

Louisiana

Art. 502. Definitions

For the purposes of this Title, the following terms have the following meanings, unless the context clearly indicates otherwise:

- (1) "Abuse" means any one of the following acts which seriously endanger the physical, mental, or emotional health and safety of the child:
 - (a) The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.
 - (b) The exploitation or overwork of a child by a parent or any other person.
 - (c) The involvement of the child in any sexual act with a parent or any other person, the aiding or toleration by the parent or the caretaker of the child's sexual involvement with any other person, the child's involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this state.
- (2) "Child" means a person under the age of eighteen years who has not been judicially emancipated or emancipated by marriage as provided by law.
- (3) "Child pornography" means visual depiction of a child engaged in actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals.
- (4) "Crime against the child" shall include the commission of or the attempted commission of any of the following crimes against the child as provided by federal or state statutes:
 - (a) Homicide.
 - (b) Battery.
 - (c) Assault.
 - (d) Rape.
 - (e) Sexual battery.
 - (f) Kidnapping.
 - (g) Criminal Neglect.
 - (h) Criminal Abandonment.
 - (i) Incest.
 - (j) Carnal knowledge of a juvenile.
 - (k) Indecent behavior with juveniles.
 - (l) Pornography involving juveniles.

- (m) Molestation of a juvenile.
- (n) Crime against nature.
- (o) Cruelty to juveniles.
- (p) Contributing to the delinquency or dependency of children.
- (q) Sale of minor children.

(5) "Neglect" means the unreasonable refusal or failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired. Consistent with Children's Code Article 606(B), the inability of a parent or caretaker to provide for a child's basic support, supervision, treatment, or services due to inadequate financial resources shall not, for that reason alone, be considered neglect. Whenever, in lieu of medical care, a child is being provided treatment in accordance with the tenets of a well-recognized religious method of healing which has a reasonable, proven record of success, the child shall not, for that reason alone, be considered to be neglected or maltreated. However, nothing herein shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child's health or welfare.

(6) "Nonprofit corporation" means a corporation formed in accordance with the provisions of Chapter 2 of Title 12 of the Louisiana Revised Statutes of 1950.

Acts 1994, 3rd Ex. Sess., No. 69, §1, eff. July 7, 1994; Acts 1995, No. 1305, §1, eff. June 29, 1995; Acts 2003, No. 749, §1.

PART II. MULTIDISCIPLINARY INVESTIGATIONS OF

ALLEGATIONS OF CHILD ABUSE AND NEGLECT

Art. 507. Purpose

The purpose of this Part is to protect children whose physical or mental health and welfare is substantially at risk of harm by sexual abuse, other physical abuse, neglect, or exploitation and who may be further threatened by the conduct of others, by providing a formal, comprehensive, integrated, multidisciplinary response to the investigation and disposition of cases of child abuse; by expediting and improving the validation or invalidation of such allegations for the benefit of the child, his family and any accused perpetrator; by encouraging the use of collaborative decisionmaking and case management thereby reducing to a minimum the number of times a child victim is questioned and examined, thus preventing further trauma to the child; by coordinating a therapeutic services program thereby providing safety and treatment for a child victim and his family; by developing communication and case coordination among community professionals and agencies who are involved in child protection; by collecting data needed to continually improve cooperative interagency investigations; and, by maintaining the confidentiality of agency records, to ensure the protection of the privacy of the child, his family and any accused perpetrator.

Acts 2003, No. 749, §1.

CHAPTER 3-B. REGISTRATION OF SEX OFFENDERS,

SEXUALLY VIOLENT PREDATORS, AND CHILD PREDATORS

§540. Findings; purpose

A. The legislature finds that sex offenders, sexually violent predators, and child predators often pose a high risk of engaging in sex offenses, and crimes against victims who are minors even after being released from incarceration or commitment and that protection of the public from sex offenders, sexually violent predators, and child predators is of paramount governmental interest. The legislature further finds that local law enforcement officers' efforts to protect their communities, conduct investigations, and quickly apprehend offenders who commit sex offenses and crimes against victims who are minors, are impaired by the lack of information available to law enforcement agencies about convicted sex offenders, sexually violent predators, and child predators who live within the agency's jurisdiction, and the penal and mental health components of our justice system are largely hidden from public view and that lack of information from either may result in failure of both systems to meet this paramount concern of public safety. Restrictive confidentiality and liability laws governing the release of information about sex offenders, sexually violent predators, and child predators have reduced willingness to release information that could be appropriately released under the public disclosure laws, and have increased risks to public safety. Persons found to have committed a sex offense or a crime against a victim who is a minor have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Release of information about sex offenders, sexually violent predators, and child predators to public agencies, and under limited circumstances to the general public, will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems so long as the information released is rationally related to the furtherance of those goals.

B. Therefore, this state's policy is to assist local law enforcement agencies' efforts to protect their communities by requiring sex offenders, sexually violent predators, and child predators to register with state and local law enforcement agencies and to require the exchange of relevant information about sex offenders, sexually violent predators, and child predators among state, local, and federal public agencies and officials and to authorize the release of necessary and relevant information about sex offenders, sexually violent predators, and child predators to members of the general public as provided in this Chapter.

Acts 1992, No. 388, §1, eff. June 18, 1992; Acts 1997, No. 1147, §1, eff. July 14, 1997.

TITLE VI

CHILD IN NEED OF CARE

CHAPTER 1. PRELIMINARY PROVISIONS; DEFINITIONS

Art. 601. Purpose

The purpose of this Title is to protect children whose physical or mental health and welfare is substantially at risk of harm by physical abuse, neglect, or exploitation and who may be further threatened by the conduct of others, by providing for the reporting of suspected cases of abuse, exploitation, or neglect of children; by providing for the investigation of such complaints; and by providing, if necessary, for the resolution of child in need of care proceedings in the courts. The proceedings shall be conducted expeditiously to avoid delays in achieving permanency for children. This Title is intended to provide the greatest possible protection as promptly as possible for such children. The health, safety, and best interest of the child shall be the paramount concern in all proceedings under this Title. This Title shall be construed in accordance with Article 102. This Title shall be administered and interpreted to avoid unnecessary interference with family privacy and trauma to the child, and yet, at the same time, authorize the protective and preventive intervention needed for the health, safety, and well-being of children.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1999, No. 449, §1, eff. July 1, 1999.

Art. 603. Definitions

As used in this Title:

- (1) "Abuse" means any one of the following acts which seriously endanger the physical, mental, or emotional health and safety of the child:
 - (a) The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.
 - (b) The exploitation or overwork of a child by a parent or any other person.
 - (c) The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the child's sexual involvement with any other person or of the child's involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this state.
- (2) "Administrative review body" means a panel of appropriate persons, at least one of whom is not responsible for the case management of or delivery of services to either the child or the parents who are the subject of the review, including the citizen review boards, state hearing examiners, special department reviewers, or department personnel.
- (3) "Caretaker" means 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, or other person providing a residence for the child.
- (4) "Case review hearing" means a review hearing by a court or administrative review body for the purpose of determining the continuing necessity for and appropriateness of the child's placement, to determine the extent of compliance with the case plan, to determine the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement, and to project a likely date by which the child may be permanently placed.
- (5) "Child" means a person under eighteen years of age who, prior to juvenile proceedings, has not been judicially emancipated under Civil Code Article 385 or emancipated by marriage under Civil Code Articles 379 through 384.
- (6) "Child care agency" means any public or private agency exercising custody of a child.
- (7) "Child pornography" means visual depiction of a child engaged in actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals.
- (7.1) "Concurrent planning" means departmental efforts to preserve and reunify a family, or to place a child for adoption or with a legal guardian which are made simultaneously.
- (8) "Court-appointed or court-approved administrative body" means a body appointed or approved by a court and subject to the court's supervision for the purposes of assisting the court with permanency hearings, including magistrates or other court or noncourt personnel. This body shall not be a part of the Department of Social Services or the Department of Public Safety and Corrections, nor subject to the supervision or direction of either department.
- (9) "Crime against the child" shall include the commission of or the attempted commission of any of the following crimes against the child as provided by federal or state statutes:
 - (a) Homicide.
 - (b) Battery.

- (c) Assault.
 - (d) Rape.
 - (e) Sexual battery.
 - (f) Kidnapping.
 - (g) Criminal neglect.
 - (h) Criminal abandonment.
 - (i) Incest.
 - (j) Carnal knowledge of a juvenile.
 - (k) Indecent behavior with juveniles.
 - (l) Pornography involving juveniles.
 - (m) Molestation of a juvenile.
 - (n) Crime against nature.
 - (o) Cruelty to juveniles.
 - (p) Contributing to the delinquency or dependency of children.
 - (q) Sale of minor children.
- (10) "Department" means the Louisiana Department of Social Services.
- (11) Repealed by Acts 449, §2, eff. July 1, 1999.
- (12) "Foster care" means placement in a foster family home, a relative's home, a residential child caring facility, or other living arrangement approved and supervised by the state for provision of substitute care for a child in the department's custody. Such placement shall not include a detention facility.
- (12.1) "Institutional abuse or neglect" means any case of child abuse or neglect that occurs in any public or private facility that provides residential child care, treatment, or education.
- (13) "Mandatory reporter" is any of the following individuals performing their occupational duties:
- (a) "Health practitioner" is any individual who provides health care services, including a physician, surgeon, physical therapist, dentist, resident, intern, hospital staff member, podiatrist, chiropractor, licensed nurse, nursing aide, dental hygienist, any emergency medical technician, a paramedic, optometrist, medical examiner, or coroner, who diagnoses, examines, or treats a child or his family.
 - (b) "Mental health/social service practitioner" is any individual who provides mental health care or social service diagnosis, assessment, counseling, or treatment, including a psychiatrist, psychologist, marriage or family counselor, social worker, member of the clergy, aide, or other individual who provides counseling services to a child or his family.

(c) "Member of the clergy" is any priest, rabbi, duly ordained clerical deacon or minister, Christian Science practitioner, or other similarly situated functionary of a religious organization, except that he is not required to report a confidential communication, as defined in Code of Evidence Article 511, from a person to a member of the clergy who, in the course of the discipline or practice of that church, denomination, or organization, is authorized or accustomed to hearing confidential communications, and under the discipline or tenets of the church, denomination, or organization has a duty to keep such communications confidential. In that instance, he shall encourage that person to report the allegations to the appropriate authorities in accordance with Article 610.

(d) "Teaching or child care provider" is any person who provides training and supervision of a child, including any public or private teacher, teacher's aide, instructional aide, school principal, school staff member, social worker, probation officer, foster home parent, group home or other child care institutional staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, or any individual who provides such services to a child.

(e) Police officers or law enforcement officials.

(f) "Commercial film and photographic print processor" is any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides for compensation.

(g) Mediators appointed pursuant to Chapter 6 of Title IV.

(14) "Neglect" means the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired. Consistent with Article 606(B), the inability of a parent or caretaker to provide for a child due to inadequate financial resources shall not, for that reason alone, be considered neglect. Whenever, in lieu of medical care, a child is being provided treatment in accordance with the tenets of a well-recognized religious method of healing which has a reasonable, proven record of success, the child shall not, for that reason alone, be considered to be neglected or maltreated. However, nothing herein shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child's health or welfare.

(14.1) "Permanency hearing" means a hearing for the purpose of determining the permanent plan for the child.

(15) "Permanent placement" means:

(a) Return of the legal custody of a child to his parent(s).

(b) Placement of the child with adoptive parents pursuant to a final decree of adoption.

(c) Placement of the child with a legal guardian.

(16) "Person" means any individual, partnership, association, agency, or corporation, and specifically shall include city, parish, or state law enforcement agencies, and a parish or city school board or a person employed by a parish or city school board.

(17) "Reasonable efforts" means the exercise of ordinary diligence and care by department caseworkers and supervisors and shall assume the availability of a reasonable program of services to children and their families.

Acts 1991, No. 235, §6, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1993, No. 634, §1, eff. June 15, 1993; Acts 1995, No. 444, §1, eff. June 17, 1995; Acts 1999, No. 449, §§1, 2, eff. July 1,

1999; Acts 1999, No. 769, §1, eff. July 2, 1999; Acts 1999, No. 894, §1; Acts 2001, No. 567, §1; Acts 2003, No. 567, §1; Acts 2003, No. 1187, §1.

Art. 1003. Definitions

(1) "Abuse" means any of the following acts which seriously endanger the physical, mental, or emotional health and safety of the child:

(a) The infliction or attempted infliction, or, as a result of inadequate supervision, the allowance or toleration of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.

(b) The exploitation or overwork of a child by a parent or any other person.

(c) The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the child's sexual involvement with any other person or of the child's involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this state.

(2) "Agency" shall include the Department of Social Services, the corresponding department of any other state, and those private agencies and institutions licensed for the placement of children for adoption by the Department of Social Services or by the corresponding department of any other state.

(3) "Child in need of care" means a child adjudicated as such under Title VI.

(4) "Dangerous to others" means the condition of a person whose behavior or significant threats support a reasonable expectation that there is a substantial risk that he will inflict physical harm upon another person in the near future.

(5) "Dangerous to self" means the condition of a person whose behavior, significant threats, or inaction supports a reasonable expectation that there is a substantial risk that he will inflict physical or severe emotional harm upon his own person.

(6) "Department" means the Louisiana Department of Social Services.

(7) "Grave disability" means the condition of a person who is unable to provide for his own basic physical needs, such as essential food, clothing, medical care, and shelter, as a result of serious mental illness or substance abuse and is unable to survive safely in freedom or protect himself from serious harm. The term also includes incapacitation by alcohol, which means the condition of a person who, as a result of the use of alcohol, is unconscious or whose judgment is otherwise so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.

(8) "Mental deficiency" means significantly subaverage intellectual functioning existing concurrently with deficits in adaptive behavior, as determined by a psychiatrist or psychologist and manifested during the developmental period.

(9) "Mental illness" means a psychiatric disorder which has substantial adverse effects on the parent's ability to function and which requires care and treatment as determined by a psychiatrist or psychologist. It does not include a person suffering solely from mental retardation, epilepsy, alcoholism, or drug abuse.

(10) "Neglect" means the refusal or failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired. Whenever, in lieu of medical care, a child is being provided treatment in accordance with the tenets of a well-recognized religious method of healing which has a reasonable, proven record of success, the child

shall not, for that reason alone, be considered to be neglected or abused. Disagreement by the parent regarding the need for medical care shall not, by itself, be grounds for termination of parental rights. However, nothing herein shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child's health or welfare.

(11) "Permanent placement" means either placement of the child with a legal guardian or placement of the child with adoptive parents pursuant to a final decree of adoption.

(12) "Starvation" means mistreatment causing suffering from extreme hunger or malnourishment.

(13) "Substance abuse" means the condition of a person who uses narcotic, stimulant, depressant, soporific, tranquilizing, or hallucinogenic drugs or alcohol to the extent that it renders the person dangerous to himself or others or renders the person gravely disabled.

(14) "Torture" means torment, maiming, mutilation, or ritualistic or malicious acts causing extreme and unjustifiable physical or mental pain or suffering, disfigurement, or injury.

Acts 1991, No. 235, §10, eff. Jan. 1, 1992; Acts 1992, No. 705, §1, eff. July 6, 1992; Acts 1997, No. 256, §1; Acts 1999, No. 449, §1, eff. July 1, 1999.

§81.1. Pornography involving juveniles

A. Pornography involving juveniles is any of the following:

(1) The photographing, videotaping, filming, or otherwise reproducing visually of any sexual performance involving a child under the age of seventeen.

(2) The solicitation, promotion, or coercion of any child under the age of seventeen for the purpose of photographing, videotaping, filming, or otherwise reproducing visually any sexual performance involving a child under the age of seventeen.

(3) The intentional possession, sale, distribution, or possession with intent to sell or distribute of any photographs, films, videotapes, or other visual reproductions of any sexual performance involving a child under the age of seventeen.

(4) The consent of a parent, legal guardian, or custodian of a child under the age of seventeen for the purpose of photographing, videotaping, filming, or otherwise reproducing visually any sexual performance involving the child.

B. For purposes of this Section the following definitions shall apply:

(1) "Sexual performance" means any performance or part thereof that includes sexual conduct involving a child under the age of seventeen.

(2) "Performance" means any play, motion picture, photograph, dance, or other visual presentation.

(3) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals.

(4) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, prevent, exhibit, or advertise, or to offer or agree to do the same.

C. Possession of three or more of the same photographs, films, videotapes, or other visual reproductions shall be prima facie evidence of intent to sell or distribute.

D. Lack of knowledge of the juvenile's age shall not be a defense.

E. Whoever commits the crime of pornography involving juveniles shall be fined not more than ten thousand dollars and be imprisoned at hard labor for not less than two years or more than ten years, without benefit of parole, probation, or suspension of sentence.

F. Any evidence of pornography involving a child under the age of seventeen shall be contraband. Such contraband shall be seized in accordance with law and shall be disposed of in accordance with R.S. 46:1845.

G. In prosecutions for violations of this Section, the trier of fact may determine, utilizing the following factors, whether or not the person displayed or depicted in any photograph, videotape, film, or other video reproduction introduced in evidence was under the age of seventeen years at the time of filming or recording:

- (1) The general body growth, bone structure, and bone development of the person.
- (2) The development of pubic or body hair on the person.
- (3) The development of the person's sexual organs.
- (4) The context in which the person is placed or the age attributed to the person in any accompanying video, printed, or text material.
- (5) Available expert testimony and opinion as to the chronological age or degree of physical or mental maturity or development of the person.
- (6) Such other information, factors, and evidence available to the trier of fact which the court determines is probative and reasonably reliable.

Added by Acts 1977, No. 97, §1. Amended by Acts 1981, No. 502, §1, eff. July 19, 1981, Acts 1983, No. 655, §1; Acts 1986, No. 777, §1; Acts 1992, No. 305, §1; Acts 2003, No. 1245, §1.

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