

Regular Session, 2013

HOUSE BILL NO. 226

BY REPRESENTATIVE RICHARD

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

CRIME/SEX OFFENSES: Creates the crime of prohibited sexual contact between a psychotherapist and a client or patient

1 AN ACT

2 To enact R.S. 14:89.7, relative to prohibited sexual contact by psychotherapists; to create the
3 crime of prohibited sexual contact by a psychotherapist; to provide for elements of
4 the crime; to provide for exceptions; to provide for definitions; to provide for
5 criminal penalties; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:89.7 is hereby enacted to read as follows:

8 6. SEXUAL OFFENSES CONCERNING PROFESSIONAL MISCONDUCT

9 §89.7. Prohibited sexual contact by a psychotherapist

10 A. It shall be unlawful for any psychotherapist, or any person who
11 fraudulently represents himself as or purports to be a psychotherapist, to engage in
12 sexual contact with either of the following:

13 (1) A client or patient.

14 (2)(a) A former client or former patient, when the relationship was
15 terminated primarily for the purpose of engaging in the sexual contact.

16 (b) It shall not be a violation of the provisions of this Section if the sexual
17 contact between the psychotherapist and the former patient or former client occurs
18 more than one year after the termination of the relationship and the psychotherapist
19 has referred the former patient or former client to an independent and objective
20 psychotherapist, recommended by a third-party psychotherapist, for treatment.

1 B. Consent of the patient or client shall not be a defense, regardless of the
2 age of the patient or client.

3 C. For purposes of this Section:

4 (1) "Psychotherapist" means any of the following:

5 (a) A psychiatrist licensed pursuant to R.S. 37:1261 et seq.

6 (b) A psychologist licensed pursuant to R.S. 37:2351 et seq., or a medical
7 psychologist licensed pursuant to R.S. 37:1360.51 et seq.

8 (c) A licensed clinical social worker licensed pursuant to R.S. 37:2701 et
9 seq.

10 (d) A mental health counselor licensed pursuant to R.S. 37:1101 et seq.

11 (e) Any other person who provides or purports to provide treatment,
12 diagnosis, assessment, evaluation, or counseling of any mental, emotional,
13 behavioral, or addictive illnesses, disorders, symptoms, or conditions.

14 (2) "Sexual contact" means any of the following:

15 (a) Anal, oral, or vaginal sexual intercourse. Emission is not necessary, and
16 penetration, however slight, is sufficient to complete the crime.

17 (b) Touching of the anus or genitals of the patient or client by the
18 psychotherapist using any instrumentality or any part of the body of the
19 psychotherapist.

20 (c) Touching of the anus or genitals of the psychotherapist by the patient or
21 client using any instrumentality or any part of the body of the patient or client, if
22 done at the request of the psychotherapist.

23 (d) "Sexual contact" shall also include a request by the psychotherapist for
24 the conduct described in Subparagraphs (a) through (c) of this Paragraph.

25 (3) "Therapeutic deception" means a representation by the psychotherapist
26 to the patient or client that sexual contact by the psychotherapist is consistent with
27 or part of the treatment of the patient or client.

28 D.(1) Whoever violates the provisions of this Section shall be imprisoned for
29 not more than ten years, fined not more than ten thousand dollars, or both.

- 1 (2) Whoever violates the provisions of this Section by means of therapeutic
 2 deception shall be imprisoned for not more than fifteen years, fined not more than
 3 twenty thousand dollars, or both.

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)]

Richard

HB No. 226

Abstract: Creates the crime of prohibited sexual contact by a psychotherapist and provides for elements of the crime, definitions, exceptions, and criminal penalties for the commission of the offense.

Proposed law provides that it shall be unlawful for any psychotherapist, or any person who fraudulently represents himself as or purports to be a psychotherapist, to engage in sexual contact with either of the following:

- (1) A client or patient.
- (2) A former client or patient, when the relationship was terminated primarily for the purpose of engaging in the sexual contact.

When the victim is a former client or former patient, proposed law provides that the sexual contact is not prohibited if it occurs more than one year after the termination of the relationship and the psychotherapist has referred the former patient or former client to an independent and objective psychotherapist, recommended by a third-party psychotherapist, for treatment.

Proposed law provides that the consent of the patient or client shall not be a defense.

Proposed law provides definitions for "psychotherapist", "sexual contact", and "therapeutic deception".

Proposed law provides for the following penalties:

- (1) Imprisonment for not more than 10 years, fined not more than \$10,000, or both.
- (2) If the sexual contact occurs by means of "therapeutic deception" - imprisonment for not more than 15 years, fined not more than \$20,000, or both.

(Adds R.S. 14:89.7)