

Regular Session, 2012

SENATE BILL NO. 357

BY SENATOR MORRELL

CRIME/PUNISHMENT. Provides relative to the reporting of child sexual abuse. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 14:403(A) and Children's Code Article 603(15)(introductory
3 paragraph) and (d) and 610(A) and (E)(1) and (2) and to enact Children's Code
4 Article 603(15)(j), relative to the reporting of abuse of children; to provide relative
5 to the reporting of the abuse or neglect of children; to provide relative to the
6 reporting of sexual abuse of children; to provide for definitions; to amend the
7 definition of "mandatory reporter" for purposes of reporting abuse of children; to
8 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. 14:403(A) is hereby amended and reenacted to read as follows:

11 §403. Abuse of children; reports; waiver of privilege

12 A.(1)(a) Any person who, under Children's Code Article 609(A), is required
13 to report the abuse or neglect ~~or sexual abuse~~ of a child and knowingly and willfully
14 fails to so report shall be ~~guilty of a misdemeanor and upon conviction shall be~~ fined
15 not more than five hundred dollars or imprisoned for not more than six months, or
16 both.

17 (b) Any person who, under Children's Code Article 609(A), is required

1 to report the sexual abuse of a child, or the abuse or neglect of a child which
2 results in the serious bodily injury, neurological impairment, or death of the
3 child, and the person knowingly and willfully fails to so report shall be fined not
4 more than three thousand dollars or imprisoned, with or without hard labor,
5 for not more than three years, or both. For purposes of this Subparagraph,
6 "serious bodily injury" means injury involving protracted and obvious
7 disfigurement or protracted loss or impairment of the function of a bodily
8 member, organ, or mental faculty, or substantial risk of death.

9 (2) Any person, any employee of a local child protection unit of the
10 Department of Children and Family Services, any employee of any local law
11 enforcement agency, any employee or agent of any state department, or any school
12 employee who knowingly and willfully violates the provisions of Chapter 5 of Title
13 VI of the Children's Code, or who knowingly and willfully obstructs the procedures
14 for receiving and investigating reports of child abuse or neglect or sexual abuse, or
15 who discloses without authorization confidential information about or contained
16 within such reports shall be ~~guilty of a misdemeanor and upon conviction shall be~~
17 ~~fined not more than five hundred dollars or imprisoned for not more than six months,~~
18 ~~or both.~~

19 (3) Any person who reports a child as abused or neglected or sexually abused
20 to the department or to any law enforcement agency, knowing that such information
21 is false, shall be ~~guilty of a misdemeanor and upon conviction shall be~~ fined not
22 more than five hundred dollars or imprisoned for not more than six months, or both.

23 (4)(a) Notwithstanding the provisions of Subparagraphs (1)(a) and (1)(b)
24 of this Subsection, any person who is eighteen years of age or older who
25 witnesses the sexual abuse of a child and the person knowingly or willfully fails
26 to report the abuse to law enforcement or to the Department of Children and
27 Family Services as required by Children's Code Article 610, shall be fined not
28 more than ten thousand dollars or imprisoned, with or without hard labor, for
29 not more than five years, or both.

1 **(b) For purposes of this Paragraph, "sexual abuse" shall include but is**
2 **not limited to acts which are prohibited by R.S. 14:41, 42, 42.1, 43, 43.1, 43.2,**
3 **43.3, 46.2, 46.3, 78, 78.1, 80, 81, 81.1, 81.2, 89 and 89.1.**

4 * * *

5 Section 2. Children's Code Article 603(15)(introductory paragraph) and (d) and
6 610(A) and (E)(1) and (2) are hereby amended and reenacted and Children's Code Article
7 603(15)(j) is hereby enacted to read as follows:

8 Art. 603. Definitions

9 As used in this Title:

10 * * *

11 (15) "Mandatory reporter" is any of the following individuals ~~performing~~
12 ~~their occupational duties:~~

13 * * *

14 (d) "Teaching or child care provider" is any person who provides **or assists**
15 **in the teaching,** training and supervision of a child, including any public or private
16 teacher, teacher's aide, instructional aide, school principal, school staff member, **bus**
17 **driver, coach, professor, technical or vocational instructor, technical or**
18 **vocational school staff member, college or university administrator, college or**
19 **university staff member,** social worker, probation officer, foster home parent, group
20 home or other child care institutional staff member, personnel of residential home
21 facilities, a licensed or unlicensed day care provider, or any individual who provides
22 such services to a child **in a voluntary or professional capacity.**

23 * * *

24 **(j) "Organizational or youth activity provider" is any person who**
25 **provides organized activities for children, including administrators, employees,**
26 **or volunteers of any day camp, summer camp, youth center, or youth recreation**
27 **programs or any other organization that provides organized activities for**
28 **children.**

29 * * *

1 Art. 610. Reporting procedure

2 A. Reports of child abuse or neglect or that such was a contributing factor
3 in a child's death, where the abuser is believed to be a parent or caretaker, a person
4 who maintains an interpersonal dating or engagement relationship with the parent or
5 caretaker, or a person living in the same residence with the parent or caretaker as a
6 spouse whether married or not, shall be made immediately to the ~~local child~~
7 ~~protection unit of the~~ department **through the designated state child protection**
8 **reporting hotline telephone number**. Reports in which the abuse or neglect is
9 believed to be perpetrated by someone other than a caretaker, a person who
10 maintains an interpersonal dating or engagement relationship with the parent or
11 caretaker, or a person living in the same residence with the parent or caretaker as a
12 spouse whether married or not, and the caretaker is not believed to have any
13 responsibility for the abuse or neglect shall be made immediately to a local or state
14 law enforcement agency. Dual reporting to both the ~~local child protection unit of the~~
15 department **through the designated state child protection reporting hotline**
16 **telephone number** and the local or state law enforcement agency is permitted.

17 * * *

18 E.(1) All reports made to any local or state law enforcement agency
19 involving abuse or neglect in which the child's parent or caretaker, a person who
20 maintains an interpersonal dating or engagement relationship with the parent or
21 caretaker, or a person living in the same residence with the parent or caretaker as a
22 spouse whether married or not, is believed responsible shall be promptly
23 communicated to the ~~local child protection unit of the~~ department **through the**
24 **designated state child protection reporting hotline telephone number** in
25 accordance with a written working agreement developed between the local law
26 enforcement agency and ~~child protection unit~~ **the department**.

27 (2) ~~A local child protection unit~~ **The department** shall promptly
28 communicate abuse or neglect cases not involving a parent, caretaker, or occupant
29 of the household to the appropriate law enforcement agency in accordance with a

1 written working agreement developed between the ~~local child protection unit~~
 2 **department** and law enforcement agency. The ~~local child protection unit~~
 3 **department** also shall report all cases of child death which involve a suspicion of
 4 abuse or neglect as a contributing factor in the child's death to the local and state law
 5 enforcement agencies, the office of the district attorney, and the coroner.

6 * * *

7 Section 3. This Act shall become effective upon signature of the governor or, if not
 8 signed by the governor, upon expiration of the time for bills to become law without signature
 9 of the governor, as provided in Article III, Section 18 of the Constitution of Louisiana.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Angela L. De Jean.

DIGEST

Present law provides that a mandatory reporter who knowingly and willfully fails to report the abuse, neglect, or sexual abuse of a child shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Present law provides for a definition of "mandatory reporter" and provides for a list of certain persons, who in performing their occupational duties, are considered mandatory reporters.

Present law further provides that teachers or child care providers are mandatory reporters and include any person who provides training and supervision of a child, including any public or private teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institutional staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, or any individual who provides such services to a child.

Proposed law provides for the following:

- (1) Amends present law to provide that a mandatory reporter shall be fined not more than \$500 or imprisoned for not more than six months, or both only for the knowing and willful failure to report the abuse or neglect of a child.
- (2) Provides that a mandatory reporter who knowingly and willfully fails to report the sexual abuse of a child, or the abuse or neglect of a child which results in serious bodily injury, neurological impairment, or death of a child, shall be fined not more than \$3,000 or imprisoned for not more than three years, or both. Proposed law defines "serious bodily injury".
- (3) Provides that any person 18 years of age or older who witnesses the sexual abuse of a child and knowingly or willfully fails to report the abuse to law enforcement or DPS&C shall be fined not more than \$10,000 or imprisoned for not more than 5 years, or both. Proposed law defines "sexual abuse" for purposes of this paragraph.
- (4) Removes the provision which requires an individual in the list of present law "mandatory reporters" to be "performing their occupational duties" in order to be

- considered a "mandatory reporter".
- (5) Expands the definition of "teaching or child care provider" to include any person who assists in the teaching, training, and supervision of a child, bus drivers, coaches, professors, technical or vocational instructors, technical or vocational school staff members, college or university administrators, college or university staff members, any person who provides teaching or child care services in a voluntary capacity.
- (6) Adds "organizational or youth activity provider" to the list of "mandatory reporters".

Present law requires reports of child abuse or neglect to be made to the local child protection unit of DCFS.

Proposed law amends present law and requires the reporting of child abuse or neglect to be made to DCFS through the designated state child protection reporting hotline telephone number.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 14:403(A)(1) and Ch.C. Art. 603(15)(intro para) and (d); adds R.S. 14:403(A)(4) and Ch.C. Art. 603(15)(j))