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## DIGEST

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HB 455 Original

2017 Regular Session

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**Abstract:** Provides relative to the registration and notification requirements of persons convicted of a sex offense or a criminal offense against a victim who is a minor.

Present law requires persons convicted of a sex offense or criminal offense against a victim who is a minor to register and provide notification pursuant to present law and provides for the duration of the registration and notification requirements.

For purposes of determining who is required to register and provide notification, present law (R.S. 15:541) defines "conviction or other disposition adverse to the subject" as any disposition of charges except a decision not to prosecute, a dismissal, or an acquittal, except when the acquittal is due to a finding of not guilty by reason of insanity and the person was committed. However, a dismissed entered after a period of probation, suspension, or deferral of sentence shall be considered a disposition adverse to the subject.

Proposed law amends present law (R.S. 15:541) to define "conviction" as including a plea of guilty, deferred adjudication, or adjudication withheld for the perpetration or attempted perpetration of or conspiracy to commit a "sex offense" or "criminal offense against a victim who is a minor" as defined by present law (R.S. 15:541). Further clarifies that a dismissal entered after a period of probation, suspension, or deferral of sentence shall be considered a "conviction" for purposes of present law.

Present law (R.S. 15:544) requires an offender to register and provide notification for 15 years, 25 years, or for the lifetime of the offender based upon the offense for which the offender was convicted and whether the person was previously convicted of an offense which requires registration. Present law (R.S. 15:544) provides that the person is not required to register and provide notification if the offender is pardoned or if the underlying conviction for which the offender was required to register and provide notification is reversed, set aside, or vacated.

Proposed law provides that those offenders who receive a pardon as a first-time offender pursuant to present law (La. Const. Art. IV, §5(E)(1) and R.S. 15:572(B)(1)) are required to register and provide notification, and provides that the exception for those persons whose convictions were reversed, set aside, or dismissed does not apply, and the person will be required to register and provide notification if the underlying conviction was reversed, set aside, or vacated after successful completion of a period of probation pursuant to present law (C.Cr.P. Arts. 893 and 894).

Present law (R.S. 15:544) authorizes an offender required to register for 15 years or an offender

required to register for the duration of his lifetime to file a petition to be relieved of the sex offender registration and notification requirements if the offender has maintained a "clean record" for a certain period of time. To maintain a clean record, the offender must meet certain requirements set forth in present law (R.S. 15:544) including successfully completing an appropriate sex offender treatment program.

Proposed law amends present law to provide that relief from the registration and notification requirements may be sought by motion instead of petition and provides that such motion can only be considered by the court if accompanied by documentation of completion of an appropriate sex offender treatment program.

With regard to these motions for relief from the registration and notification requirements, proposed law (R.S. 15:544) provides for the following procedures, duties, and authorities relative to the district attorney, state police, and the Sexual Predator Apprehension Team of the La. Dept. of Justice:

- (1) The district attorney, state police, and the Sexual Predator Apprehension Team shall be served with a copy of the motion and documentation related to the successful completion of the appropriate sex offender treatment program.
- (2) Upon receipt of the motion and documentation, the following shall occur:
  - (a) State police issues a certification of the offender's history of registration in La.
  - (b) The Sexual Predator Apprehension Team determines whether the offender maintained a clean record as defined by present law.
  - (c) The district attorney determines if an objection to the motion is warranted based on continued concerns for public safety.
- (3) The court shall order a contradictory hearing to be held not less than 60 days after the date of the filing of the motion, notice of the hearing shall be provided to state police and the La. Dept. of Justice, and both shall have the right to oppose the motion.
- (4) The court may grant the offender's motion, if the offender proves, by clear and convincing evidence, that he has maintained a clean record for the requisite period of time and that continued registration and notification will no longer serve the purposes of the registration and notification requirements.

Present law (R.S. 15:544.1) requires petitions for injunctive relief or declaratory judgments regarding the application of the registration and notification requirements to certain offenders that are based on theories of relief or grounds not specifically provided for in the present law sex offender registration and notification provisions to be filed through ordinary civil proceedings in the district court for the parish where the state capitol is situated.

Proposed law amends present law to require any petitions regarding the application or interpretation

of the registration and notification requirements, except for certain summary proceedings regarding the offenses of carnal knowledge of a juvenile and crime against nature and motions for relief based on an offender maintaining a clean record, to be filed through ordinary civil proceedings in the district court for the parish where the state capitol is situated.

Present law (R.S. 15:544.2) provides procedures for the determination of an offender's registration end date and provides certain duties for state police and the La. Dept. of Justice in this regard.

Proposed law amends these provisions of present law as follows:

- (1) Provides that the procedure for determining the offender's registration end date begins at least 14 years from the date of initial registration in La., or from the date of the offender's latest release from any incarceration, except for a misdemeanor arrest or conviction or a felony arrest that does not result in a felony conviction, whichever is later.
- (2) Removes the requirement that the offender sign the notice informing him of his registration and notification period end date.
- (3) Requires the Sexual Predator Apprehension Team, within the La. Dept. of Justice, to review the offender's criminal history and registration history and post a prospective registration and notification period end date to the offender's file in the State Sex Offender and Child Predator Registry.
- (4) Provides that these provisions do not apply to any person who has been convicted of more than one offense that requires registration or to anyone convicted of an aggravated offense as defined by present law.
- (5) Authorizes the Sexual Predator Apprehension Team to determine the appropriate time period for registration in accordance with the provisions of present law. Further provides that these determinations are binding unless overturned by a court and that failure of the offender to timely file a petition for relief from this determination constitutes a waiver by the offender and makes the determination binding and final.
- (6) Provides that the Dept. of Justice is not required to make the determination of the registration and notification period end date for any offender who is incarcerated or living out of state. This determination shall be made once the offender is released from incarceration or returns to live in Louisiana and is under an active obligation to register and provide notification in this state.

(Amends R.S. 15:541(7), 544(A), (B)(1) and (2)(intro. para.), and (E)(1), (2), (3)(e), and (4), 544.1, 544.2(A)(1)(intro. para.), (a), and (c), (B)(intro. para.), (2), and (3), (C), (D), (E), (F), (G), and (H); Adds R.S. 15:544.2(B)(4), (I), (J), and (K))