HLS 18RS-120 ORIGINAL

2018 Regular Session

HOUSE BILL NO. 75

1

BY REPRESENTATIVE DWIGHT

CRIME/SEX OFFENSES: Updates citations and terminology for certain child care facilities in provisions relating to sex offenders

AN ACT

2 To amend and reenact R.S. 14:91.1(A), 91.2(A)(2) and (3) and (B), 91.3(A), and 91.4(A) 3 and (B) and R.S. 15:538(D)(1)(b) and (c) and (6)(b) and (c), relative to certain 4 prohibitions applicable to sex offenders; to provide relative to the prohibitions for 5 sex offenders with regard to physical presence near and employment at certain child care facilities; to provide relative to the crimes of unlawful presence of a sex 6 7 offender and sexually violent predator; to provide relative to the crime of unlawful 8 participation in a child-related business; to provide relative to the crime of 9 contributing to the endangerment of a minor; to provide relative the conditions of 10 release for a sex offender who is placed on probation or parole supervision; to update 11 terminology and citations for certain child care facilities in these crimes and 12 probation and parole conditions; and to provide for related matters. 13 Be it enacted by the Legislature of Louisiana: 14 Section 1. R.S. 14:91.1(A), 91.2(A)(2) and (3) and (B), 91.3(A), and 91.4(A) and 15 (B) are hereby amended and reenacted to read as follows: 16 §91.1. Unlawful presence of a sexually violent predator 17 A. Unlawful presence of a sexually violent predator is any of the following: 18 (1) The physical presence of a sexually violent predator on the school 19 property of any public or private, elementary or secondary school, or in any motor 20 vehicle or other means of conveyance owned, leased, or contracted by such school

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	to transport students to or from school or a school-related activity when persons
2	under the age of eighteen years are present on the school property or in a school
3	vehicle <del>; or</del> .
4	(2) The physical residing of a sexually violent predator within one thousand
5	feet of any public or private elementary or secondary school, a day care center, group
6	home, residential home, or child care facility as defined in R.S. 46:1403, a family
7	child day care home as defined in R.S. 46:1441.1, playground, public or private
8	youth center, public swimming pool, or free standing video arcade facility of the
9	following:
10	(a) Public or private elementary or secondary school.
11	(b) Early learning center as defined by R.S. 17:407.33.
12	(c) Residence in which child care services are provided by a family child
13	care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et
14	seq.
15	(d) Residential home as defined by R.S. 46:1403.
16	(e) Playground.
17	(f) Public or private youth center.
18	(g) Public swimming pool.
19	(h) Free standing video arcade facility.
20	* * *
21	§91.2. Unlawful presence of a sex offender
22	A. The following acts when committed by a person convicted of a sex
23	offense as defined in R.S. 15:541 when the victim is under the age of thirteen years
24	shall constitute the crime of unlawful residence or presence of a sex offender:
25	* * *
26	(2) The offender establishing a residence within one thousand feet of any
27	public or private elementary or secondary school or child care facility as defined in
28	R.S. 46:1403 of the following:
29	(a) Public or private elementary or secondary school.

1	(b) Early learning center as defined by R.S. 17:407.33.
2	(c) Residence in which child care services are provided by a family child
3	care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et
4	seq.
5	(d) Residential home as defined by R.S. 46:1403.
6	(3) The physical presence of the offender in, on, or within one thousand feet
7	of a public park, recreational facility, or child care facility as defined in R.S. 46:1403
8	any of the following:
9	(a) Public park or recreational facility.
10	(b) Early learning center as defined by R.S. 17:407.33.
1	(c) Residence in which child care services are provided by a family child
12	care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et
13	seq.
14	(d) Residential home as defined by R.S. 46:1403.
15	* * *
16	B. The following acts, when committed by a person convicted of an
17	aggravated offense as defined in R.S. 15:541(2) when the victim is under the age of
18	thirteen years, shall constitute the crime of unlawful residence or presence of a sex
19	offender:
20	(1) The physical presence of the offender in, on, or within one thousand feet
21	of a group home, residential home, child care facility as defined in R.S. 46:1403, or
22	a family child day care home as defined in R.S. 46:1441.1 any of the following:
23	(a) Early learning center as defined by R.S. 17:407.33.
24	(b) Residence in which child care services are provided by a family child
25	care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et
26	seq.
27	(c) Residential home as defined by R.S. 46:1403.
28	(2) The establishment of a residence within one thousand feet of any group
29	home, residential home, child care facility as defined in R.S. 46:1403, a family child

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1	day care home as defined in R.S. 46:1441.1, playground, public or private youth
2	center, public swimming pool, or free standing video arcade facility of the following:
3	(a) Early learning center as defined by R.S. 17:407.33.
4	(b) Residence in which child care services are provided by a family child
5	care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et
6	seq.
7	(c) Residential home as defined by R.S. 46:1403.
8	(d) Playground.
9	(e) Public or private youth center.
10	(f) Public swimming pool.
11	(g) Free standing video arcade facility.
12	* * *
13	§91.3. Unlawful participation in a child-related business
14	A. No person who has been convicted of, or who has pled guilty or nolo
15	contendere to, an offense listed in R.S. 15:587.1(C) shall own, operate, or in any way
16	participate in the governance of those child care facilities as enumerated in R.S.
17	46:1403, or own, operate, or in any way participate in the governance of, or reside
18	in, family child day care homes as defined in R.S. 46:1441.1 any early learning
19	center as defined by R.S. 17:407.33, residential home as defined by R.S. 46:1403,
20	or residence in which child care services are provided by a family child care provider
21	or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.
22	* * *
23	§91.4. Contributing to the endangerment of a minor
24	A. No person shall knowingly employ a person convicted of a sex offense
25	as defined in R.S. 15:541, whose offense involved a minor child, to work in any of
26	the following facilities: early learning center as defined by R.S. 17:407.33,
27	residential home as defined by R.S. 46:1403, or residence in which child care
28	services are provided by a family child care provider or in-home provider who is
29	registered pursuant to R.S. 17:407.61 et seq.

1	(1) A day care center, residential home, community home, or group home
2	or child care facility as defined in R.S. 46:1403; or
3	(2) A family child day care home as defined in R.S. 46:1441.1.
4	B. No person shall knowingly permit a person convicted of a sex offense as
5	defined in R.S. 15:541 physical access to any of the following facilities: early
6	learning center as defined by R.S. 17:407.33, residential home as defined by R.S.
7	46:1403, or residence in which child care services are provided by a family child
8	care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et
9	seq.
10	(1) A day care center, residential home, community home, group home, or
11	child care facility as defined in R.S. 46:1403; or
12	(2) A family child day care home as defined in R.S. 46:1441.1.
13	* * *
14	Section 2. R.S. 15:538(D)(1)(b) and (c) and (6)(b) and (c) are hereby amended and
15	reenacted to read as follows:
16	§538. Conditions of probation, parole, and suspension or diminution of sentence
17	* * *
18	D.(1) No sexual offender, whose offense involved a minor child, shall be
19	eligible for probation, parole, or suspension of sentence unless, as a condition
20	thereof, the sexual offender is prohibited from:
21	* * *
22	(b) Going in, on, or within one thousand feet of a day care center, group
23	home, residential home, or child care facility as defined in R.S. 46:1403, a family
24	child day care home as defined in R.S. 46:1441.1, playground, public or private
25	youth center, public swimming pool, or free-standing video areade facility any of the
26	following:
27	(i) Early learning center as defined by R.S. 17:407.33.

1	(ii) Residence in which child care services are provided by a family child
2	care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et
3	seq.
4	(iii) Residential home as defined by R.S. 46:1403.
5	(iv) Playground.
6	(v) Public or private youth center.
7	(vi) Public swimming pool.
8	(vii) Free standing video arcade facility.
9	(c) Physically residing within one thousand feet of any public or private
10	elementary or secondary school, day care center, group home, residential home, or
11	child care facility as defined in R.S. 46:1403, a family child day care home as
12	defined in R.S. 46:1441.1, playground, public or private youth center, public
13	swimming pool, or free-standing video arcade facility of the following:
14	(i) Public or private elementary or secondary school.
15	(ii) Early learning center as defined by R.S. 17:407.33.
16	(iii) Residence in which child care services are provided by a family child
17	care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et
18	seq.
19	(iv) Residential home as defined by R.S. 46:1403.
20	(v) Playground.
21	(vi) Public or private youth center.
22	(vii) Public swimming pool.
23	(viii) Free standing video arcade facility.
24	* * *
25	(6) Any sexual offender, whose offense involved a minor child, and who was
26	placed on probation or was paroled prior to August 15, 2004, and is on probation or
27	parole as of August 15, 2005, shall have the following prohibitions added as
28	conditions of probation and parole pursuant to Code of Criminal Procedure Articles

1	895 and 896 or R.S. 15:574.4 and 574.7:
2	* * *
3	(b) Going in, on, or within one thousand feet of a day care center, group
4	home, residential home, or child care facility as defined in R.S. 46:1403, a family
5	child day care home as defined in R.S. 46:1441.1, playground, public or private
6	youth center, public swimming pool, or free-standing video areade facility any of the
7	following:
8	(i) Early learning center as defined by R.S. 17:407.33.
9	(ii) Residence in which child care services are provided by a family child
10	care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et
1	seq.
12	(iii) Residential home as defined by R.S. 46:1403.
13	(iv) Playground.
14	(v) Public or private youth center.
15	(vi) Public swimming pool.
16	(vii) Free standing video arcade facility.
17	(c) Physically residing within one thousand feet of any public or private
18	elementary or secondary school, day care center, group home, residential home, or
19	child care facility as defined in R.S. 46:1403, a family child day care home as
20	defined in R.S. 46:1441.1, playground, public or private youth center, public
21	swimming pool, or free-standing video areade facility of the following:
22	(i) Early learning center as defined by R.S. 17:407.33.
23	(ii) Residence in which child care services are provided by a family child
24	care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et
25	seq.
26	(iii) Residential home as defined by R.S. 46:1403.
27	(iv) Playground.
28	(v) Public or private youth center.
29	(vi) Public swimming pool.

## (vii) Free standing video arcade facility.

2 \* \* \*

## **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)]

HB 75 Original

1

2018 Regular Session

Dwight

**Abstract:** Updates citations and terminology for certain child care facilities in provisions of law that prohibit sex offenders from working at, or from establishing a residence or being physically present within a certain distance of, such facilities.

<u>Present law</u> provides for certain crimes and conditions of probation or parole which prohibit a sex offender from establishing a residence or being physically present within a specified distance of certain child care facilities, and from owning, operating, participating in the governance of, or working in, certain child care facilities. Such facilities include but are not limited to a day care center, group home, residential home, child care facility, family child day care home, or community home.

<u>Present law</u> provides that the terms "day care center", "group home", "residential home" and "child care facility" are defined by R.S. 46:1403. <u>Present law</u> also provides that the term "family child day care home" is defined by R.S. 46:1441.1. These citations referring to the definition of these terms are no longer accurate, and have been either amended, relocated, or repealed by prior Acts of the legislature.

<u>Proposed law</u> amends <u>present law</u> as follows to refer to the correct citations in <u>present law</u> that define each term:

- (1) With regard to "day care center", which is no longer defined by R.S. 46:1403 but is instead referred to as a "child day care center" defined by R.S. 17:407.33, proposed law amends present law to refer to such facilities as "early learning centers" which is defined by present law (R.S. 17:407.33) to include any child day care center, Early Head Start Centers, Head Start Centers, and stand-alone prekindergarten programs not attached to a school. (See Acts 2013, No. 179 and Acts 2014, No. 868)
- (2) With regard to "group home" and "community home", <u>proposed law</u> removes these terms from <u>present law</u> as they are no longer defined terms under R.S. 46:1403 or any other provision of <u>present law</u>. (See Acts 2013, No. 179)
- (3) With regard to "residential home", which is currently defined by R.S. 46:1403, proposed law retains present law.
- (4) With regard to "family child day care home", which is no longer a defined term under <u>present law</u>, <u>proposed law</u> amends <u>present law</u> to refer to such places as any residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to <u>present law</u> (R.S. 17:407.61 et seq.).
- (5) With regard to "child care facility", which is undefined under <u>present</u> and <u>prior law</u>, <u>proposed law</u> removes this term from <u>present law</u>.

(Amends R.S. 14:91.1(A), 91.2(A)(2) and (3) and (B), 91.3(A), and 91.4(A) and (B) and R.S. 15:538(D)(1)(b) and (c) and (6)(b) and (c))

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