

Regular Session, 2014

HOUSE BILL NO. 215

BY REPRESENTATIVE RICHARD

CRIME/SEX OFFENSES: Creates the crime of prohibited sexual contact by a psychotherapist and provides for criminal penalties

1 AN ACT

2 To enact Division 6 of Subpart A of Part V of Chapter 1 of Title 14 of the Louisiana Revised  
3 Statutes of 1950, to be comprised of R.S. 14:89.7, relative to prohibited sexual  
4 contact by psychotherapists; to create the crime of prohibited sexual contact by a  
5 psychotherapist; to provide for elements of the crime; to provide for exceptions; to  
6 provide for definitions; to provide for criminal penalties; and to provide for related  
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Division 6 of Subpart A of Part V of Chapter 1 of Title 14 of the  
10 Louisiana Revised Statutes of 1950, comprised of R.S. 14:89.7, is hereby enacted to read as  
11 follows:

12 6. SEXUAL OFFENSES CONCERNING PROFESSIONAL MISCONDUCT

13 §89.7. Prohibited sexual contact by a psychotherapist

14 A.(1) It shall be unlawful for any psychotherapist, or any person who  
15 fraudulently represents himself as or purports to be a psychotherapist, to engage in  
16 sexual contact with a client or patient. Consent of the client or patient shall not be  
17 a defense, regardless of the age of client or patient.

18 (2)(a) It shall be unlawful for any psychotherapist to engage in sexual  
19 contact with a former client or former patient, when the relationship was terminated  
20 primarily for the purpose of engaging in the sexual contact.

1           (b) It shall not be a violation of the provisions of this Paragraph if the client  
2           is at least seventeen years of age, the sexual contact was consensual, and the  
3           psychotherapist formally terminated the psychotherapist-client relationship as  
4           required by the ethical standards and guidelines established by the licensing or  
5           governing board of his profession.

6           B. For purposes of this Section:

7           (1) "Psychotherapist" means any of the following:

8           (a) A psychiatrist licensed pursuant to R.S. 37:1261 et seq.

9           (b) A psychologist licensed pursuant to R.S. 37:2351 et seq., or a medical  
10          psychologist licensed pursuant to R.S. 37:1360.51 et seq.

11          (c) A licensed social worker licensed pursuant to R.S. 37:2701 et seq.

12          (d) A licensed professional counselor or a licensed marriage and family  
13          therapist licensed pursuant to R.S. 37:1101 et seq.

14          (e) Any other person who provides or purports to provide treatment,  
15          diagnosis, assessment, evaluation, or counseling of any mental, emotional,  
16          behavioral, or addictive illnesses, disorders, symptoms, or conditions.

17          (2) "Sexual contact" means any of the following:

18          (a) Anal, oral, or vaginal sexual intercourse. Emission is not necessary, and  
19          penetration, however slight, is sufficient to complete the crime.

20          (b) Touching of the anus or genitals of the patient or client by the  
21          psychotherapist using any instrumentality or any part of the body of the  
22          psychotherapist.

23          (c) Touching of the anus or genitals of the psychotherapist by the patient or  
24          client using any instrumentality or any part of the body of the patient or client, if  
25          done at the request of the psychotherapist.

26          (d) "Sexual contact" shall also include a request by the psychotherapist for  
27          the conduct described in Subparagraphs (a) through (c) of this Paragraph.

1           (3) "Therapeutic deception" means a representation by the psychotherapist  
 2           to the patient or client that sexual contact by the psychotherapist is consistent with  
 3           or part of the treatment of the patient or client.

4           C.(1) Whoever violates the provisions of this Section shall be imprisoned,  
 5           with or without hard labor, for not more than ten years, fined not more than ten  
 6           thousand dollars, or both.

7           (2) Whoever violates the provisions of this Section by means of therapeutic  
 8           deception shall be imprisoned, with or without hard labor, for not more than fifteen  
 9           years, fined not more than twenty thousand dollars, or both.

#### 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)]

Richard

HB No. 215

**Abstract:** Creates the crime of prohibited sexual contact by a psychotherapist and provides for elements of the crime, definitions, exceptions, and criminal penalties for the commission of the offense.

Proposed law provides that it shall be unlawful for any psychotherapist, or any person who fraudulently represents himself as or purports to be a psychotherapist, to engage in sexual contact with a client or patient. Proposed law provides that the consent of the patient or client shall not be a defense.

Proposed law provides that it shall be unlawful for any psychotherapist to engage in sexual contact with a former client or patient, when the relationship was terminated primarily for the purpose of engaging in the sexual contact.

Relative to former clients and former patients, proposed law provides that it shall not be a violation if the client is at least 17 years of age, the sexual contact was consensual, and the psychotherapist formally terminated the psychotherapist-client relationship as required by the ethical standards and guidelines established by the licensing or governing board of his profession.

Proposed law provides definitions for "psychotherapist", "sexual contact", and "therapeutic deception".

Proposed law provides for the following penalties:

- (1) Imprisonment for not more than 10 years, fined not more than \$10,000, or both.
- (2) If the sexual contact occurs by means of "therapeutic deception" - imprisonment for not more than 15 years, fined not more than \$20,000, or both.

(Adds R.S. 14:89.7)