

SENATE BILL NO. 238 (Substitute of Senate Bill No. 205 by Senator Mizell)

BY SENATORS MIZELL, ALARIO, ALLAIN, APPEL, BARROW, BOUDREAUX, CHABERT, COLOMB, CORTEZ, DONAHUE, ERDEY, FANNIN, GATTI, HEWITT, JOHNS, LONG, MARTINY, MILKOVICH, MILLS, MORRISH, PEACOCK, RISER, GARY SMITH, TARVER, THOMPSON, WARD AND WHITE AND REPRESENTATIVES ADAMS, BACALA, BAGLEY, BARRAS, BERTHELOT, TERRY BROWN, CARMODY, CARPENTER, STEVE CARTER, CHANEY, CONNICK, COUSSAN, COX, CREWS, DEVILLIER, DUBUISSON, DWIGHT, EDMONDS, EMERSON, GAROFALO, GISCLAIR, LANCE HARRIS, HILL, HOFFMANN, HORTON, HOWARD, JACKSON, MIKE JOHNSON, ROBERT JOHNSON, LEBAS, LYONS, MCFARLAND, MCMAHEN, MOORE, PEARSON, POPE, PUGH, SIMON, STAGNI, STEFANSKI, STOKES, THOMAS, TURNER, WHITE AND ZERINGUE

1 AN ACT

2 To amend and reenact Children's Code Art. 603(17)(a), and R.S. 15:541.1(A)(3), (B)(1)(a)
3 and (D), R.S. 40:2175.3 and R.S. 44:4.1(B)(26) and to enact R.S. 15:541(E) and R.S.
4 40:2175.7, relative to human trafficking; to require certain mandatory reporters to
5 report human trafficking and certain sexual-based crimes to law enforcement,
6 whether the victim is an adult or a minor; to provide for mandatory reporters related
7 to child abuse and neglect; to provide for training; to provide for forms; to provide
8 for rules and regulations; to provide for legislative intent; to provide for the posting
9 of the National Human Trafficking Resource Center hotline; to provide for the
10 texting of information to obtain help and services for human trafficking victims; to
11 provide for exceptions to the public records law; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Children's Code Art. 603(17)(a) is hereby amended and reenacted to read
14 as follows:

15 Art. 603. Definitions

16 As used in this Title:

17 * * *

18 (17) "Mandatory reporter" is any of the following individuals:

1 (a) "Health practitioner" is any individual who provides healthcare services,
 2 including a physician, surgeon, physical therapist, dentist, resident, intern, hospital
 3 staff member, an outpatient abortion facility staff member, podiatrist,
 4 chiropractor, licensed nurse, nursing aide, dental hygienist, any emergency medical
 5 technician, a paramedic, optometrist, medical examiner, or coroner, who diagnoses,
 6 examines, or treats a child or his family.

7 * * *

8 Section 2. R.S. 15:541.1(A)(3), (B)(1)(a) and (D) are hereby amended and reenacted
 9 and R.S. 15:541(E) is hereby enacted to read as follows:

10 §541.1. Posting of the National Human Trafficking Resource Center hotline;
 11 content; languages; notice; civil penalty

12 A. All of the following establishments shall be required to post information
 13 regarding the National Human Trafficking Resource Center hotline:

14 * * *

15 (3)(a) Every full-service fuel facility adjacent to an interstate highway,
 16 (b) ~~or~~ Every highway rest stop.

17 * * *

18 B.(1)(a) Such posting shall be no smaller than eight and one-half inches by
 19 eleven inches and shall contain the following wording in bold typed print of not less
 20 than fourteen-point font:

21 "If you or someone you know is being forced to engage in any activity and
 22 cannot leave, whether it is commercial sex, housework, farm work, or any other
 23 activity, call the National Human Trafficking Resource Center hotline at 1-888-373-
 24 7888 or text "Help" to 233733 (Be Free) in order to access help and services.

25 * * *

26 D.(1) In addition to the posting required in Subsection B of this Section,
 27 beginning on January 1, 2020, each establishment listed in Subsection A of this
 28 Section shall affix a flyer to the inside of the door to each bathroom stall at the
 29 establishment.

30 (2) The flyer shall be designed by the Greater New Orleans Human

1 Trafficking Task Force, with the approval of the commissioner of the office of
 2 alcohol and tobacco control, and shall be no larger than eight and one-half
 3 inches by eleven inches.

4 (3) No later than December 1, 2019, the Greater New Orleans Human
 5 Trafficking Task Force shall transfer the flyer in an electronic format to the
 6 commissioner for posting on the website for the office of alcohol and tobacco.

7 E. A civil penalty in accordance with R.S. 26:96(A) may be assessed for
 8 each violation of this Section. The departments listed in Subsection C of this Section
 9 or any law enforcement agency with jurisdiction are charged with the enforcement
 10 of this Section.

11 * * *

12 Section 3. R.S. 40:2175.3 is hereby amended and reenacted and R.S. 40:2175.7 is
 13 hereby enacted to read as follows:

14 §2175.3. Definitions

15 For purposes of this Part, the following definitions apply:

16 (1) "Abortion" means any surgical procedure performed after pregnancy has
 17 been medically verified with the intent to cause the termination of the pregnancy
 18 other than for the purpose of producing a live birth, removing an ectopic pregnancy,
 19 or removing a dead fetus caused by a spontaneous abortion.

20 (2) "Abortion facility staff member" or "outpatient abortion facility staff
 21 member" means an individual who is not an abortion facility professional but
 22 who is employed by or contracts with an outpatient abortion facility to provide
 23 services and who has any contact with patients at the facility.

24 (3) "Abortion facility professional" or "outpatient abortion facility
 25 professional" means an individual who is a physician, surgeon, resident, intern,
 26 licensed nurse, nursing aide, emergency medical technician, or a paramedic who
 27 diagnoses, examines, or treats a female patient at an outpatient abortion facility.

28 (4) "First trimester" means the time period up to fourteen weeks after the first
 29 day of the last menstrual period.

30 ~~(3)~~(5) "Licensee" means the person, partnership, corporation, association,

1 organization, or professional entity on whom rests the ultimate responsibility and
 2 authority for the conduct of the outpatient abortion facility.

3 ~~(4)(6)~~ "Licensing agency" means the Louisiana Department of Health.

4 **(7) "Mandatory reporter to law enforcement" means any abortion**
 5 **facility staff member or any abortion facility professional.**

6 ~~(5)(8)~~ "Outpatient abortion facility" means any outpatient facility, other than
 7 a hospital as defined in R.S. 40:2102 or an ambulatory surgical center as defined in
 8 R.S. 40:2133, in which any second trimester or five or more first trimester abortions
 9 per calendar year are performed.

10 ~~(6)(9)~~ "Second trimester" means the time period from fourteen to twenty-
 11 three weeks after the first day of the last menstrual period.

12 ~~(7)(10)~~ "Secretary" means the secretary of the Louisiana Department of
 13 Health.

14 * * *

15 **§2175.7. Mandatory reports to law enforcement; human trafficking awareness**
 16 **and prevention training**

17 **A.(1) Notwithstanding any claim of privileged communication, any**
 18 **mandatory reporter to law enforcement who has cause to believe that a minor**
 19 **or adult female who presents at an outpatient abortion facility is a victim of**
 20 **human trafficking, trafficking of children for sexual purposes, rape, incest, or**
 21 **coerced abortion shall report such crime immediately, or no later than the end**
 22 **of the business day, to the sheriff's department in the parish or local police**
 23 **department where the outpatient abortion facility is located. If the victim does**
 24 **not reside in the parish where the outpatient abortion facility is located, the**
 25 **mandatory reporter to law enforcement shall also report the crime to the law**
 26 **enforcement agency in the parish or county in which the victim resides, if**
 27 **reasonably ascertainable.**

28 **(2) The Louisiana Department of Health shall promulgate a form which**
 29 **may be used by a mandatory reporter to law enforcement to report a crime,**
 30 **pursuant to Paragraph (1) of this Subsection, to the parish or local law**

1 enforcement agency.

2 B.(1) Beginning August 1, 2019, every mandatory reporter to law
3 enforcement shall certify to the Louisiana Department of Health that they have
4 participated in a training on human trafficking awareness and prevention on
5 an annual basis. The department shall maintain the name of each mandatory
6 reporter to law enforcement as confidential, and such information shall not be
7 subject to disclosure pursuant to the Public Records Law.

8 (2) The Louisiana Department of Health shall promulgate rules to
9 provide for compliance of this Subsection utilizing the online educational videos
10 on human trafficking awareness and prevention provided by the United States
11 Department of Health and Human Services, Administration for Children and
12 Families, office on trafficking in persons or such training tools as may be
13 adopted by the department.

14 Section 4. R.S. 44:4.1(B)(26) is hereby amended and reenacted to read as follows:

15 §4.1. Exceptions

16 * * *

17 B. The legislature further recognizes that there exist exceptions, exemptions,
18 and limitations to the laws pertaining to public records throughout the revised
19 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
20 limitations are hereby continued in effect by incorporation into this Chapter by
21 citation:

22 * * *

23 (26) R.S. 40:3.1, 31.14, 31.27, 39.1, 41, 73, 95, 96, 526, 528, 1007, 1061.21,
24 1079.18, 1081.10, 1105.6, 1105.8, 1133.8, 1171.4, 1203.4, 1231.4, 1379.1.1(D),
25 1379.3, 2009.8, 2009.14, 2010.5, 2017.9, 2018, 2018.5, 2019, 2020, 2106, 2138,
26 2175.7(B)(1), 2532, 2845.1

27 * * *

28 Section 5. The legislature finds and declares all of the following:

- 29 (1) Human trafficking is a major public health problem.
- 30 (2) Outpatient abortion facilities are uniquely likely to have contact with victims

1 who are the subject of human trafficking for sexual purposes.

2 Section 6. If any provision or item of this Act, or the application thereof, is held
3 invalid, such invalidity shall not affect other provisions, items, or applications of the Act
4 which can be given effect without the invalid provision, item, or application and to this end
5 the provisions of this Act are hereby declared severable.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____