

Summary: LA SCHOOL AND STUDENT SAFETY – 2018 Regular Session Act #716, eff. 8.1.2018

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La. R.S.17:409.1. Short title

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

R.S.17:409.2. 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.

(3) The term "threat of terrorism" 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 crime of violence that would reasonably cause any student, teacher, principal, or school employee to be in sustained fear for his safety, cause the evacuation of a building, or cause other serious disruption to the operation of a school.

R.S.17:409.3. Mandatory reporting

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

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

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

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

R.S.17:409.4. Threat assessment

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

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

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

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

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

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

R.S.17:409.5. Restrictions and mandatory evaluation

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

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

(i) The court shall assign a time and place not later than seven calendar days thereafter for a hearing upon the petition and shall cause reasonable notice thereof to be given to the student, his attorney, and the petitioner. The notice shall inform the student that he has the right to be present at the hearing; the right to counsel; if indigent or otherwise qualified, the right to have counsel appointed to represent him; And the right to cross examine witnesses testifying at any hearing on such application.

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

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

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

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

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

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

(5)(a) If the student refuses to be examined by the court-appointed medical or mental health professional or if the judge, after reviewing the petition and affidavit and the report of the treating medical or mental health professional, finds that the student is a danger to himself or others, that he is mentally ill or suffering from substance abuse and in need of immediate hospitalization to protect himself or others from physical harm, or that his condition may be markedly worsened by delay, the court may issue a court order for custody of the student, and a peace officer shall deliver him to a treatment facility designated by the court. The court shall not order custody to the LA Dept of Health or placement with a LDOH treatment facility without prior notice given to the 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 *** is not a student, he shall not be allowed within 500' 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. ***