

Regular Session, 2012

HOUSE BILL NO. 577

BY REPRESENTATIVE LOPINTO

CHILDREN/ABUSE: Provides relative to the reporting of child abuse

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 for criminal penalties;
6 to provide relative to the reporting of sexual abuse of children; to provide for
7 definitions; to amend the definition of "mandatory reporter" for purposes of reporting
8 abuse of children; 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~~ pursuant to Children's Code Article 609(A),
13 is required to report the abuse or neglect ~~or sexual abuse~~ of a child and knowingly
14 and willfully fails to so report shall be ~~guilty of a misdemeanor and upon conviction~~
15 ~~shall be~~ fined not more than five hundred dollars, ~~or~~ imprisoned for not more than
16 six months, or both.

17 (b) Any person who, pursuant to Children's Code Article 609(A), is required
18 to report the sexual abuse of a child, or the abuse or neglect of a child which results
19 in the serious bodily injury, neurological impairment, or death of the child, and the
20 person knowingly and willfully fails to so report shall be fined not more than three
21 thousand dollars, imprisoned, with or without hard labor, for not more than three

1 years, or both. For purposes of this Subparagraph, "serious bodily injury" means
2 injury involving protracted and obvious disfigurement or protracted loss or
3 impairment of the function of a bodily member, organ, or mental faculty, or
4 substantial risk of death.

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

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

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

25 (b) For purposes of this Paragraph, "sexual abuse" shall include but is not
26 limited to acts which are prohibited by R.S. 14:41, 42, 42.1, 43, 43.1, 43.2, 43.3,
27 46.2, 46.3, 78, 78.1, 80, 81, 81.1, 81.2, 89, and 89.1.

28 * * *

1 Section 2. Children's Code Article 603(15)(introductory paragraph) and (d) and
2 610(A) and (E)(1) and (2) are hereby amended and reenacted and Children's Code Article
3 603(15)(j) is hereby enacted to read as follows:

4 Art. 603. Definitions

5 As used in this Title:

6 * * *

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

9 * * *

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

19 * * *

20 (j) "Organizational or youth activity provider" is any person who provides
21 organized activities for children, including administrators, employees, or volunteers
22 of any day camp, summer camp, youth center, or youth recreation programs or any
23 other organization that provides organized activities for children.

24 * * *

25 Art. 610. Reporting procedure

26 A. Reports of child abuse or neglect or that such was a contributing factor
27 in a child's death, where the abuser is believed to be a parent or caretaker, a person
28 who maintains an interpersonal dating or engagement relationship with the parent or
29 caretaker, or a person living in the same residence with the parent or caretaker as a

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

12 * * *

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

22 (2) ~~A local child protection unit~~ The department shall promptly communicate
 23 abuse or neglect cases not involving a parent, caretaker, or occupant of the household
 24 to the appropriate law enforcement agency in accordance with a written working
 25 agreement developed between the ~~local child protection unit~~ department and law
 26 enforcement agency. The ~~local child protection unit~~ department also shall report all
 27 cases of child death which involve a suspicion of abuse or neglect as a contributing

1 factor in the child's death to the local and state law enforcement agencies, the office
2 of the district attorney, and the coroner.

3 * * *

4 Section 3. This Act shall become effective upon signature of the governor or, if not
5 signed by the governor, upon expiration of the time for bills to become law without signature
6 of the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
8 effective on the day following such approval.

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)]

Lopinto

HB No. 577

Abstract: Provides relative to the reporting of child abuse.

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 \$500, 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, 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, imprisoned for not more than three years, or both. Proposed law defines "serious bodily injury".
- (3) Provides that any person who is 18 years of age or older and who witnesses the sexual abuse of a child and knowingly or willfully fails to report the abuse to law enforcement or DCFS shall be fined not more than \$10,000, imprisoned for not more than five years, or both. Proposed law defines "sexual abuse".

- (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, or 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 governor or lapse of time for gubernatorial action.

(Amends R.S. 14:403(A) and Ch.C. Art. 603(15)(intro. para.) and (d), 610(A) and (E)(1) and (2); Adds Ch.C. Art. 603(15)(j))