

RÉSUMÉ DIGEST

ACT 280 (SB 238)

2019 Regular Session

Mizell

Prior law (Children's Code 610) provided that, notwithstanding any claim of privileged communication, any mandatory reporter who has cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect or that abuse or neglect was a contributing factor in a child's death shall report the matter to the Dept. of Children and Family Services (DCFS) or law enforcement.

Prior law (Children's Code 603) provided that the mandatory reporters of child abuse and neglect are the following individuals: healthcare practitioners, mental health/social service practitioners, members of the clergy including any priest, rabbi, duly ordained clerical deacon or minister, Christian Science practitioner, teachers or child care providers including teacher's aides, instructional aides, school principal, school staff members, bus drivers, coaches, professors, vocational instructors, technical or vocational school staff members, or college or university administrators and staff members, social workers, probation officers, foster home parents, group home or other child care institutional staff members, personnel of residential home facilities, licensed or unlicensed day care providers, or any individual who provides such services to a child in a voluntary or professional capacity, police officers, commercial film and photographic print processors, court authorized mediators, CASA volunteers, youth activity workers or day camp, summer camp, youth center, or youth recreation program staffers, and school coaches.

Prior law (Children's Code 603) defined "health practitioner" to include hospital staff member.

New law retains prior law and adds "abortion facility staff member" to the list of healthcare staff members who are mandatory reporters of child abuse or neglect.

Prior law (Children's Code 603 and 610) provided that the DCFS may conduct an investigation if the alleged perpetrator is a caretaker. Prior law (Children's Code 603) defined "caretaker" as any person legally obligated to provide or secure adequate care for a child, including a parent, tutor, guardian, legal custodian, foster home parent, an employee of a public or private day care center, an operator or employee of a registered family child day care home, or other person providing a residence for the child. Prior law (Children's Code 610) provided that "caretaker" does not include dating partners, spouse of the parent, or anyone not living at the residence of the child and, therefore the DCFS does not have jurisdiction to open an investigation into a child in need of care case where the alleged perpetrator is not a caretaker.

New law retains prior law and requires abortion facility professionals and abortion facility staff members to report crimes of human trafficking, trafficking of children for sexual purposes, rape, incest, or coerced abortion to law enforcement, whether the victim is a minor child or an adult. Requires that the report be made immediately not later than the end of the business day. New law defines "abortion facility professional" or "outpatient abortion facility professional" as an individual who is a physician, surgeon, resident, intern, licensed nurse, nursing aide, emergency medical technician, or a paramedic who diagnoses, examines, or treats a female patient at an outpatient abortion facility. New law defines "abortion facility staff member" or "outpatient abortion facility staff member" as an individual who is not an abortion facility professional but who is employed by or contracts with an outpatient abortion facility to provide services and who has any contact with patients at the facility.

New law provides that the La. Dept. of Health (LDH) shall promulgate a form which may be used by a mandatory reporter to law enforcement to report a crime of human trafficking, trafficking of children for sexual purposes, rape, incest, or coerced abortion to the sheriff's department in the parish or to the local police department where the outpatient abortion facility is located.

New law provides that beginning Aug. 1, 2019, every mandatory reporter to law enforcement shall certify to the LDH that they have participated in training on human trafficking awareness and prevention on an annual basis. Requires the LDH to maintain the name of each mandatory reporter to law enforcement as confidential, and the information shall not be subject to disclosure pursuant to the Public Records Law.

New law requires that the LDH promulgate rules to provide for compliance with the training requirement in new law utilizing the online educational videos on human trafficking awareness and prevention provided by the U.S. Dept. of Health and Human Services, Administration for Children and Families, Office on Trafficking in Persons.

Prior law required information regarding the National Human Trafficking Resource Center Hotline to be posted in certain establishments.

Prior law required the notice to meet certain size, font, and language requirements to be set by the commissioner of the Alcohol Tobacco Control (ATC) and the applicable phone number to be included in the notice.

New law retains prior law and requires that the notice also include the ability to text "Help" to 233733 (Be Free) in order to access help and services.

New law provides that, in addition to the posting required in prior law, beginning on Jan. 1, 2020, each establishment required to post information shall affix a flyer to the inside of the door to each bathroom stall at the establishment. New law provides that the flyer will be designed by the Greater New Orleans Human Trafficking Task Force (task force), with the approval of the ATC commissioner, and shall be no larger than 8 ½ by 11. New law provides that no later than Dec. 1, 2019, the task force shall transfer the flyer in an electronic format to the ATC commissioner for posting on the ATC's website.

Effective August 1, 2019.

(Amends Ch. C. Art. 603(17)(a), RS. 15:541.1(A)(3), (B)(1)(a) and (D) and R.S. 40:2175.3, R.S. 44:4.1(B)(26); adds R.S. 15:541(E) and R.S. 40:2175.7)