

2017 Regular Session

SENATE BILL NO. 54

BY SENATORS MIZELL, ALARIO, ALLAIN, APPEL, BARROW, BISHOP, BOUDREAUX, CARTER, CHABERT, CLAITOR, COLOMB, CORTEZ, DONAHUE, ERDEY, FANNIN, GATTI, HEWITT, JOHNS, LAFLEUR, LAMBERT, LONG, LUNEAU, MARTINY, MILKOVICH, MILLS, MORRELL, MORRISH, PEACOCK, PERRY, PETERSON, RISER, GARY SMITH, JOHN SMITH, TARVER, THOMPSON, WALSWORTH, WARD AND WHITE (On Recommendation of the Louisiana State Law Institute)

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CHILDREN. Provides relative to exploited children. (8/1/17)

1 AN ACT

2 To amend and reenact Children's Code Article 116(25), the introductory paragraph of

3 Children's Code Article 606(A), 606(A)(7), the introductory paragraph of Children's

4 Code Article 622(B), 725.1, 725.2, and 725.3, to enact Children's Code Article

5 622(B)(5), 725.4, 725.5, and 725.6, relative to human trafficking of children; to

6 provide findings and purpose; to provide for definitions; to provide for duties of law

7 enforcement; to provide for duties of the Department of Children and Family

8 Services; to provide for confidentiality; to provide for terms, conditions,

9 requirements, and procedures; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Children's Code Article 116(25), the introductory paragraph of Children's

12 Code Article 606(A), 606(A)(7), the introductory paragraph of Children's Code Article

13 622(B), 725.1, 725.2, and 725.3 are hereby amended and reenacted and Children's Code

14 Articles 622(B)(5), 725.4, 725.5, and 725.6 are hereby enacted to read as follows:

15 Art. 116. Definitions

16 Except where the context clearly indicates otherwise, these definitions apply

17 for the following terms used throughout this Code.

* * *

(25) "Shelter care facility" means a licensed, physically unrestricting public or private child caring facility, or a ~~youth~~ residential facility operated for runaway, or homeless youth, **or a sexually exploited child or a safe house as defined in Children's Code Article 725.1** which provides temporary care for children.

* * *

Art. 606. Grounds; child in need of care

A. Allegations that a child is in need of care ~~must~~ **shall** assert one or more of the following grounds:

* * *

(7) The child is a victim of commercial sexual exploitation, human trafficking, or trafficking of children for sexual purposes, **as provided for in R.S. 14:46.3**, perpetrated by any person regardless of ~~their~~ **the perpetrator's** relationship to the child.

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Art. 622. Placement pending a continued custody hearing

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B. Unless the best interest of the child requires a different placement, a child who appears to be a child in need of care and ~~his~~ **whose** immediate removal is necessary for his protection from further abuse or neglect shall be placed, pending a continued custody hearing, in accordance with this priority:

* * *

(5) In a shelter care facility if the child has been the victim of human trafficking as provided for in R.S. 14:46.2 or trafficking of children for sexual purposes as provided for in R.S. 14:46.3.

* * *

Art. 725.1. Definitions

As used in this Chapter, the following terms and phrases shall have the following meaning, unless the context requires otherwise:

1 (1) "Department" means the Department of ~~Public Safety and Corrections,~~
2 ~~office of juvenile justice~~ **Children and Family Services.**

3 (2) "Safe house" means a residential facility or a shelter care facility
4 operated by an authorized agency, including a nonprofit agency, with experience in
5 providing services to sexually exploited children and approved by the department to
6 provide shelter for sexually exploited children.

7 (3) "Sexually exploited child" means any person under the age of eighteen
8 who has been subject to sexual exploitation because the person either:

9 (a) Is a victim of trafficking of children for sexual purposes under R.S.
10 14:46.3.

11 (b) Is a victim of child sex trafficking under 18 U.S.C. 1591.
12 Art. 725.2. Safe house for sexually exploited children

13 **A.(1) The department shall identify and maintain a current listing of safe**
14 **houses which are licensed residential homes that specialize in the provision of**
15 **services to sexually exploited children, whether or not those facilities receive**
16 **taxpayer funding. This listing shall be made available to courts, prosecutors,**
17 **and other stakeholders involved in proceedings pertaining to an exploited child.**

18 **(2)** The department may, to the extent funds are available, operate or contract
19 with an appropriate nongovernmental agency with experience working with sexually
20 exploited children to operate one or more safe houses in a geographically appropriate
21 area of the state.

22 **(3)** Each safe house shall provide safe and secure housing and specialized
23 services for sexually exploited children.

24 **(4)** Nothing in this Article shall be construed to preclude an agency from
25 applying for and accepting grants, gifts, and bequests for funds from private
26 individuals, foundations, and the federal government for the purpose of creating or
27 carrying out the duties of a safe house for sexually exploited children.

28 B. Each safe house ~~operating under a contract~~ **listed** with the department to
29 provide services to sexually exploited children pursuant to the provisions of this

1 Article shall submit to the department an annual report on their operations including
2 information on the services offered, geographic areas served, number of children
3 served, and individual status updates on each child served. This information shall not
4 include the name, address, or other identifying information of the child served. The
5 department shall compile the data from all the reports submitted by each safe house
6 pursuant to the provisions of this Article and shall provide this information in an
7 annual report to the legislature on or before the first day of February each year.

8 **Art. 725.3. Statewide protocol; applicability of child in need of care procedure**

9 **(1) The department shall develop a statewide protocol for helping to**
10 **coordinate the delivery of services to sexually exploited children and shall work with**
11 **court intake officers to ensure that all state, federal, and community-based resources**
12 **for sexually exploited children are known and available to children who have been**
13 **granted diversion under Article 839.**

14 **(2) A child who is a victim of human trafficking is a child in need of care,**
15 **and unless otherwise specified in this Chapter, the provisions of Title VI of this**
16 **Code shall govern, when applicable.**

17 **Art. 725.4. Duties of law enforcement**

18 **The officer shall notify the Crime Victims Services Bureau of the**
19 **Department of Public Safety and Corrections that the child may be eligible for**
20 **special services and, as a mandatory reporter as required by Children's Code**
21 **Article 610, shall notify the Department of Children and Family Services that**
22 **the child is in need of protective services.**

23 **Art. 725.5. Duties of the Department of Children and Family Services**

24 **A. The department shall be responsible for investigating reports of abuse**
25 **or neglect where the abuser is believed to be a parent or caretaker, a person**
26 **who maintains an interpersonal dating or engagement relationship with the**
27 **parent or caretaker, or a person living in the same residence with the parent or**
28 **caretaker as a spouse whether married or not.**

29 **B. The department shall fully cooperate with law enforcement,**

1 prosecutors, and court staff in the investigation and prosecution of child sexual
2 exploitation, including ensuring that all state, federal, and community-based
3 resources for sexually exploited children are known and available to the child.

4 C. The department shall maintain a current listing of licensed residential
5 homes that specialize in the provision of services to exploited children. This
6 listing shall be made available to courts, prosecutors, law enforcement, and
7 other stakeholders involved in proceedings pertaining an exploited child.

8 D. The department shall cooperate with the prosecution of any
9 perpetrator of child exploitation.

10 E. The department shall develop policies that reflect best practices. It
11 shall consider all protocols developed by the Louisiana Human Trafficking
12 Commission and assist in compiling data requested by the commission when
13 available.

14 Art. 725.6. Victim confidentiality

15 In addition to the protections of Article 412, law enforcement officers,
16 investigators, prosecutors, and service providers shall keep confidential all
17 reports and records of sexual exploitation, including the existence of such
18 records. The identity, pictures, and images of the child victim and his family
19 shall be confidential except to the extent that disclosure is:

20 (1) Essential for the purposes of investigation or prosecution.

21 (2) Required by court order.

22 (3) Necessary to ensure services.

23 Section 2. The Louisiana State Law Institute is hereby directed to prepare comments
24 to the provisions of this Act.

The original instrument was prepared by Thomas L. Tyler. The following digest, which does not constitute a part of the legislative instrument, was prepared by McHenry Lee.

Proposed law retains present law and expands the definition of "shelter care facility" to include temporary care or a safe house for sexually exploited children.

Present law (Ch.C. Art. 606) provides the grounds for a child in need of care proceeding.

Present law (Ch.C. Art. 622(B)) provides for the placement of children pending a custody hearing.

Proposed law provides for shelter care facilities for children who are victims of human trafficking or trafficking of children for sexual purposes.

Present law (Ch.C. Art. 725.1) provides definitions.

Proposed law revises definitions, including defining "department" from DPSC to DCFS.

Present law (Ch.C. Art. 725.2) provides safe houses for sexually exploited children.

Proposed law provides that the department shall identify and maintain a current listing of safe houses which are licensed residential homes that specialize in the provision of services to sexually exploited children, whether or not those facilities receive taxpayer funding. This listing shall be made available to courts, prosecutors, and other stakeholders involved in proceedings pertaining to an exploited child.

Present law (Ch.C. Art. 725.3) requires the department to develop protocols for delivery of services to victims.

Proposed law adds that a child who is a victim of human trafficking is a child in need of care.

Proposed law (Ch.C. Art. 725.4) provides for duties of law enforcement.

Proposed law (Ch.C. Art. 725.5) provides that DCFS shall be responsible for investigating reports of abuse or neglect 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. Further provides that the department must fully cooperate with law enforcement, prosecutors, and court staff in the investigation and prosecution of child sexual exploitation, including ensuring that all state, federal, and community-based resources for sexually exploited children are known and available to the child.

Proposed law further provides that the department shall maintain a current listing of licensed residential homes that specialize in the provision of services to exploited children. This listing shall be made available to courts, prosecutors, law enforcement, and other stakeholders involved in proceedings pertaining to an exploited child.

Proposed law (Ch.C. Art. 725.6) requires all reports and records of exploitation to be kept confidential with a few exceptions.

Effective on August 1, 2017.

(Amends Ch.C. Arts. 116(25), 606(A)(intro para), 606(A)(7), 622(B)(intro para), and 725.1-725.3; adds Ch.C. Arts. 622(B)(5), and 725.4-725.6)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Makes substantial revision of definitions and requirements.
2. Adds revision to R.S. 46:1403.1.

Senate Floor Amendments to engrossed bill

1. Makes revisions of definitions.
2. Removes exceptions to certain crimes for children who are victims of trafficking or exploitation.
3. Removes certain duties of law enforcement.
4. Removes protective custody provisions.
5. Changes the duties of DCFS.
6. Removes provision providing for the expungement of adjudications involving human trafficking victims.