SLS 12RS-37 REENGROSSED

Regular Session, 2012

SENATE BILL NO. 4

1

BY SENATORS MORRELL, DORSEY-COLOMB, MILLS, PERRY AND WHITE AND REPRESENTATIVE LEGER

CRIME/PUNISHMENT. Criminalizes the failure to report the sexual abuse of a child. (gov sig)

AN ACT

2	To amend and reenact R.S. 14:403(A) and the introductory paragraph of Children's Code
3	Article 603(15) and (d) and 610(A) and (E)(1) and (2), and to enact Children's Code
4	Article 603(15)(j), relative to reporting abuse of children; to provide for mandatory
5	reporting of sexual abuse of a child; to provide for definition; to provide for
6	penalties; and to provide for related matters.
7	Be it enacted by the Legislature of Louisiana:
8	Section 1. R.S. 14:403(A) is hereby amended and reenacted to read as follows:
9	§403. Abuse of children; reports; waiver of privilege
10	A.(1)(a) Any person who, under Children's Code Article 609(A), is required
11	to report the abuse or neglect or sexual abuse of a child and knowingly and willfully
12	fails to so report shall be guilty of a misdemeanor and upon conviction shall be fined
13	not more than five hundred dollars or imprisoned for not more than six months, or
14	both.
15	(b) Any person who, under Children's Code Article 609(A), is required
16	to report the sexual abuse of a child, or the abuse or neglect of a child which
17	results in the serious bodily injury, neurological impairment, or death of the

child, and the person knowingly and willfully fails to so report shall be fined not more than three thousand dollars or imprisoned, with or without hard labor, for not more than three years, or both. For purposes of this Subparagraph, "serious bodily injury" means injury involving protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or substantial risk of death.

- (2) Any person, any employee of a local child protection unit of the Department of Children and Family Services, any employee of any local law enforcement agency, any employee or agent of any state department, or any school employee who knowingly and willfully violates the provisions of Chapter 5 of Title VI of the Children's Code, or who knowingly and willfully obstructs the procedures for receiving and investigating reports of child abuse or neglect or sexual abuse, or who discloses without authorization confidential information about or contained within such reports shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.
- (3) Any person who reports a child as abused or neglected or sexually abused to the department or to any law enforcement agency, knowing that such information is false, shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.
- (4)(a) Notwithstanding the provisions of Paragraph (1) of this Subsection, any person who is eighteen years of age or older who witnesses sexual abuse of a child and knowingly and willfully fails to report the sexual abuse to law enforcement or to the Department of Children and Family Services as required by Children's Code Article 610, shall be fined not more than ten thousand dollars or imprisoned with or without hard labor for not more than five years, or both.
- (b) For purposes of this Paragraph, "sexual abuse" shall include but is not limited to acts which are prohibited by R.S. 14:41, 42, 42.1, 43, 43.1, 43.2,

1	43.3, 46.2, 46.3, 78, 78.1, 80, 81, 81.1, 81.2, 86, 89, 89.1, and the attempt to
2	commit any of these crimes pursuant to R.S. 14:27.
3	* * *
4	Section 2. The introductory paragraph of Children's Code Article 603(15) and (d)
5	and 610(A) and (E)(1) and (2) are hereby amended and reenacted and Children's Code
6	Article 603(15)(j) is hereby enacted to read as follows:
7	Art. 603. Definitions
8	As used in this Title:
9	* * *
10	(15) "Mandatory reporter" is any of the following individuals performing
11	their occupational duties:
12	* * *
13	(d) "Teaching or child care provider" is any person who provides or assists
14	in the teaching, training and supervision of a child, including any public or private
15	teacher, teacher's aide, instructional aide, school principal, school staff member, <u>bus</u>
16	driver, coach, professor, technical or vocational instructor, technical or
17	vocational school staff member, college or university administrator, college or
18	university staff member, social worker, probation officer, foster home parent, group
19	home or other child care institutional staff member, personnel of residential home
20	facilities, a licensed or unlicensed day care provider, or any individual who provides
21	such services to a child in a voluntary or professional capacity.
22	* * *
23	(j) "Organizational or youth activity provider" is any person who
24	provides organized activities for children, including administrators, employees,
25	or volunteers of any day camp, summer camp, youth center, or youth recreation
26	programs or any other organization that provides organized activities for
27	children.
28	* * *
29	Art. 610. Reporting procedure

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

A. Reports of child abuse or neglect or that such was a contributing factor in a child's death, where the abuser is believed to be a parent or caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not, shall be made immediately to the local child protection unit of the department through the designated state child protection reporting hotline telephone number. Reports in which the abuse or neglect is believed to be perpetrated by someone other than a caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not, and the caretaker is not believed to have any responsibility for the abuse or neglect shall be made immediately to a local or state law enforcement agency. Dual reporting to both the local child protection unit of the department through the designated state child protection reporting hotline telephone number and the local or state law enforcement agency is permitted. E.(1) All reports made to any local or state law enforcement agency

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

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

1

2

3

4

6

7

8

9

10

department and law enforcement agency. The local child protection unit **department** also shall report all cases of child death which involve a suspicion of abuse or neglect as a contributing factor in the child's death to the local and state law enforcement agencies, the office of the district attorney, and the coroner.

5 * * *

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

The original instrument was prepared by Michelle Ducharme. The following digest, which does not constitute a part of the legislative instrument, was prepared by Danielle Doiron.

DIGEST

Morrell (SB 4)

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

<u>Present law</u> 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.

<u>Present law</u> 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.

<u>Proposed law</u> provides for the following:

- 1. Provides that a mandatory reporter is to 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, is to be fined not more than \$3,000 or imprisoned, with or without hard labor, 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 who witnesses the sexual abuse of a child and knowingly or willfully fails to report the abuse to law enforcement or the Dept. of Public Safety and Corrections is to be fined not more

Page 5 of 7

Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

than \$10,000 or imprisoned, with or without hard labor, for not more than five years, or both. Proposed law defines "sexual abuse" for purposes of this provision as including rape, aggravated rape, forcible rape, simple rape, sexual battery, second degree sexual battery, oral sexual battery, human trafficking, trafficking of children for sexual purposes, incest, aggravated incest, felony carnal knowledge of a juvenile, indecent behavior with juveniles, pornography involving juveniles, molestation of a juvenile or a person with a physical or mental disability, enticing persons into prostitution, crime against nature, aggravated crime against nature, and the attempt to commit any of those offenses.

- 4. Removes the provision that requires an individual in the list of <u>present law</u> "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."

<u>Present law</u> requires reports of child abuse or neglect to be made to the local child protection unit of the Dept. of Children and Family Services (DCFS).

<u>Proposed law</u> amends <u>present law</u> 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) and Ch.C. Art. 603(15)(intro para) and (d), 610(A) and (E)(1) and (2); adds Ch.C. Art. 603(15)(j))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill.

- 1. Adds provisions relative to "mandatory reporter" reporting requirements and penalties for knowingly and willfully failing to report sexual abuse of a child or abuse or neglect of a child resulting in serious bodily injury, neurological impairment, or death.
- 2. Adds provisions and definitions relative to "sexual abuse," "serious bodily injury," and "teaching or child care provider."
- 3. Adds "organizational or youth activity provider" to the list of "mandatory reporters."
- 4. Adds requirement that the reporting of child abuse or neglect be made to DCFS through the designated state child protection reporting hotline telephone number.

Senate Floor Amendments to engrossed bill.

- 1. Adds age requirement of eighteen years or older to "mandatory reporter" provision for a person who witnesses sexual abuse of a child and knowingly and willfully fails to report such abuse.
- 2. Adds to the list of offenses included within the definition of "sexual abuse" enticing persons into prostitution and the attempt to commit any of the enumerated offenses.