

2021 Regular Session

HOUSE BILL NO. 325

BY REPRESENTATIVE LARVADAIN

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

CRIMINAL/PROCEDURE: Provides with respect to the procedure of arrest of persons with minor or dependent children

1 AN ACT

2 To enact R.S. 40:2405.9 and Code of Criminal Procedure Article 223, relative to the arrest
3 of persons with minor or dependent children; to provide for the establishment of
4 guidelines and training for law enforcement officers regarding the arrest of persons
5 with minor or dependent children; to require the Council on Peace Officer Standards
6 and Training to develop the guidelines and training in conjunction with certain
7 organizations; to provide for certain requirements of law enforcement officers upon
8 arrest of a person; to provide for exceptions; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:2405.9 is hereby enacted to read as follows:

11 §2405.9. Identification of minor or dependent children of an arrested person;
12 guidelines and training

13 A. The Council on Peace Officer Standards and Training shall develop
14 guidelines and provide training for law enforcement agencies on identifying and
15 ensuring the safety of minor or dependent children upon the arrest of the child's
16 parent or guardian.

17 B. The guidelines and training shall include all of the following:

18 (1) Procedures to ensure that law enforcement officers inquire or otherwise
19 ascertain whether an arrested person has minor or dependent under his care, custody,
20 or control at the time of the arrest.

1 (2) Procedures for the proper arrangement of temporary care for children to
2 ensure their safety and well-being with a priority on placing children with supportive
3 family members and trusted adults.

4 (3) Education on how witnessing a violent crime or other event causes
5 emotional harm to children and how law enforcement can assist in mitigating the
6 long-term effects of the trauma.

7 (4) Procedures for reporting on the number of instances requiring a referral
8 to a partner organization or transportation of the child to a child advocacy center
9 when the child is unable to be placed with a family member.

10 (5) Procedures to ensure law enforcement officers receive annual training as
11 mandatory reporters of child abuse or neglect in accordance with Children's Code
12 Article 609.

13 C. The council shall work in conjunction with and receive input from
14 appropriate non-governmental organizations and other relevant organizations that are
15 invested in the rights of children with incarcerated parents to develop and establish
16 the guidelines and training program required by this Section.

17 D. Nothing in this Section shall preclude a law enforcement officer's
18 responsibility as a mandatory reporter to report suspected child abuse or neglect in
19 accordance with Children's Code Article 603.

20 Section 2. Code of Criminal Procedure Article 223 is hereby enacted to read as
21 follows:

22 Art. 223. Identification of minor or dependent children upon arrest; required
23 inquiry; guidelines

24 A. A state or local law enforcement officer who arrests a person shall, at the
25 time of the arrest, do all of the following if practicable:

26 (1) Inquire whether the person is a parent or guardian of a minor or
27 dependent child under the care, custody, or control of the arrested person at the time
28 of the arrest, who may be at risk as a result of the arrest.

1 (2) Ascertain whether a child is present, relying on all available information
2 including any information received from emergency call operators and any
3 indications at the scene of arrest that a child may be present or at another location.

4 (3) Permit an arrested person a reasonable opportunity, including providing
5 access to telephone numbers stored in a mobile telephone or other location, to make
6 alternate arrangements for the care of a child under his care, custody, or control,
7 including a child who is not present at the scene of the arrest, and to provide a
8 partner organization with contact information of a preferred alternate caregiver.

9 (4) Provide an arrested person the opportunity to speak with a child who is
10 present, prior to such caregiver being transported to a police facility. If such an
11 opportunity is not practicable, having a police officer explain to such child, using age
12 appropriate language, that such child did nothing wrong and that the child will be
13 safe and cared for.

14 (5) Make reasonable efforts to ensure the safety of minor or dependent
15 children at risk as a result of an arrest in accordance with guidelines established
16 pursuant to R.S. 40:2405.9.

17 B. Law enforcement officers are not required to adhere to the guidelines of
18 Subsection A of this Section if any of the following circumstances are present:

19 (1) The arrested caregiver presents a threat of serious bodily injury or death
20 to himself, others, or the law enforcement officer.

21 (2) The arrested caregiver is in the act of committing a crime of violence as
22 defined in R.S. 14:2(B).

23 (3) The law enforcement officer has exercised due diligence, based on all
24 available information, and ascertains that no minor children are under the arrested
25 person's care, custody, or control.

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 325 Reengrossed

2021 Regular Session

Larvadain

Abstract: Requires the development of guidelines and training for law enforcement agencies on identifying and ensuring the safety of minor or dependent children upon the arrest of the child's parent or guardian.

Proposed law requires the Council on Peace Officer Standards and Training to develop guidelines and provide training for law enforcement agencies on identifying and ensuring the safety of minor or dependent children upon the arrest of the child's parent or guardian.

Proposed law requires the guidelines and training to include all of the following:

- (1) Procedures to ensure that law enforcement officers inquire whether an arrested person has minor or dependent children under the care, custody, or control of the arrested person at the time of arrest, who may be at risk as a result of the arrest.
- (2) Procedures for the proper arrangement of temporary care for children to ensure their safety and well-being with a priority on placing children with supportive family members and trusted adults.
- (3) Education on how the effects of witnessing a violent crime or other events causes emotional harm to children and how law enforcement can assist in mitigating the long-term effects of the trauma.
- (4) Procedures for reporting on number of instances requiring a referral to a partner organization or transportation of the child to a child advocacy center when the child is unable to be placed with a family member.
- (5) Procedures to ensure law enforcement officers receive annual training as mandatory reporters of child abuse or neglect.

Proposed law requires the council to work in conjunction with and receive input from appropriate non-governmental organizations and other relevant organizations that are invested in the rights of children with incarcerated parents to develop and establish the guidelines and training program.

Proposed law provides that law enforcement officers shall not be prevented, as mandatory reporters, from reporting suspected child abuse or neglect.

Proposed law requires state and local law enforcement officers who arrest a person to, at the time of the arrest, inquire whether the person is a parent or guardian of a minor or dependent child who may be at risk as a result of the arrest.

Proposed law further requires officers to make reasonable efforts to ensure the safety of minor or dependent children at risk as a result of an arrest in accordance with guidelines established pursuant to proposed law.

Proposed law exempts law enforcement officers from adhering to guidelines in proposed law if any of the following circumstances are present:

- (1) The arrested caregiver presents a threat of serious bodily injury or death to himself, others, or the law enforcement officer.
- (2) The arrested caregiver is in the act of committing a crime of violence.
- (3) The law enforcement officer has exercised due diligence, based on all available information, and ascertains that no minor children are under the arrested person's care, custody, or control.

(Adds R.S. 40:2405.9 and C.Cr.P. Art. 223)

Summary of Amendments Adopted by House

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

1. Remove reference to placing children in a government agency.
2. Add a guideline to ensure law enforcement officers receive annual training as mandatory reporters of child abuse or neglect.
3. Add a provision to maintain the responsibility of law enforcement officers as mandatory reporters of child abuse or neglect.
4. Remove the department as a possible recipient of a preferred alternate caregiver's contact information.

The House Floor Amendments to the engrossed bill:

1. Make technical amendments.
2. Specify that a minor or dependent child must be under the care, custody, or control of an arrested person at the time of the arrest for the requirements of proposed law to apply.
3. Change "caregiver" to "person".
4. Provide for exceptions that limit the responsibility of law enforcement officers.