

2015 Regular Session

HOUSE BILL NO. 368

BY REPRESENTATIVE BADON

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

FAMILY VIOLENCE: Establishes family justice centers to assist victims of certain offenses

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(31) and to enact Chapter 21-D of Title 46 of the
3 Louisiana Revised Statutes of 1950, to be comprised of R.S. 46:1860 through 1863,
4 relative to family justice centers; to provide for the establishment of family justice
5 centers; to provide a list of the victims who are eligible to receive services at the
6 family justice center; to provide relative to the entities that may assign persons to
7 provide services at the family justice center; to provide certain requirements for any
8 established family justice center; to provide relative to the sharing and confidentiality
9 of information relative to a victim served by the family justice center; to provide
10 relative to immunity from liability for persons providing services to a victim at a
11 family justice center; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Chapter 21-D of Title 46 of the Louisiana Revised Statutes of 1950, to be
14 comprised of R.S. 46:1860 through 1863, is hereby enacted to read as follows:

15 CHAPTER 21-D. FAMILY JUSTICE CENTERS

16 §1860. Purpose

17 The purpose of this Chapter is to provide multiagency and multidisciplinary
18 support and services to victims of abuse, sexual assault, stalking, cyberbullying, and
19 human trafficking, to ensure that victims are able to access all needed services, to
20 enhance victim safety, to increase offender accountability, and to reduce to a

1 minimum the number of times the victim is questioned and examined and the
2 number of places a victim must go to receive assistance.

3 §1861. Family justice centers

4 A.(1) A family justice center may be established in any judicial district to
5 provide support, services, and assistance to victims of the following types of
6 offenses:

7 (a) Domestic abuse as defined by R.S. 46:2132(3) and dating violence as
8 defined in R.S. 46:2151(C).

9 (b) Sexual assault which includes the commission of or the attempt to
10 commit any offense listed in R.S. 15:541(24).

11 (c) Abuse of a person protected by the Adult Protective Services Act
12 pursuant to R.S. 15:1501 et seq.

13 (d) Stalking including any action prohibited by R.S. 14:40.2 and 40.3.

14 (e) Cyberbullying as defined by R.S. 14:40.7.

15 (f) Human trafficking as defined by R.S. 14:46.2 and trafficking of children
16 for sexual purposes as defined by R.S. 14:46.3.

17 (2) A family justice center may be established in one judicial district to serve
18 those victims listed in Paragraph (1) of this Subsection from one or more
19 geographically contiguous judicial districts.

20 B.(1) Each family justice center established pursuant to the provisions of this
21 Chapter is authorized to consult with, contract with, work with, or be staffed, on a
22 full- or part-time basis, by personnel from any of the following public, private, or
23 nonprofit entities providing services within any of the judicial districts served by and
24 participating in the family justice center:

25 (a) Federal or state law enforcement agencies.

26 (b) Health care provider as defined by R.S. 40:1299.39 or 1299.41.

27 (c) Office of a district attorney or city prosecutor.

28 (d) Any agency or entity providing victim advocacy services.

29 (e) Community shelter for crime victims.

1 (f) Social service agency.

2 (g) Child welfare agency.

3 (h) Civil legal service providers.

4 (2) The list of entities provided in Paragraph (1) of this Subsection is not
5 exclusive and each family justice center is authorized to consult with, contract with,
6 work with, or be staffed by personnel from any other public, private, or nonprofit
7 entity not specifically provided for in this Chapter that is necessary for providing
8 services and assistance consistent with the purposes of this Chapter.

9 (3) Any person described in the provisions of this Subsection who is
10 providing services to a family justice center shall comply with all laws, rules, or
11 regulations governing their respective professions.

12 C. Each family justice center shall:

13 (1) Establish procedures for the ongoing input, feedback, and evaluation of
14 the operations of the family justice center by survivors of violence and abuse and
15 community-based crime victims service providers and advocates.

16 (2) Develop policies and procedures to ensure coordinated services are
17 provided to victims and to enhance the safety of victims and personnel at the family
18 justice center.

19 (3) Maintain a formal process for receiving feedback, complaints, and input
20 from those persons receiving services at the family justice center and for addressing
21 any concerns about services provided or the operations of any family justice center.

22 D. No family justice center shall:

23 (1) Deny services to any victim on the grounds of the victim's criminal
24 history.

25 (2) Request the criminal history of a victim without the victim's written
26 consent unless pursuant to a criminal investigation.

27 (3) Require a victim to participate in the criminal justice system or cooperate
28 with law enforcement in order to receive counseling, medical care, or any other
29 services at a family justice center.

1 (4) Require a victim to sign a consent form to share information in order to
2 access services at the family justice center.

3 §1862. Confidentiality; information sharing

4 A. A person providing services to a family justice center pursuant to the
5 provisions of this Chapter may obtain information from any public agency,
6 department, or other organization, including material otherwise made confidential
7 or privileged, that is necessary to assist a victim receiving services at the family
8 justice center. Any confidential or privileged material or information obtained by
9 the person through the course of providing services to a victim at the family justice
10 center shall be disclosed only as necessary to other persons providing services at the
11 family justice center to the same victim, and shall not be disclosed to an agency or
12 individual outside of the family justice center unless otherwise required by law or
13 court order.

14 B. The files, reports, records, communications, working papers, or any other
15 material or information used or developed in providing services to a victim at the
16 family justice center are confidential and not subject to the Public Records Law.
17 Disclosure may be made only to another person providing services at the family
18 justice center to the same victim and who needs access to the information or material
19 in order to perform his duties and provide services to the victim consistent with the
20 provisions of this Chapter.

21 C.(1) Each family justice center shall maintain a client consent policy and
22 shall comply with all state and federal laws protecting the confidentiality rights and
23 identity of the victim. Each family justice center shall have a designated privacy
24 officer to develop and oversee privacy policies and procedures consistent with state
25 and federal privacy laws.

26 (2) Each family justice center is required to obtain informed, written, and
27 reasonably time-limited consent from the victim before sharing information obtained
28 from the victim with any staff member, agency partner, or personnel providing
29 services at the family justice center except as provided by the following:

1 (a) A family justice center is not required to obtain consent from the victim
2 before sharing information obtained from the victim with any staff member, agency
3 partner, or personnel who is also a mandatory reporter, a peace officer, or a member
4 of the prosecuting team who is required by law to report or disclose specific
5 information or incidents.

6 (b) Each family justice center is required to inform the victim that the
7 information shared with staff members, partner agencies, or other personnel at the
8 family justice center may be shared with law enforcement professionals without the
9 victim's consent if there is a mandatory duty to report as required by law or the
10 victim is a danger to himself or others. Each family justice center shall obtain
11 written acknowledgment from the victim that the victim has been informed of this
12 policy.

13 (3) Consent by the victim to share information within a family justice center
14 pursuant to the provisions of this Section is not a universal waiver of any existing
15 evidentiary privilege or confidentiality provision provided by law.

16 (4) Any oral or written communication or any document authorized by the
17 victim to be shared for the purposes of enhancing safety and providing more
18 effective and efficient services to the victim shall not be disclosed to any third party,
19 unless that third-party disclosure is authorized by the victim, or required by other
20 state or federal law or by court order.

21 D. Each family justice center shall maintain a formal training program with
22 mandatory training of not less than eight hours per year for all persons providing
23 services at the family justice center, including but not limited to training on
24 evidentiary privileges, confidentiality provisions, information sharing, risk
25 assessment, safety planning, victim advocacy, and high-risk case response.

26 §1863. Immunity from liability

27 A. A person providing services to a victim at a family justice center pursuant
28 to the provisions of this Chapter shall not be liable for civil damages while acting in
29 the official scope of his duties if the person, in good faith, makes a recommendation,

1 gives an opinion, or releases or uses information for the purposes of protecting or
2 providing services to the victim.

3 B. This limitation of civil liability does not apply if the person acted with
4 gross negligence or in bad faith.

5 Section 2. R.S. 44:4.1(B)(31) is hereby amended and reenacted to read as follows:

6 §4.1. Exceptions

7 * * *

8 B. The legislature further recognizes that there exist exceptions, exemptions,
9 and limitations to the laws pertaining to public records throughout the revised
10 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
11 limitations are hereby continued in effect by incorporation into this Chapter by
12 citation:

13 * * *

14 (31) R.S. 46:56, 236.1.1 through 238, 284, 286.1, 439.1, 446.1, 1073, 1355,
15 1806, 1844, 1845, 1862, 1923, 2124.1, 2134, 2356, 2416, 2603, 2625, 2685

16 * * *

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 368 Re-Reengrossed

2015 Regular Session

Badon

Abstract: Authorizes the establishment of and requirements for a family justice center, provides for the victims that are eligible to receive services at a family justice center, provides relative to the sharing and confidentiality of information relative to victims, and provides relative to immunity from liability for service providers at the family justice center.

Proposed law does all of the following:

- (1) Authorizes the establishment of a family justice center in any judicial district to provide multiagency and multidisciplinary support and services to victims of domestic abuse, sexual assault, stalking, cyberstalking, cyberbullying, and human trafficking and to persons protected by the Adult Protective Services Act pursuant to present law.
- (2) Provides for the types of services and support made available at a family justice center.

- (3) Authorizes a family justice center established in one judicial district to serve victims from geographically contiguous judicial districts.
- (4) Authorizes each family justice center to consult with, contract with, work with, or be staffed by personnel from any public, private, or nonprofit entity providing services within any of the judicial districts served by and participating in the family justice center.
- (5) Requires each family justice center to establish procedures for the evaluation of its operations, develop policies and procedures to ensure coordinated services are provided to victims, and maintain a formal process for receiving feedback, complaints, and input from persons receiving services at the family justice center and for addressing any concerns about services provided or the operations of the family justice center.
- (6) Prohibits any family justice center from denying services to any victim on the grounds of the victim's criminal history, requesting the criminal history of a victim without the victim's written consent unless pursuant to a criminal investigation, requiring a victim to participate in the criminal justice system or cooperate with law enforcement in order to receive services at a family justice center, or requiring a victim to sign a consent form to share information in order to access services at the family justice center.
- (7) Authorizes a person providing services to a victim at a family justice center to obtain information, including material otherwise made confidential or privileged, that is necessary to assist the victim. Provides for limitations on the disclosure and use of this information.
- (8) Provides that the material or information used or developed in providing services to a victim at the family justice center are confidential and not subject to the Public Records Law.
- (9) Requires each family justice center to maintain a client consent policy, to comply with all state and federal laws protecting the confidentiality rights and identity of the victim, and to designate a privacy officer to develop and oversee privacy policies and procedures consistent with state and federal privacy laws.
- (10) Requires each family justice center to obtain informed, written, and reasonably time limited consent from the victim before sharing information obtained from the victim with any staff member, agency partner, or personnel providing services at the family justice center except when the person is required by law to report or disclose specific information or incidents.
- (11) Provides that consent by the victim to share information within a family justice center pursuant to the provisions of proposed law is not a universal waiver of any existing evidentiary privilege or confidentiality provision provided by law.
- (12) Requires each family justice center to maintain a formal training program with mandatory training of not less than eight hours per year for all persons providing services at the family justice center.
- (13) Provides immunity from civil liability to any person providing services to a victim at a family justice center while acting in the official scope of his duties if the person, in good faith, makes a recommendation, gives an opinion, or releases or uses information for the purposes of protecting or providing services to the victim.

Proposed law recognizes the proposed law limitations on records obtained through the course of providing services to a victim or used or developed in providing services to a victim at a family justice center in the Public Records Law.

(Amends R.S. 44:4.1(B)(31); Adds R.S. 46:1860-1863)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Make a technical amendment to a citation.

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill:

1. Place citation of proposed limitations on records in list of exemptions in the Public Records Law.

The House Floor Amendments to the reengrossed bill:

1. Provide that, for purposes of proposed law, "health care provider" includes the present law definitions for a state health care provider and private health care provider.