

2018 Regular Session

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

BY REPRESENTATIVES BACALA AND EDMONDS

AN ACT

To enact Part XII of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 17:409.1 through 409.6, and R.S. 17:3996(B)(45), relative to school safety; to provide for resources and reporting procedures; to provide for definitions; to require the reporting of any threats of violence to appropriate law enforcement; to provide for mandatory mental health evaluations; to provide for safety measures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

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

PART XII. LOUISIANA SCHOOL AND STUDENT SAFETY

§409.1. Short title

This Part may be cited as the "Louisiana School and Student Safety Act.

§409.2. Definitions

For the purposes of this Part:

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

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

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

7                   §409.3. Mandatory reporting

8                   A. Any administrator, teacher, counselor, bus operator, or other school  
9                   employee, whether full-time or part-time, who learns of a threat of violence or threat  
10                  of terrorism, whether through oral communication, written communication, or  
11                  electronic communication, shall:

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

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

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

24                  §409.4. Threat assessment

25                  A.(1) Each public school governing authority shall develop and adopt a  
26                  policy for the investigation of potential threats of violence or threats of terrorism that  
27                  have been reported to a school administrator, which shall include conducting an  
28                  interview with the person reporting a threat, the person allegedly making a threat,  
29                  and all witnesses, and securing any evidence, including but not limited to statements,  
30                  writings, recordings, electronic messages, and photographs.

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

4                   B. Any law enforcement agency receiving any notification that alleges a  
5                   threat of violence or threat of terrorism under this Part shall:

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

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

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

16                  §409.5. Restrictions and mandatory evaluation

17                  A.(1) If the person who is reported to a local law enforcement agency  
18                  pursuant to R.S. 17:409.3(A) is a student, he shall not be permitted to return to  
19                  school until undergoing a formal mental health evaluation. The law enforcement  
20                  agency shall file a petition with the appropriate judicial district court for medical,  
21                  psychological, and psychiatric evaluation as outlined in this Subsection.

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

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

26                  (i) The court shall assign a time and place not later than seven calendar days  
27                  thereafter for a hearing upon the petition and shall cause reasonable notice thereof  
28                  to be given to the student, his attorney, and the petitioner. The notice shall inform  
29                  the student that he has the right to be present at the hearing; the right to counsel; if  
30                  indigent or otherwise qualified, the right to have counsel appointed to represent him;

1           and the right to cross examine witnesses testifying at any hearing on such  
2           application.

3                   (ii) The court may appoint the student's treating physician if available or, if  
4           not, then another medical professional, preferably a psychiatrist, or a mental health  
5           professional, such as a school psychologist, to examine the student and make a  
6           written report to the court and the student's attorney.

7                   (3) An examination order by the court pursuant to this Subsection shall be  
8           conducted as soon as practical, and the examining medical or mental health  
9           professional shall report to the court any conclusions reached as a result of the  
10          examination. The medical or mental health professional shall consider whether:

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

13                   (b) The student's condition is likely to deteriorate unless he is provided  
14          appropriate treatment.

15                   (c) The student's condition is likely to improve if he is provided appropriate  
16          treatment.

17                   (4) The student or his attorney shall have the right to seek an additional  
18          independent medical or mental health opinion.

19                   (5)(a) If the student refuses to be examined by the court-appointed medical  
20          or mental health professional or if the judge, after reviewing the petition and  
21          affidavit and the report of the treating medical or mental health professional, finds  
22          that the student is a danger to himself or others, that he is mentally ill or suffering  
23          from substance abuse and in need of immediate hospitalization to protect himself or  
24          others from physical harm, or that his condition may be markedly worsened by  
25          delay, the court may issue a court order for custody of the student, and a peace  
26          officer shall deliver him to a treatment facility designated by the court. The court  
27          shall not order custody to the Louisiana Department of Health or placement with a  
28          Louisiana Department of Health treatment facility without prior notice given to the  
29          department.

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

B. If the person who is reported to a local law enforcement agency pursuant to R.S. 17:409.3(A) is not a student, he shall not be permitted to be within five hundred feet of any school until he has undergone a formal medical or mental health evaluation and has been deemed by a health care professional to not be dangerous to himself or others.

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§3996. Charter schools; exemptions; requirements

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

\* \* \*

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

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Section 2. The legislature finds and declares that:

(1) Acts of violence and terrorism continue to occur in schools and pose a 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                   elementary and secondary schools.

9                   (5) The purposes of this Part is to address the acts of violence and terrorism  
10                  and provide resources to educate students and school personnel on such violence,  
11                  provide a method for reporting and investigating threats, and evaluate students who  
12                  may be a threat to themselves or others.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_