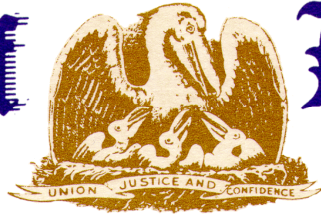


State of Louisiana



EXECUTIVE DEPARTMENT

EXECUTIVE ORDER NO. BJ 2014 – 14

UNIFORMITY OF POLICIES RELATED TO THE CRIME OF SEXUAL ASSAULT

WHEREAS, Article I, Section 1 of the Louisiana Constitution is titled “Origin and Purpose of Government”, and provides

“All government, of right, originates with the people, is founded on their will alone, and is instituted to protect the rights of the individual and for the good of the whole. Its only legitimate ends are to secure justice for all, preserve peace, protect the rights, and promote the happiness and general welfare of the people. The rights enumerated in this Article are inalienable by the state and shall be preserved inviolate by the state.”;

WHEREAS, Article IV, Section 5 establishes the governor as the chief executive officer of the State and charged with the duty to faithfully support the constitution and laws of the State and see that the laws are faithfully executed;

WHEREAS, sexual assault is a horrendous crime that creates physical and emotional damage to victims, for which special measures must be taken by every public officer and agency in this state in order to bring the perpetrators to justice and assist the victims in their recovery;

WHEREAS, within the executive branch, Article VIII, Section 5 creates the Board of Regents with responsibilities to plan, coordinate, and have budgetary responsibilities for all public postsecondary education institutions;

WHEREAS, public postsecondary education institutions under the Board of Regents in this state have separately implemented measures to address the reporting of sexual assault on their campuses, and the prevention of such crimes;

WHEREAS, these separate measures implemented by the individual public postsecondary education institutions, while well-intentioned, are in some cases outdated and create a fractured approach to this critical issue that would benefit from a statewide uniformity of best practices that can be provided by the Board of Regents exercising its constitutional authority to coordinate among these institutions;

WHEREAS, the Crime Victims Reparations Board, created in statute under the jurisdiction of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, is responsible for assisting victims of crime with the financial losses caused by the crime, and is charged with administering this vital program in accordance with law and the administrative rules which it has promulgated;

WHEREAS, reports indicate the existence of discrepancies between the enabling statutes of the Crime Victims Reparations Board and the rules it has promulgated, and that such discrepancies should be identified and eliminated immediately;

WHEREAS, reports indicate that, in some parts of this state, victims of sexual assault are requested or required to submit to polygraph examination as part of the law enforcement investigation of the crime;

WHEREAS, La. R.S. 15:241 plainly prohibits such a request or requirement, and states “No law enforcement officer, prosecutor, or other governmental official shall request or require any victim, regardless of age, of an alleged sex offense as defined in R.S. 15:541 to submit to a polygraph examination or other device used to measure the truthfulness of the victim as a condition of proceeding with the investigation of the offense.”;

WHEREAS, it is the goal of this administration that a victim of sexual assault not be billed for the financial cost of forensic or other testing incident to the crime whether the victim reports the crime to law enforcement or not, that such bills be sent for payment directly to the Crime Victims Reparations Board, and that this outcome will require a change in statutory law;

WHEREAS, it is incumbent upon the public officers and agencies, with a role to play in bringing the perpetrators to justice and assisting the victims in their recovery, to coordinate their efforts to ensure that this vital issue is addressed immediately.

NOW THEREFORE, I, BOBBY JINDAL, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Board of Regents shall coordinate uniform policies and best practices among the public postsecondary education institutions to implement measures to address the reporting of sexual assault on their campuses, the prevention of such crimes, and the medical and mental health care needed for these victims;

SECTION 2: A. The Crime Victims Reparations Board is directed to immediately revise such administrative rules, policies and practices under R.S. 46: 1809 as they pertain to victims of sexual assault that take into account prior behavior of the victim at the time of the crime giving rise to the claim was such that the victim bears some measure of responsibility for the crime that caused the physical injury, death, or catastrophic property loss or for the physical injury, death, or catastrophic property loss to eliminate any such that contain determinations made based on any of the following:

1. The manner in which the victim was dressed at the time of the assault;
2. Where the victim was prior to the sexual assault;
3. The time of the sexual assault;
4. Whether the victim was or may have been under the influence of alcohol or drugs;
5. Whether the victim had a previous sexual relationship with the offender;
6. Whether the victim was married to the offender;
7. Whether the victim was dating the offender;
8. Whether the victim consented to prior sexual activity with the offender;
9. The occupation of the victim;
10. Whether the victim has a history of prior sexual assaults;
11. Whether the victim has a criminal record;
12. Whether the victim consented to the sexual act if the victim is below the age of consent mentally defective, mentally incapacitated or physically helpless;
13. Whether the victim continued to live with the offender after the assault; and
14. Whether the victim has a familial relationship to the offender.

B. The Crime Victims Reparations Board is further directed to review and evaluate the eligibility of non-governmental organizations to serve as a partner or as a sub-grantee of the federal STOP grant program or other federal grant programs within its purview, in order to reimburse hospitals for victim services and offset programmatic costs.

C. The Crime Victims Reparations Board is further directed to immediately revise such administrative rules, policies and practices under R.S. 46:1809 as they pertain to victims of sexual assault that take into account the extent that the pecuniary loss is recouped from collateral or other sources to clarify that the victim has the discretion to choose whether or not to file for private insurance or Medicaid coverage of associated charges.

SECTION 3: All departments, budget units, agencies, offices, entities, and officers of the executive branch of the State of Louisiana are authorized and directed to cooperate in the implementation of the provisions of this Order.

SECTION 4: Nothing in this Order shall be applied in a manner which violates, or is contrary to, the Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA), the Health Insurance Portability and Accountability Act (HIPAA), or any other applicable federal or state law, rule, or regulation.

SECTION 5: The Order is effective October 20, 2014 and shall remain in effect modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 20th day of October, 2014.

/s/ Bobby Jindal
GOVERNOR OF LOUISIANA

ATTEST BY
THE GOVERNOR

/s/ Tom Schedler
SECRETARY OF STATE

