

Regular Session, 2012

SENATE BILL NO. 4

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)

1 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**

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

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

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

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

28 **(b) For purposes of this Paragraph, "sexual abuse" shall include but is**  
29 **not limited to acts which are prohibited by R.S. 14:41, 42, 42.1, 43, 43.1, 43.2,**







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 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 the Dept. of Children and Family Services (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) 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.