

2021 Regular Session

HOUSE BILL NO. 325

BY REPRESENTATIVE LARVADAIN AND SENATORS BERNARD AND LUNEAU

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 a minor or dependent under his care,  
20 custody, or control at the time of the arrest.

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

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

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

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

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

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

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

19           Art. 223. Identification of minor or dependent children upon arrest; required  
 20           inquiry; guidelines

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

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

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

29           (3) Permit an arrested person a reasonable opportunity, including providing  
 30           access to telephone numbers stored in a mobile telephone or other location, to make

1 alternate arrangements for the care of a child under his care, custody, or control,  
2 including a child who is not present at the scene of the arrest, and to provide a  
3 partner organization with contact information of a preferred alternate caregiver.

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

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

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

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

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

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

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_