall be narrowly tailored to address compelling government interests, and shall take into consideration the students' and their families' rights to privacy and other constitutional rights while at home or in a location that is not school property.

Section 2. Any student who has been recommended for expulsion, even if the recommendation for expulsion was reduced to a suspension, for behavior displayed while participating in virtual instruction, as defined in R.S. 17:416(K) as enacted by this Act, between March 13, 2020, and December 31, 2020, shall be entitled to the following:

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

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

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

(d) Reasonable attorney fees if the court finds any school official acted in a grossly negligent manner; with deliberate disregard for the consequences of his actions to the student; with willful or malicious indifference; with intent to deprive the student, his parent, guardian, or tutor of due process; or initiated a charge that is knowingly false. The court may award any damages appropriate under the circumstances and render any other appropriate relief including but not limited to requiring the school board to issue an official apology letter, which shall be provided to the student, his parent, guardian, or tutor, and retained in the student's educational records.

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

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Section 4. No later than December 31, 2020, every public school board shall comply with the provisions of R.S. 17:416.8 and convene a meeting of its disciplinary policy review committee to update all policies and procedures relative to conduct that occurs at home or other locations that are not school property where a student is participating in virtual instruction.

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

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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