

2018 Regular Session

HOUSE BILL NO. 397

BY REPRESENTATIVE MORENO

CRIMINAL/VICTIMS: Creates and provides relative to the membership and duties of the
La. Sexual Assault Oversight Commission

1 AN ACT

2 To amend and reenact R.S. 15:555 and 556 and to enact R.S. 36:706(D), relative to the
3 Louisiana Sexual Assault Oversight Commission; to provide for sexual assault
4 collection kits and forensic medical examinations; to provide relative to the
5 membership, meetings, compensation, and duties of the Louisiana Sexual Assault
6 Oversight Commission; to provide relative to the duties of the office of the attorney
7 general; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 15:555 and 556 are hereby enacted to read as follows:

10 CHAPTER 3-C. LOUISIANA SEXUAL ASSAULT ~~TASK FORCE~~ OVERSIGHT

11 COMMISSION

12 §555. Louisiana Sexual Assault Task Force Oversight Commission; creation;
13 membership; meetings

14 A. The Louisiana Sexual Assault ~~Task Force~~ Oversight Commission is
15 hereby created within the Department of Justice, office of the attorney general. The
16 ~~task force~~ commission shall consist of ~~twenty-five~~ the following members as
17 follows:

18 (1) The executive director of the Louisiana District Attorneys Association
19 or his designee.

(2) The executive director of the Louisiana Foundation Against Sexual Assault or ~~her~~ his designee.

~~(3) The Sexual Assault Nurse Examiner/Sexual Assault Response Team (SANE/SART) program coordinator of the Louisiana Foundation Against Sexual Assault or her designee.~~

(4) The executive director of the Louisiana Sheriffs Association; or his designee.

(5)(4) The executive director of the Louisiana Association of Chiefs of Police; or his designee.

~~(6) The president of the Louisiana District Judges Association, or his designee.~~

(7)(5) The executive director of the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice; or his designee.

~~(8)~~(6) The president of the Louisiana Coroners Association; or his designee.

~~(9)~~(7) The director of the Louisiana State Police Crime Laboratory; or his designee.

~~(10) The president of the Louisiana Association of Forensic Scientists, or his designee.~~

~~(11)~~(8) The president of the Louisiana Hospital Association; or ~~her~~ his designee.

~~(12)~~(9) The secretary of the Louisiana Department of Health; or his designee.

~~(13) The executive director of the Louisiana State Board of Nursing, or his designee.~~

~~(14) The executive director of the Louisiana CASA Association, or his designee.~~

~~(15) The president of the Louisiana Children's Advocacy Center, or his designee.~~

~~(16) The secretary of the Department of Children and Family Services, or his designee.~~

1 ~~(17) The assistant secretary of child welfare of the Department of Children~~
2 ~~and Family Services, or his designee.~~

3 ~~(18) The medical director of the Child At Risk Evaluation Center at~~
4 ~~Children's Hospital of New Orleans, or his designee.~~

5 ~~(19)~~(10) The attorney general; or his designee.

6 ~~(20) A member of the Association of Criminal Defense Lawyers selected by~~
7 ~~its chief executive officer, or his designee.~~

8 ~~(21) The superintendent of state police, or his designee.~~

9 ~~(22) The director of the Louisiana Coalition Against Domestic Violence, or~~
10 ~~his designee.~~

11 ~~(23) The president of the Louisiana Juvenile Judges Association, or his~~
12 ~~designee.~~

13 ~~(24)~~(11) A member of the House of Representatives appointed by the
14 speaker of the House of Representatives; or ~~his~~ the member's designee.

15 ~~(25)~~(12) A member of the Senate appointed by the president of the Senate;
16 or ~~his~~ the member's designee.

17 (13) The governor or his designee.

18 (14) The executive director of the Forensic Nurse Examiners of Louisiana,
19 Inc., or his designee.

20 B. Members of the ~~task force~~ commission shall serve at the pleasure of the
21 appointing authority and without compensation. Travel, per diem, and other
22 expenses may be paid by the member's employer or appointing authority.

23 C. The attorney general, or his designee, shall serve as chairman, and his
24 duties shall be established by the ~~task force~~ commission. The office of the attorney
25 general shall provide any staff and administrative services needed by the commission
26 to carry out the duties set forth in R.S. 15:556.

27 ~~E.D.~~ The ~~task force~~ commission shall fix a time and place for its ~~regular~~
28 ~~meeting~~ meetings, and shall meet at least once ~~during each calendar month~~ every

1 three months. Additional ~~special or regular~~ meetings may be held upon the call of
2 the chairman.

3 ~~D.~~E. A majority of the membership present shall constitute a quorum and
4 shall be necessary to take action.

5 §556. Duties of the ~~task force~~ commission

6 A.(1) The commission shall develop recommendations for a standardized
7 sexual assault collection kit and protocols for forensic medical examinations of
8 victims of sexually-oriented criminal offenses, both to be used statewide. The
9 recommendations for the standardized kit and protocols shall include but are not
10 limited to recommendations for the physical dimensions, labeling, and contents of
11 the collection kit, as well as recommendations regarding the collection and
12 preservation of evidence from the examination and the identification of appropriate
13 entities to perform the examination.

14 (2) The commission shall continuously review its standards and protocols
15 and make subsequent recommendations for changes to the standardized kit and
16 protocols to ensure that the sexual assault collection kit and forensic medical
17 examination protocols are up-to-date with respect to technological advancements and
18 best practices.

19 B. The recommendations for a standardized sexual assault collection kit and
20 protocols for forensic medical examinations, and any subsequent recommendations
21 for changes to the standardized kit and protocols, developed by the commission
22 pursuant to the provisions of Subsection A of this Section shall be implemented
23 through the adoption of rules by the office of the attorney general in accordance with
24 the Administrative Procedure Act.

25 ~~The task force shall examine issues relating to forensic examination of sexual~~
26 ~~assault victims and investigation of sexual assault cases, including but not limited to~~
27 ~~the following:~~

1 ~~(1) The task force shall review and analyze all applicable state and federal~~
2 ~~laws, rules, regulations, policies, procedures, and practices pertaining to all of the~~
3 ~~following:~~

4 ~~(a) What entities are performing and should perform forensic examinations~~
5 ~~of sexual assault victims.~~

6 ~~(b) What entities are financially responsible and should be financially~~
7 ~~responsible for the forensic evidence collection from the victim of a sexual assault.~~

8 ~~(c) Which entities are being billed for the forensic examinations and which~~
9 ~~entities should be billed for such examinations.~~

10 ~~(d) What evidence is collected from the victim, how it is preserved, how it~~
11 ~~is analyzed, and what are the best practices in these areas.~~

12 ~~(e) What standards are being followed in the investigation of sexual assault~~
13 ~~cases and what standards should be followed.~~

14 ~~(f) What training is provided and what training should be provided to law~~
15 ~~enforcement officers and staff of the Department of Children and Family Services~~
16 ~~investigating sexual assault cases or cases of suspected sexual assault.~~

17 ~~(g) What criteria are used and what criteria should be used in designating~~
18 ~~cases as unfounded or in reclassifying cases involving completed or attempted illegal~~
19 ~~sexual activity.~~

20 ~~(h) The current reporting requirements and those recommended by the~~
21 ~~Department of Children and Family Services regarding the number of allegations of~~
22 ~~sexual abuse or assault reported and investigated and the number of those which are~~
23 ~~validated or not validated.~~

24 ~~(i) Reports by teachers, ministers, and other mandatory reporters to the~~
25 ~~Department of Children and Family Services and law enforcement agencies,~~
26 ~~standards for dual investigations and whether mandatory reporters should report to~~
27 ~~both law enforcement agencies and the Department of Children and Family Services.~~

~~(2) The task force shall report its findings and recommendations to the governor, the president of the Senate, and the speaker of the House of Representatives not later than December 31, 2012.~~

4 Section 2. R.S. 36:706(D) is hereby enacted to read as follows:

5 §706. Transfer of boards, commissions, and agencies to Department of Justice

6 * * *

7 D. The Louisiana Sexual Assault Oversight Commission (R.S. 15:555 and
8 556) is hereby placed within the Department of Justice and shall perform and
9 exercise its powers, duties, functions, and responsibilities as provided by law.

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 397 Original

2018 Regular Session

Moreno

Abstract: Creates and provides relative to the membership and duties of the La. Sexual Assault Oversight Commission.

Present law provides for the creation of La. Sexual Assault Task Force within the office of the attorney general, provides that the task force shall be comprised of 25 members, and provides that the task force shall examine issues related to forensic examinations of sexual assault victims and investigation of sexual assault cases. Present law further required the task force to report its findings and recommendations to the governor, the president of the Senate, and the speaker of the House of Representatives no later than Dec. 31, 2012.

Proposed law amends present law to effectively repeal the La. Sexual Assault Task Force and its duties, and to create the La. Sexual Assault Oversight Commission "commission", within the office of the attorney general, to develop recommendations for a standardized sexual assault collection kit and protocols for forensic medical examinations of victims of sexually-oriented criminal offenses to be used statewide.

In addition, proposed law requires the commission to continuously review its standards and protocols and make subsequent recommendations for changes to the standardized kit and protocols to ensure that the sexual assault collection kit and forensic medical examination protocols are up-to-date with respect to technological advancements and best practices.

Proposed law provides that the commission's recommendations, and any updates to the recommendations, shall be implemented through the adoption of rules by the office of the attorney general in accordance with the Administrative Procedure Act.

Proposed law provides for the following with respect to the commission:

- (1) The commission shall be comprised of 14 members who serve at the pleasure of the member's appointing authority and without compensation, except that travel, per diem, and other expenses may be paid by the member's employer or appointing authority.

- (2) The attorney general, or his designee, shall serve as chairman, and the office of the attorney general shall provide staff and administrative services needed by the commission to carry out its duties.
- (3) The commission shall meet at least once every three months and additional meetings may be held upon the call of the chairman.

(Amends R.S. 15:555 and 556; Adds R.S. 36:706(D))