

2017 Regular Session

SENATE BILL NO. 196

BY SENATOR CORTEZ

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

SEX OFFENSES. Provides relative to unlawful presence or contact of a sex offender.
(1/1/18)

AN ACT

To amend and reenact R.S. 14:91.9(A)(1) and (3) and (D)(2)(a) and enact R.S. 14:91.9(D)(3), relative to sex offenders; to prohibit sex offenders from residing or being physically present within a certain distance of a victim's immediate family; to prohibit sex offenders from communicating with a victim's immediate family; to provide for exceptions; to provide for affirmative defenses; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:91.9(A)(1) and (3) and (D)(2)(a) are hereby amended and reenacted and R.S. 14:91.9(D)(3) is hereby enacted to read as follows:

§91.9. Unlawful presence or contact of a sex offender relative to a former victim

A. It shall be unlawful for any person convicted of a sex offense as defined in R.S. 15:541 to do any of the following:

(1)(a) Establish a residence or physically reside within three miles of the victim of the offense for which he was convicted.

(b) Establish a residence or physically reside within three miles of an immediate family member of the victim of the offense for which he was

convicted.

* * *

(3) Communicate, either by electronic communication, in writing, or orally, with the victim of the offense for which he was convicted or an immediate family member of the victim, unless the victim **or an immediate family member of the victim** consents to such communication in writing and the communication is made pursuant to the provisions of R.S. 46:1846.

* * *

D.(1)(a)

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(2)(a) It shall be an affirmative defense to prosecution for a violation of Paragraph Subparagraph (A)(1)(a) of this Section if the property where the offender resides was occupied by the offender prior to August 1, 2012.

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(3)(a) It shall be an affirmative defense to prosecution for a violation of Paragraph (A)(1)(b) of this Section if the property where the offender resides was occupied by the offender prior to January 1, 2018.

(b) The affirmative defense provided in Subparagraph (a) of this Paragraph shall not be available to an offender who pleads guilty to or is convicted of a subsequent sex offense as defined in R.S. 15:541 against the same victim after January 1, 2018.

Section 2. This Act shall become effective on January 1, 2018; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on January 1, 2018, or on the day following such approval by the legislature, whichever is later.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Ashley Menou.

DIGEST

SB 196 Original

2017 Regular Session

Cortez

Present law prohibits any person convicted of a sex offense to establish a residence or physically reside within three miles of the victim of the offense for which he was convicted.

Proposed law retains present law and prohibits any person convicted of a sex offense to establish a residence or physically reside within three miles of an immediate family member

of the victim of the offense for which he was convicted.

Present law prohibits communication by the offender with the victim of the offense for which he was convicted or an immediate family member of the victim without the consent of the victim and requires the victim to have consented to the communication through the local prosecuting agency and the communication to be made through the counsel of the offender, counsel's staff or representative, or the offender himself if he is representing himself at trial.

Proposed law retains present law and prohibits communication by the offender with the victim of the offense for which he was convicted or an immediate family member of the victim without the consent of the victim or an immediate family member of the victim.

Present law defines "immediate family member" as the spouse, mother, father, aunt, uncle, sibling, or child of the victim, whether related by blood, marriage, or adoption.

Proposed law retains present law.

Proposed law creates an affirmative defense to prosecution if the property where the offender resides was occupied by the offender prior to January 1, 2018.

Proposed law provides that the affirmative defense shall not be available to an offender who pleads guilty to or is convicted of a subsequent sex offense against the same victim after January 1, 2018.

Effective January 1, 2018.

(Amends R.S. 14:91.9(A)(1) and (3) and (D)(2)(a); adds R.S. 14:91.9(D)(3))