

Regular Session, 2013

SENATE BILL NO. 109

BY SENATOR MORRISH

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

CHILDREN'S CODE. Provides relative to examinations of a suspected child abuse victim.
(8/1/13)

1 AN ACT

2 To enact Children's Code Articles 612(A)(4) and 614(E), relative to evaluation and
3 examination orders for children; to provide relative to certain medical and other
4 examinations and evaluations; to require certain medical examinations in connection
5 with certain mandatory reporting; to provide terms, conditions, and procedures; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Children's Code Articles 612(A)(4) and 614(E) are hereby enacted to read
9 as follows:

10 Article 612. Assignment of reports for investigation and assessment

11 A.(1)

12 * * *

13 **(4) When the department receives a mandatory report from a health care**
14 **practitioner of abuse or neglect of a child who is not in the custody of the state,**
15 **upon request of the child's parent or caretaker the department shall schedule**
16 **at its cost an additional and independent medical examination of the child to be**
17 **conducted promptly by a health care practitioner selected by the child's parent**

1 or caretaker. The reports of both examinations shall be made available to the
 2 department and to the child's parent or caretaker, and shall be considered by
 3 the department in assigning a level of risk to the child and any appropriate
 4 action concerning the child. This shall not preclude the obtaining of any further
 5 examination or evaluation of the child pursuant to Article 614.

* * *

Art. 614. Evaluation orders

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9 E. When a medical examination of a child has been conducted pursuant
 10 to Article 612(A)(4), upon a showing of good cause in an affidavit executed by
 11 the applicant and after a contradictory hearing, the court may order an
 12 additional physical examination of the child or other children in the household
 13 by any physician. For the purposes of this Paragraph, an applicant may be the
 14 investigator or the child's parent or caretaker.

The original instrument was prepared by Cheryl Horne. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tammy Crain-Waldrop.

DIGEST

Morrish (SB 109)

Present law in Children's Code provides that upon receiving a report of abuse or neglect of a child who is not in the custody of the state, the Department of Children and Family Services shall assign a level of risk to the child based on information provided by the reporter. Provides for investigatory procedures for reports of high, intermediate and low levels of risk.

Proposed law retains present law and adds that when the department receives a mandatory report from a health care practitioner of abuse or neglect of a child who is not in the custody of the state, upon request of the child's parent or caretaker, the department shall schedule at its cost an additional and independent medical examination of the child to be conducted promptly by a health care practitioner selected by the child's parent or caretaker. The reports of both examinations shall be made available to the department and to the child's parent or caretaker, and shall be considered by the department in assigning a level of risk to the child and any appropriate action concerning the child. This shall not preclude the obtaining pursuant to present law of any further examination or evaluation of the child.

Present law provides that if necessary, the investigator may apply to the court for certain medical examinations and evaluations of the child or other children in the household. Provides that upon a showing of good cause in an affidavit executed by the applicant, the court may order a physical examination and evaluation of the child or other children in the household by any physician. Such an order may be granted ex parte. Also provides that upon a showing of good cause in an affidavit executed by the applicant and after a

contradictory hearing, the court may order a psychological or psychiatric examination and evaluation of the child or other children in the household by a psychologist or psychiatrist. Further provides that upon a showing of good cause in an affidavit executed by the applicant and after a contradictory hearing, the court may order a physical, psychological, or psychiatric examination of the parent or caretaker.

Proposed law retains present law and adds that when a medical examination of the child has been conducted in accordance with the proposed law, upon a showing of good cause in an affidavit executed by the applicant and after a court hearing, the court may order an additional physical examination of the child or other children in the household by any physician. For the purposes of the proposed law, an applicant to the court may be the investigator or the child's parent or caretaker.

Effective August 1, 2013.

(Adds CH.C. Arts. 612(A)(4) and 614(E))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Adds language providing for additional medical examination of child upon request of the child's parent or caretaker.
2. Revises language relative to obtaining court-ordered additional examinations of the child or other children in the household by either the investigator or child's parent or caretaker as applicant to the court.

Senate Floor Amendments to engrossed bill

1. Makes Legislative Bureau technical changes.