SLSX 19RS-825 **ORIGINAL**

2019 Regular Session

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

BY SENATOR MIZELL

1

LAW ENFORCEMENT. Provides for abortion clinic employees to be mandatory reporters of human trafficking and certain sexual based crimes to law enforcement and provides for the additional postings of the National Human Trafficking Resource Center hotline information. (8/1/19)

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) and R.S. 40:2175.3 to enact R.S. 15:541(E) and R.S. 40:2175.7, relative to
4	human trafficking; to require certain mandatory reporters to report human trafficking
5	and certain sexual based crimes to law enforcement, whether the victim is an adult
6	or a minor; to provide for mandatory reporters related to child abuse and neglect; to
7	provide for training; to provide for forms; to provide for rules and regulations; to
8	provide for legislative intent; to provide for the posting of the National Human
9	Trafficking Resource Center hotline; to provide for the texting of information to
10	obtain help and services for human trafficking victims; and to provide for related
11	matters.
12	Be it enacted by the Legislature of Louisiana:
13	Section 1. Children 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	* * *

I	(17) "Mandatory reporter" is any of the following individuals:
2	(a) "Health practitioner" is any individual who provides healthcare services,
3	including a physician, surgeon, physical therapist, dentist, resident, intern, hospital
4	staff member, an outpatient abortion facility staff member, podiatrist,
5	chiropractor, licensed nurse, nursing aide, dental hygienist, any emergency medical
6	technician, a paramedic, optometrist, medical examiner, or coroner, who diagnoses,
7	examines, or treats a child or his family.
8	* * *
9	Section 2. R.S. 15:541.1(A)(3), (B)(1)(a) and (D) and to enact R.S. 15:541(E) are
10	hereby enacted to read as follows:
11	§541.1. Posting of the National Human Trafficking Resource Center hotline;
12	content; languages; notice; civil penalty
13	A. All of the following establishments shall be required to post information
14	regarding the National Human Trafficking Resource Center hotline:
15	* * *
16	(3)(a) Every full-service fuel facility adjacent to an interstate highway.
17	(b) or Every highway rest stop.
18	* * *
19	B.(1)(a) Such posting shall be no smaller than eight and one-half inches by
20	eleven inches and shall contain the following wording in bold typed print of not less
21	than fourteen-point font:
22	"If you or someone you know is being forced to engage in any activity and
23	cannot leave, whether it is commercial sex, housework, farm work, or any other
24	activity, call the National Human Trafficking Resource Center hotline at 1-888-373-
25	7888 or text "Be Free" to 233733 in order to access help and services."
26	* * *
27	D.(1) In addition to the posting required in Subsection B of this Section,
28	beginning on January 1, 2020, each establishment listed in Subsection A of this
29	Section shall affix a flyer to the inside of the door to each bathroom stall at the

1	establishment.
2	(2) The flyer shall be designed by the Greater New Orleans Human
3	Trafficking Task Force, with the approval of the commissioner of the office of
4	alcohol and tobacco control, and shall be no larger than eight and one-half
5	inches by eleven inches.
6	(3) No later than December 1, 2019, the Greater New Orleans Human
7	Trafficking Task Force shall transfer the flyer in an electronic format to the
8	commissioner for posting on the website for the office of alcohol and tobacco.
9	E. A civil penalty in accordance with R.S. 26:96(A) may be assessed for
10	each violation of this Section. The departments listed in Subsection C of this Section
11	or any law enforcement agency with jurisdiction are charged with the enforcement
12	of this Section.
13	* * *
14	Section 3. R.S. 40:2175.3 is hereby amended and reneacted and R.S. 40:2175.7 is
15	hereby enacted to read as follows:
16	§2175.3. Definitions
17	For purposes of this Part, the following definitions apply:
18	(1) "Abortion" means any surgical procedure performed after pregnancy has
19	been medically verified with the intent to cause the termination of the pregnancy
20	other than for the purpose of producing a live birth, removing an ectopic pregnancy,
21	or removing a dead fetus caused by a spontaneous abortion.
22	(2) "Abortion facility staff member" means an individual who is a person
23	who is not an abortion clinic professional but who is employed by or contracts
24	with an outpatient abortion facility to provide services and who has any contact
25	with patients at the facility.
26	(3) "Abortion facility professional" means an individual who is a
27	physician, surgeon, resident, intern, licensed nurse, nursing aide, emergency
28	medical technician, or a paramedic who diagnoses, examines, or treats a female

patient at an outpatient abortion facility.

29

1	(4) "First trimester" means the time period up to fourteen weeks after the first
2	day of the last menstrual period.
3	(3)(5) "Licensee" means the person, partnership, corporation, association,
4	organization, or professional entity on whom rests the ultimate responsibility and
5	authority for the conduct of the outpatient abortion facility.
6	(4)(6) "Licensing agency" means the Louisiana Department of Health.
7	(7) "Mandatory reporter to law enforcement" means any abortion
8	facility staff member or any abortion facility professional.
9	(5)(8) "Outpatient abortion facility" means any outpatient facility, other than
10	a hospital as defined in R.S. 40:2102 or an ambulatory surgical center as defined in
11	R.S. 40:2133, in which any second trimester or five or more first trimester abortions
12	per calendar year are performed.
13	(6)(9) "Second trimester" means the time period from fourteen to twenty-
14	three weeks after the first day of the last menstrual period.
15	(7)(10) "Secretary" means the secretary of the Louisiana Department of
16	Health.
17	* * *
18	§2175.7. Mandatory reports to law enforcement; human trafficking awareness
19	and prevention training
20	A.(1) Notwithstanding any claim of privileged communication, any
21	mandatory reporter to law enforcement who has cause to believe that a minor
22	or adult female who presents at an outpatient abortion facility is a victim of
23	human trafficking, trafficking of children for sexual purposes, rape, incest, or
24	coerced abortion shall report such crime immediately to the sheriff's
25	department in the parish or local police department where the outpatient
26	abortion facility is located. If the victim does not reside in the parish where the
27	outpatient abortion facility is located, the mandatory reporter to law
28	enforcement shall also report the crime to the law enforcement agency in the
29	parish or county in which the victim resides, if reasonably ascertainable.

1	(2) The Department of Health shall promulgate a form which may be
2	used by a mandatory reporter to law enforcement to report a crime, pursuant
3	to Paragraph (1) of this Subsection, to the parish or local law enforcement
4	agency.
5	B.(1) Every mandatory reporter to law enforcement shall certify to the
6	Department of Health that they have participated in a training on human
7	trafficking awareness and prevention on an annual basis.
8	(2) The Department of Health shall promulgate rules to provide for
9	compliance of this Subsection utilizing the online educational videos on human
10	trafficking awareness and prevention provided by the United States Department
11	of Health and Human Services, Administration for Children and Families,
12	Office on Trafficking in Persons or such training tools as may be adopted by the
13	department.
14	Section 4. The legislature finds and declares all of the following:
15	(1) Human trafficking is a major public health problem.
16	(2) Outpatient abortion facilities are uniquely likely to have contact with victims
17	who are the subject of human trafficking for sexual purposes.
18	Section 5. If any provision or item of this Act, or the application thereof, is held
19	invalid, such invalidity shall not affect other provisions, items, or applications of the Act
20	which can be given effect without the invalid provision, item, or application and to this end
21	the provisions of this Act are hereby declared severable.
	The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST
SB 238 Original 2019 Regular Session

Mizell

<u>Present law</u> (Children's Code 610) provides that, notwithstanding any claim of privileged communication, any mandatory reporter who has cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect or that abuse or neglect was a contributing factor in a child's death shall report the matter to the Dept. of Children and Family Services or law enforcement.

<u>Present law</u> (Children's Code 603) provides that the mandatory reporters of child abuse and neglect are the following individuals: healthcare practitioners, mental health/social service practitioners, members of the clergy including any priest, rabbi, duly ordained clerical

Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.

deacon or minister, Christian Science practitioner, teachers or child care providers including teacher's aides, instructional aides, school principal, school staff members, bus drivers, coaches, professors, vocational instructors, technical or vocational school staff members, or college or university administrators and staff members, social workers, probation officers, foster home parents, group home or other child care institutional staff members, personnel of residential home facilities, licensed or unlicensed day care providers, or any individual who provides such services to a child in a voluntary or professional capacity, police officers, commercial film and photographic print processors, court authorized mediators, CASA volunteers, youth activity workers or day camp, summer camp, youth center, or youth recreation program staffers, and school coaches.

<u>Present law</u> (Children's Code 603) defines "health practitioner" to include hospital staff member.

<u>Proposed law</u> retains <u>present law</u> and adds "abortion facility staff member" to the list of healthcare staff members who are mandatory reporters of child abuse or neglect.

<u>Present law</u> (Children's Code 603 and 610) provides that the Dept. of Children and Family Services may conduct an investigation if the alleged perpetrator is a caretaker. <u>Present law</u> (Children's Code 603) defines "caretaker" as any person legally obligated to provide or secure adequate care for a child, including a parent, tutor, guardian, legal custodian, foster home parent, an employee of a public or private day care center, an operator or employee of a registered family child day care home, or other person providing a residence for the child. <u>Present law</u> (Children's Code 610) provides that "caretaker" does not include dating partners, spouse of the parent, or anyone not living at the residence of the child and, therefore the Dept. of Children and Family Services does not have jurisdiction to open an investigation into a child in need of care case where the alleged perpetrator is not a caretaker.

<u>Proposed law</u> retains <u>present law</u> and requires abortion facility professionals and abortion facility staff members to report crimes of human trafficking, trafficking of children for sexual purposes, rape, incest, or coerced abortion to law enforcement, whether the victim is a minor child or an adult. <u>Proposed law</u> defines "abortion facility professional" is an individual who is a physician, surgeon, resident, intern, licensed nurse, nursing aide, emergency medical technician, or a paramedic who diagnoses, examines, or treats a female patient at an outpatient abortion facility. <u>Proposed law</u> defines "abortion facility staff member" is an individual who is a person who is not an abortion facility professional but who is employed by or contracts with an outpatient abortion facility to provide services and who has any contact with patients at the facility.

<u>Proposed law</u> provides that the Dept. of Health shall promulgate a form which may be used by a mandatory reporter to law enforcement to report a crime of human trafficking, trafficking of children for sexual purposes, rape, incest, or coerced abortion to the sheriffs department in the parish or to the local police department where the outpatient abortion facility is located.

<u>Proposed law</u> provides that every mandatory reporter to law enforcement shall certify to the Dept. of Health that they have participated in training on human trafficking awareness and prevention on an annual basis. <u>Proposed law</u> provides that the Dept. of Health shall promulgate rules to provide for compliance with the training requirement in <u>proposed law</u> utilizing the online educational videos on human trafficking awareness and prevention provided by the U.S. Dept. of Health and Human Services, Administration for Children and Families, Office on Trafficking in Persons.

<u>Present law</u> requires information regarding the National Human Trafficking Resource Center Hotline to be posted in certain establishments.

<u>Present law</u> requires the notice to meet certain size, font, and language requirements to be set by the commissioner of the Alcohol Tobacco Control (ATC) and the applicable phone

number to be included in the notice.

<u>Proposed law</u> retains <u>present law</u> and requires that the notice also include the ability to text "Be Free" to 233733 in order to access help and services.

<u>Proposed law</u> provides that, in addition to the posting required in <u>present law</u>, beginning on Jan. 1, 2020, each establishment required to post information shall affix a flyer to the inside of the door to each bathroom stall at the establishment. <u>Proposed law</u> provides that the flyer will be designed by the Greater New Orleans Human Trafficking Task Force, with the approval of the ATC commissioner, and shall be no larger than 8 ½ by 11. <u>Proposed law</u> provides that no later than Dec. 1, 2019, the Greater New Orleans Human Trafficking Task Force shall transfer the flyer in an electronic format to the ATC commissioner for posting on the ATC's website.

Effective August 1, 2019.

(Amends Ch. C. Art. 603(17)(a), RS. 15:541.1(A)(3), (B)(1)(a) and (D) and R.S. 40:2175.3; adds R.S. 15:541(E) and R.S. 40:2175.7)