

2016 Regular Session

HOUSE BILL NO. 862

BY REPRESENTATIVE FALCONER

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.

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

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

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____