



1 (B)(introductory paragraph), (2), and (3), (C), (D), (E), (F), (G), and (H) are hereby amended  
2 and reenacted and R.S. 15:544.2(B)(4), (I), (J), and (K) are hereby enacted to read as  
3 follows:

4 §541. Definitions

5 For the purposes of this Chapter, the definitions of terms in this Section shall  
6 apply:

7 \* \* \*

8 (7) "~~Conviction or other disposition adverse to the subject~~" means any  
9 disposition of charges, except adverse to the defendant, including a plea of guilty,  
10 deferred adjudication, or adjudication withheld for the perpetration or attempted  
11 perpetration of or conspiracy to commit a "sex offense" or "criminal offense against  
12 a victim who is a minor" as those terms are defined by this Section. "Conviction"  
13 shall not include a decision not to prosecute, a dismissal, or an acquittal, except when  
14 the acquittal is due to a finding of not guilty by reason of insanity and the person was  
15 committed. ~~However, a~~ A dismissal entered after a period of probation, suspension,  
16 or deferral of sentence shall be ~~considered a disposition adverse to the subject~~  
17 included in the definition of "conviction" for purposes of this Chapter.

18 \* \* \*

19 §544. Duration of registration and notification period

20 A. Except as provided for in Subsection B of this Section, a person required  
21 to register and provide notification pursuant to the provisions of this Chapter shall  
22 comply with the requirement for a period of fifteen years from the date of the initial  
23 registration in Louisiana, or the duration of the lifetime of the offender as provided  
24 in Subsection E of this Section, unless the underlying conviction is reversed, set  
25 aside, or vacated, except for those convictions that were reversed, set aside, or  
26 vacated pursuant to Code of Criminal Procedure Article 893 or 894, or a similar  
27 provision of federal law or law from another state or military jurisdiction. The  
28 requirement to register shall apply to an offender who is ~~pardoned~~ receives a pardon

1 as a first-time offender pursuant to Article IV, Section 5(E)(1) of the Constitution of  
2 Louisiana and R.S. 15:572(B)(1).

3 B.(1) A person required to register pursuant to this Chapter who was  
4 convicted of a sexual offense against a victim who is a minor as defined in R.S.  
5 15:541 shall register and maintain his registration and provide community  
6 notification pursuant to the provisions of this Chapter for a period of twenty-five  
7 years from the date of initial registration in Louisiana, or the duration of the lifetime  
8 of the offender as provided in Subsection E of this Section, unless the underlying  
9 conviction is reversed, set aside, or vacated, except for those convictions that were  
10 reversed, set aside, or vacated pursuant to Code of Criminal Procedure Article 893  
11 or 894, or a similar provision of federal law or law from another state or military  
12 jurisdiction. The requirement to register shall apply to an offender who ~~is pardoned~~  
13 receives a pardon as a first-time offender pursuant to Article IV, Section 5(E)(1) of  
14 the Constitution of Louisiana and R.S. 15:572(B)(1).

15 (2) Any of the following persons required to register pursuant to this Chapter  
16 shall register and provide notification for the duration of their lifetime, even if  
17 granted a first offender pardon, unless the underlying conviction is reversed, set  
18 aside, or vacated, except for those convictions that were reversed, set, aside, or  
19 vacated pursuant to Code of Criminal Procedure Article 893 or 894, or a similar  
20 provision of federal law or law from another state or military jurisdiction:

21 \* \* \*

22 E.(1) The registration period of fifteen years established in Subsection A of  
23 this Section may be reduced to a period of ten years if the offender maintains a clean  
24 record for the entire ten-year period of registration upon ~~petition~~ motion to be  
25 relieved of the sex offender registration ~~to~~ in the court of conviction for those  
26 convicted in Louisiana, or the court of the parish of residence for those convicted  
27 under the laws of another state, or military, territorial, foreign, tribal, or federal law  
28 which have been determined to be comparable to a Louisiana offense requiring a  
29 fifteen-year registration period by the bureau pursuant to the provisions of R.S.



1        Upon receipt of the ~~pleading, the~~ motion and documentation, the following shall  
2        occur:

3            (i) The office of state police shall issue a certification of the offender's  
4        history of registration in Louisiana to the court in which the ~~petition~~ motion was  
5        filed. The certification issued by the office of state police shall be admissible and  
6        shall be deemed prima facie evidence of the offender's history of registration in  
7        Louisiana.

8            (ii) The Sexual Predator Apprehension Team of the Department of Justice  
9        shall conduct a review of the offender's registration, notification, and criminal history  
10       and shall determine whether the offender maintained a clean record as defined by  
11       Paragraph (3) of this Subsection.

12           (iii) The district attorney shall review the facts of the underlying sex offense  
13       for which the offender is required to comply with the provisions of this Chapter to  
14       determine if an objection to the motion is warranted based on continued concerns for  
15       public safety.

16           (b) The court shall order a contradictory hearing to be held not less than sixty  
17       days after the date of service of the motion to determine whether the offender is  
18       entitled to be relieved of the registration and notification requirements pursuant to  
19       the provisions of Paragraphs (1) and (2) of this Subsection. The Department of  
20       Public Safety and Corrections, office of state police, and the Department of Justice  
21       shall be given notice of the hearing date and shall have a right to oppose the granting  
22       of relief if either determines that the offender does not meet the criteria of having  
23       maintained a clean record as defined by Paragraph (3) of this Subsection.

24           (c) The provisions of Paragraphs (1) and (2) of this Subsection shall not  
25       apply to any person who was convicted of more than one offense which requires  
26       registration pursuant to the provisions of this Chapter.

27           (d) The offender has the burden of proving that he has maintained a clean  
28       record, as defined by the provisions of Paragraph (3) of this Subsection, for the

1 requisite period of time and that continued registration and notification will no  
2 longer serve the purposes of this Chapter.

3 (e) The court may grant the motion, relieving the offender of the duty to  
4 register and give notice pursuant to the provisions of this Chapter, only if the  
5 offender shows, by clear and convincing evidence, that he has maintained a clean  
6 record, as defined by the provisions of Paragraph (3) of this Subsection, for the  
7 requisite period of time and that future registration and notification will not serve the  
8 purposes of this Chapter.

9 \* \* \*

10 §544.1. Petitions for injunctive relief or declaratory judgments

11 Any petition for injunctive relief or for declaratory judgment regarding the  
12 application or interpretation of the registration and notification requirements of this  
13 Chapter as they apply to a particular offender convicted of or adjudicated delinquent  
14 for a sex offense as defined in R.S. 15:541 or a criminal offense against a victim who  
15 is a minor as defined in R.S. 15:541, regardless of the date of conviction, other than  
16 the summary proceeding provided for in R.S. 15:542(F) and 544(E) which are based  
17 on theories of relief or grounds not specifically provided for in the provisions of this  
18 Chapter, shall be filed through ordinary civil proceedings by the offender, the state,  
19 the Department of Public Safety and Corrections, office of state police, or the office  
20 of the attorney general, in the district court for the parish where the state capitol is  
21 situated. Appeals from determinations made pursuant to R.S. 15:542.1.3 shall  
22 comply with the deadlines and other procedures as required by R.S. 15:542.1.3.

23 §544.2. Registration and notification period end date; determination; procedures

24 A.(1) Except as provided in ~~Subsection~~ Subsections B and C of this Section,  
25 for an offender who is required to register as a sex offender or child predator  
26 pursuant to the provisions of this Chapter, at least fourteen years from the initial date  
27 of registration in Louisiana after the date of conviction for which the offender is  
28 required to register pursuant to the provisions of this Chapter or from the date of the  
29 offender's latest release from any incarceration, except pursuant to a misdemeanor

1 arrest or conviction or a felony arrest that does not result in a felony conviction, for  
2 a felony offense; whichever is later, the following procedures shall apply:

3 (a) The office of state police and the sheriff of each parish in which the  
4 offender resides, or has resided, shall upload the offender's registration history to the  
5 offender's file in the Sex Offender and Child Predator Registry.

6 \* \* \*

7 (c) Within thirty days from the date on which the Department of Justice posts  
8 its determination of the registration and notification period end date to the offender's  
9 file in the Sex Offender and Child Predator Registry, the Department of Justice or  
10 its authorized agent shall give the offender written notice of the prospective  
11 registration and notification period end date which shall inform the offender that the  
12 registration and notification period end date shall be revised if the offender's criminal  
13 history or registration history subsequently reflects actions or inaction that, pursuant  
14 to the provisions of this Chapter, requires the end date to be recalculated. The  
15 written notice shall also inform the offender of his right to seek review of the  
16 Department of Justice's determination as provided in Subsections ~~D and F~~ E and G  
17 of this Section. The date on which the letter is sent notifying the offender of his  
18 registration and notification period end date shall be entered by the Department of  
19 Justice or its authorized agent in the offender's registry profile ~~and included in the~~  
20 ~~notification of registration obligations which shall be signed by the offender during~~  
21 ~~the next in-person period renewal of registration for the offender as required by the~~  
22 ~~provisions of R.S. 15:542.1.1.~~

23 \* \* \*

24 B. For an offender who is required to register pursuant to the provisions of  
25 this Chapter for a conviction of a sexual offense against a victim who is a minor as  
26 defined by R.S. 15:541, at least twenty-four years after the date of conviction for  
27 which the offender is required to register pursuant to the provisions of this Chapter  
28 or the date of the offender's latest release from any incarceration, except pursuant to



1 ~~obligations which shall be signed by the offender during the next in-person period~~  
2 ~~renewal of registration for the offender as required by the provisions of R.S.~~  
3 ~~15:542.1.1.~~

4 (4) The provisions of this Subsection shall not apply to any person who has  
5 been convicted of more than one offense that requires registration pursuant to the  
6 provisions of this Chapter or to anyone convicted of an aggravated offense as defined  
7 by R.S. 15:541.

8 C. Whenever there is a question regarding whether an offender, convicted  
9 or adjudicated in a Louisiana state court of an offense requiring registration and  
10 notification pursuant to the provisions of this Chapter, as a fifteen-year, a  
11 twenty-five-year, or a lifetime registrant, the Sexual Predator Apprehension Team  
12 of the Department of Justice shall have the authority to make determinations  
13 regarding the appropriate time period of registration in accordance with the  
14 provisions of this Chapter. When such a determination is made by the Sexual  
15 Predator Apprehension Team of the Department of Justice, the determination shall  
16 be noted in the offender's profile on the State Sex Offender and Child Predator  
17 Registry. These determinations shall be binding for purposes of enforcement of the  
18 registration and notification provisions of this Chapter unless overturned by a court  
19 of competent jurisdiction pursuant to R.S. 15:544.1 when a petition is filed within  
20 one hundred eighty days of the date of the written notice. Failure to timely file a  
21 petition for such relief pursuant to the provisions of this Subsection shall constitute  
22 a waiver by the offender and shall make the registration and notification period  
23 determination by the Department of Justice binding and final.

24 D. The registration and notification period end date, calculated and  
25 maintained by the Department of Justice pursuant to the provisions of Subsections  
26 A and B of this Section, shall be set in accordance with the provisions of this Chapter  
27 and shall be binding for purposes of enforcement of the registration and notification  
28 provisions of this Chapter unless overturned by the court of competent jurisdiction  
29 pursuant to R.S. 15:544.1.

1           ~~D.E.~~ If an offender, who is currently residing in this state and is under an  
2 active obligation to register and provide notification pursuant to the provisions of  
3 this Chapter, believes that the determined registration and notification period end  
4 date is incorrect, the offender may seek further review of the end date determination  
5 by the Department of Justice within forty-five days of date on which the notice was  
6 sent pursuant to Subparagraph (A)(1)(c) or Paragraph (B)(3) of this Section. The  
7 request shall be made in writing and addressed to: Office of the Attorney General,  
8 SPAT Unit, Post Office Box 94005, Baton Rouge, Louisiana 70804-9005. The  
9 request for review shall include all of the following:

10           (1) Name, date of birth, social security number, and phone number of the  
11 offender.

12           (2) Address of residence and parish in which the offender is currently  
13 residing.

14           (3) The offense for which the offender was convicted that requires  
15 registration and notification pursuant to the provisions of this Chapter, the  
16 jurisdiction of conviction, the court of conviction, the date of conviction, and the  
17 latest release from incarceration for the conviction that requires registration and  
18 notification pursuant to the provisions of this Chapter.

19           (4) Specific legal or factual reasons why the offender believes the current  
20 registration and notification period end date as determined by the Department of  
21 Justice is incorrect.

22           (5) A copy of the most recent offender contract signed by the offender at the  
23 office of the sheriff of the parish in which the offender resides.

24           (6) An affidavit of verification that all allegations of fact are true and  
25 accurate.

26           E.F. If the request for review meets all of the requirements set forth in  
27 Subsection ~~D.E.~~ of this Section, the request shall be reviewed by the Department of  
28 Justice. The Department of Justice shall post its decision, and any pertinent law and  
29 facts relied upon in making its decision, to the offender's registry file. The

1 Department of Justice or its authorized agent shall provide written notice of the  
2 department's decision to the offender within thirty days from the date on which the  
3 decision was posted to the offender's file in the Sex Offender and Child Predator  
4 Registry by the Department of Justice. If the request for review submitted by the  
5 offender does not meet the procedural requirements set forth in Subsection ~~D~~E of  
6 this Section, the request for review shall be rejected and the offender shall be given  
7 notice of the rejection through the same method as the notification of the prospective  
8 registration and notification end date determination and the date of such notice shall  
9 be entered into the offender's registry profile.

10 F.G. Within one hundred eighty days of the issuance of notice pursuant to  
11 Subsections A, B, ~~D~~, or E, or F of this Section, whichever is later, the offender may  
12 file a petition for injunctive relief or for a declaratory judgment pursuant to the  
13 provisions of R.S. 15:544.1. Failure to timely file a petition for such relief pursuant  
14 to the provisions of this Subsection shall constitute a waiver by the offender and shall  
15 make the registration and notification period end date determination by the  
16 Department of Justice final, unless the registration and notification period end date  
17 is revised by the Department of Justice because the offender's criminal history or  
18 registration history reflects actions or inaction that, pursuant to the provisions of this  
19 Chapter, requires the running of the registration period to begin anew or to be  
20 suspended.

21 G.H. When an offender has complied with all registration and notification  
22 requirements for the period of time required by the provisions of this Chapter, the  
23 Department of Justice shall, upon request by the offender, issue a formal letter  
24 verifying that the offender has completed all his requirements. This letter shall state  
25 that the offender is no longer required to register and notify as a sex offender or a  
26 child predator for the underlying sex offense or criminal offense against a victim  
27 who is a minor, as defined by R.S. 15:541, which gave rise to his obligation to  
28 register, unless the offender is convicted of another offense which requires  
29 registration and notification pursuant to the provisions of this Chapter.

1           ~~H.I.~~ If at any time after the determination of the registration and notification  
2 period end date is made pursuant to the provisions of this Chapter, the offender's  
3 criminal history or registration history reflects actions or inaction that, pursuant to  
4 the provisions of this Chapter, requires the running of the registration period to begin  
5 anew or to be suspended, and the registration and notification period end date is  
6 revised by the Department of Justice, the Department of Justice shall post the  
7 updated registration and notification period end date to the offender's file in the State  
8 Sex Offender and Child Predator Registry. Within thirty days from the date on  
9 which the Department of Justice posts the revised registration and notification period  
10 end date to the offender's file, the Department of Justice or its authorized agent shall  
11 give the offender written notice by mail of the revised end date and notify the  
12 offender of his right to seek review of the determination by the Department of Justice  
13 as provided in Subsections ~~D E~~ and F G of this Section.

14           J. The Department of Justice is not required to make the determination of the  
15 registration and notification period end date for any offender who is incarcerated or  
16 living out of state and is, therefore, not under an active obligation to register and  
17 provide notification in Louisiana. Once the offender is released from incarceration  
18 or returns to live in Louisiana and is under an active obligation to register and  
19 provide notification in this state, the determination of registration and notification  
20 period end date shall be made pursuant to the provisions of this Section.

21           K. Nothing in this Section shall be construed to relieve an offender of the  
22 obligation to register and provide notification pursuant to the provisions of this  
23 Chapter prior to complying with the obligations of this Chapter for the requisite  
24 period of time.

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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)]

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HB 455 Reengrossed

2017 Regular Session

Abramson

**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 dismissal 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))

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Correct citations in provisions of proposed law relative to review of the Dept. of Justice's determination of the registration and notification period end date.