

2018 Regular Session

HOUSE BILL NO. 898 (Substitute for House Bill No. 511 by Representative Bacala)

BY REPRESENTATIVE BACALA

MENTAL HEALTH: Provides relative to threats of violence or terrorism at elementary and secondary schools, including investigation and reporting thereof and required mental health evaluations

1 AN ACT

2 To enact Part XII of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, to be  
3 comprised of R.S. 17:409.1 through 409.6, and R.S. 17:3996(B)(45), relative to  
4 terrorism in schools; to provide for legislative findings and purposes; to provide for  
5 definitions; to require the reporting of any threats of violence to appropriate law  
6 enforcement; to provide for mandatory mental health evaluations; to provide for  
7 safety measures; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Part XII of Chapter 1 of Title 17 of the Louisiana Revised Statutes of  
10 1950, comprised of R.S. 17:409.1 through 409.6, and R.S. 17:3996(B)(45) are hereby  
11 enacted to read as follows:

12 PART XII. SCHOOL TERRORISM PREVENTION

13 §409.1. Short title

14 This Part may be cited as the "School Terrorism Prevention Act".

15 §409.2. Legislative findings

16 The legislature finds and declares that:

17 (1) Acts of violence and terrorism continue to occur in schools and pose a  
18 significant threat to the safety and well-being of children.

1           (2) Acts of violence and terrorism foster a climate of fear that can seriously  
2           impair and affect the physical and psychological health of students and create  
3           conditions that negatively affect learning.

4           (3) Protecting children and the school environment is a governmental interest  
5           of the highest order.

6           (4) Students, parents, educators, and policymakers have come together to call  
7           for leadership and action to address the national crisis of terrorism and violence in  
8           schools.

9           §409.3. Purpose

10           The purpose of this Part is to address the problem of acts of violence and  
11           terrorism in elementary and secondary schools.

12           §409.4. Definitions

13           For the purposes of this Part:

14           (1) The term "school" shall have the meaning ascribed to it by R.S. 17:236.

15           (2) The term "threat of violence" means communication, whether oral,  
16           visual, or written, including but not limited to electronic mail, letters, notes, social  
17           media posts, text messages, blogs, or posts on any social networking website, of any  
18           intent to kill, maim, or cause great bodily harm to a student, teacher, principal, or  
19           school employee on school property or at any school function.

20           (3) The term "threat of terrorism" means communication, whether oral,  
21           visual, or written, including but not limited to electronic mail, letters, notes, social  
22           media posts, text messages, blogs, or posts on any social networking website, of any  
23           crime of violence that would reasonably cause any student, teacher, principal, or  
24           school employee to be in sustained fear for his safety, cause the evacuation of a  
25           building, or cause other serious disruption to the operation of a school.

26           §409.5. Mandatory reporting and investigation

27           A. Any administrator, teacher, counselor, bus operator, or other school  
28           employee, whether full-time or part-time, who learns of a threat of violence or threat

1 of terrorism, whether through oral communication, written communication, or  
2 electronic communication, shall:

3 (1) Immediately report the threat to a local law enforcement agency if there  
4 is a reasonable belief that the threat is credible and imminent.

5 (2) Immediately report the threat to school administrators for further  
6 investigation, in compliance with Subsection C of this Section, if the threat does not  
7 meet the standard of reasonable belief provided for in Paragraph (1) of this  
8 Subsection.

9 B. No person shall have a cause of action against any person for any action  
10 taken or statement made in adherence with the requirement for reporting as provided  
11 in this Part. However, the immunity from liability provided in this Subsection shall  
12 not apply to any action or statement if the action or statement was maliciously,  
13 willfully, and deliberately intended to cause harm to, harass, or otherwise deceive  
14 law enforcement or school officials.

15 C.(1) Each school board shall develop and adopt a policy for the  
16 investigation of potential threats of violence or threats of terrorism that have been  
17 reported to a school administrator, which shall include conducting an interview with  
18 the person reporting a threat, the person allegedly making a threat, and all witnesses,  
19 and securing any evidence, including but not limited to statements, writings,  
20 recordings, electronic messages, and photographs.

21 (2) If the investigation results in evidence or information that raises a  
22 concern that a threat is credible and imminent, the threat shall be immediately  
23 reported to a local law enforcement agency.

24 D. Any law enforcement agency receiving any notification that alleges a  
25 threat of violence or threat of terrorism under this Part shall:

26 (1) Begin an investigation not later than the first day that school is in session  
27 after the report is received and endeavor to complete the investigation not later than  
28 three school days after the report is received.

1           (2) Notify the principal of the school that is the target of a threat of violence  
2           or threat of terrorism. If the principal is not available or cannot be contacted, the law  
3           enforcement agency shall notify any school official authorized to act in an  
4           emergency situation.

5           E. In addition to the investigation and procedures outlined in this Section,  
6           nothing shall prohibit a law enforcement officer with probable cause from detaining  
7           or arresting any person for any alleged criminal act.

8           §409.6. Restrictions and mandatory evaluation

9           A.(1) If the person who is reported to a local law enforcement agency  
10          pursuant to R.S. 17:409.5(A) is a student, he shall not be permitted to return to  
11          school until undergoing a formal mental health evaluation. The law enforcement  
12          agency shall file a petition with the appropriate judicial district court for medical,  
13          psychological, and psychiatric evaluation as outlined in this Subsection.

14          (2)(a) As soon as practical after the filing of the petition, the court shall  
15          review the petition and supporting documents and determine whether there exists  
16          probable cause to believe that the student is a danger to himself or others.

17          (b) If the court determines that probable cause exists:

18          (i) The court shall assign a time and place not later than seven calendar days  
19          thereafter for a hearing upon the petition and shall cause reasonable notice thereof  
20          to be given to the student, his attorney, and the petitioner. The notice shall inform the  
21          student that he has the right to be present at the hearing; the right to counsel; if  
22          indigent or otherwise qualified, the right to have counsel appointed to represent him;  
23          and the right to cross examine witnesses testifying at any hearing on such  
24          application.

25          (ii) The court may appoint the student's treating physician if available or, if  
26          not, then another physician, preferably a psychiatrist, to examine the student and  
27          make a written report to the court and the student's attorney.

28          (3) An examination order by the court pursuant to this Subsection shall be  
29          conducted as soon as practical, and the examining medical professional shall report

1 to the court any conclusions reached as a result of the examination. The physician  
2 shall consider whether:

3 (a) The student is suffering from serious mental illness which causes him to  
4 be a danger to himself or others.

5 (b) The student's condition is likely to deteriorate unless he is provided  
6 appropriate medical treatment.

7 (c) The student's condition is likely to improve if he is provided appropriate  
8 medical treatment.

9 (4) The student or his attorney shall have the right to seek an additional  
10 independent medical opinion.

11 (5)(a) If the student refuses to be examined by the court-appointed physician  
12 or if the judge, after reviewing the petition and affidavit and the report of the treating  
13 physician or the court-appointed physician, finds that the student is a danger to  
14 himself or others, that he is mentally ill or suffering from substance abuse and in  
15 need of immediate hospitalization to protect himself or others from physical harm,  
16 or that his condition may be markedly worsened by delay, the court may issue a court  
17 order for custody of the student, and a peace officer shall deliver him to a treatment  
18 facility designated by the court.

19 (b) If the judge, after reviewing the petition and affidavit or the report of the  
20 treating physician or the court-appointed physician, finds that the student is not a  
21 danger to himself or others and is not in need of immediate hospitalization to protect  
22 himself or others from physical harm, the court may require that the student continue  
23 outpatient mental health treatment as a condition of the order. Such condition of  
24 outpatient mental health treatment shall be for a finite time that shall not exceed six  
25 months.

26 B. If the person who is reported to a local law enforcement agency pursuant  
27 to R.S. 17:409.5(A) is not a student, he shall not be permitted to be within five  
28 hundred feet of any school until he has undergone a formal mental health evaluation

1 and has been deemed by a health care professional to not be dangerous to himself or  
 2 others.

3 \* \* \*

4 §3996. Charter schools; exemptions; requirements

5 \* \* \*

6 B. Notwithstanding any state law, rule, or regulation to the contrary and  
 7 except as may be otherwise specifically provided for in an approved charter, a  
 8 charter school established and operated in accordance with the provisions of this  
 9 Chapter and its approved charter and the school's officers and employees shall be  
 10 exempt from all statutory mandates or other statutory requirements that are  
 11 applicable to public schools and to public school officers and employees except for  
 12 the following laws otherwise applicable to public schools with the same grades:

13 \* \* \*

14 (45) Threats of violence or terrorism, R.S. 17:409.1 et seq.

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#### 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)]

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HB 898 Reengrossed

2018 Regular Session

Bacala

**Abstract:** Provides relative to threats of violence or terrorism at elementary and secondary schools, including investigation and reporting thereof and required mental health evaluations.

Proposed law, relative to actions taken by school employees and school boards, requires that:

- (1) Any school employee who learns of a threat of violence or terrorism immediately report the threat to:
  - (a) A local law enforcement agency if there is a reasonable belief that the threat is credible and imminent.
  - (b) School administrators for further investigation if the threat does not meet the standard of reasonable belief provided for in (a) above.
- (2) Each school board adopt a policy for investigating potential threats that have been reported to a school administrator, which shall include conducting an interview with person reporting the threat, the person allegedly making a threat, and all witnesses and securing any evidence.

Proposed law requires that any law enforcement agency receiving notification of an alleged threat of violence or terrorism:

- (1) Begin an investigation not later than the first day that school is in session after the report is received and endeavor to complete it not later than three school days after receiving the report.
- (2) Notify the principal or other school official authorized to act in an emergency.

Proposed law provides the following relative to mandatory reporting and mental health evaluations:

- (1) If the person reported to law enforcement is a student, he shall not be permitted to return to school until undergoing a formal mental health evaluation. Requires the law enforcement agency to file a petition with the appropriate judicial district court for medical, psychological, and psychiatric evaluation.
- (2) If the person reported to law enforcement is not a student, he shall not be permitted to be within 500 feet of any school until undergoing a formal mental health evaluation and being deemed by a health care professional to not be dangerous to himself or others.

Proposed law provides that no person shall have a cause of action against any person for any action taken or statement made in adherence with proposed law; however, the immunity from liability shall not apply to any action or statement if it was maliciously, willfully, and deliberately intended to cause harm to, harass, or otherwise deceive law enforcement or school officials.

(Adds R.S. 17:409.1-409.6 and 3996(B)(45))

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Limit requirement that a threat be reported to law enforcement if there is a reasonable belief that the threat is credible and imminent.
2. Specify procedure relative to the filing of a petition with the court for evaluation of a student reported to law enforcement.