

ACT No. 307

2017 Regular Session

HOUSE BILL NO. 455

BY REPRESENTATIVE ABRAMSON

1 AN ACT

2 To amend and reenact R.S. 15:541(7), 544(A), (B)(1) and (2)(introductory paragraph), and
3 (E)(1), (2), (3)(e), and (4), 544.1, 544.2(A)(1)(introductory paragraph), (a), and (c),
4 (B)(introductory paragraph), (2), and (3), (C), (D), (E), (F), (G), and (H) and to enact
5 R.S. 15:544.2(B)(4), (I), (J), and (K), relative to sex offender registration and
6 notification; to provide relative to the definition of "conviction" for purposes of sex
7 offender registration and notification; to provide relative to the duration of the
8 registration and notification requirements; to provide relative to the procedure by
9 which an offender may be relieved of the registration and notification requirements
10 for maintaining a "clean record"; to provide relative to the duties of the office of state
11 police, district attorney, and the Sexual Predator Apprehension Team of the
12 Department of Justice relative to these procedures; to provide relative to petitions for
13 injunctive relief or declaratory judgments regarding the application or interpretation
14 of the sex offender registration and notification requirements; to provide relative to
15 the determination of an offender's registration and notification end date; to provide
16 relative to the procedure for appealing these determinations and the effect of those
17 determinations that are not timely appealed; and to provide for related matters.

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. R.S. 15:541(7), 544(A), (B)(1) and (2)(introductory paragraph), and
20 (E)(1), (2), (3)(e), and (4), 544.1, 544.2(A)(1)(introductory paragraph), (a), and (c),
21 (B)(introductory paragraph), (2), and (3), (C), (D), (E), (F), (G), and (H) are hereby amended

1 and reenacted and R.S. 15:544.2(B)(4), (I), (J), and (K) are hereby enacted to read as
2 follows:

3 §541. Definitions

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

6 * * *

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

17 * * *

18 §544. Duration of registration and notification period

19 A. Except as provided for in Subsection B of this Section, a person required
20 to register and provide notification pursuant to the provisions of this Chapter shall
21 comply with the requirement for a period of fifteen years from the date of the initial
22 registration in Louisiana, or the duration of the lifetime of the offender as provided
23 in Subsection E of this Section, unless the underlying conviction is reversed, set
24 aside, or vacated, except for those convictions that were reversed, set aside, or
25 vacated pursuant to Code of Criminal Procedure Article 893 or 894, or a similar
26 provision of federal law or law from another state or military jurisdiction. The
27 requirement to register shall apply to an offender who ~~is pardoned~~ receives a pardon
28 as a first-time offender pursuant to Article IV, Section 5(E)(1) of the Constitution of
29 Louisiana and R.S. 15:572(B)(1).

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

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

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

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

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

25 (d) The offender has the burden of proving that he has maintained a clean
26 record, as defined by the provisions of Paragraph (3) of this Subsection, for the
27 requisite period of time and that continued registration and notification will no
28 longer serve the purposes of this Chapter.

29 (e) The court may grant the motion, relieving the offender of the duty to
30 register and give notice pursuant to the provisions of this Chapter, only if the

1 offender shows, by clear and convincing evidence, that he has maintained a clean
2 record, as defined by the provisions of Paragraph (3) of this Subsection, for the
3 requisite period of time and that future registration and notification will not serve the
4 purposes of this Chapter.

5 * * *

6 §544.1. Petitions for injunctive relief or declaratory judgments

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

19 §544.2. Registration and notification period end date; determination; procedures

20 A.(1) Except as provided in ~~Subsection~~ Subsections B and C of this Section,
21 for an offender who is required to register as a sex offender or child predator
22 pursuant to the provisions of this Chapter, at least fourteen years from the initial date
23 of registration in Louisiana after the date of conviction for which the offender is
24 required to register pursuant to the provisions of this Chapter or from the date of the
25 offender's latest release from any incarceration, except pursuant to a misdemeanor
26 arrest or conviction or a felony arrest that does not result in a felony conviction, for
27 ~~a felony offense~~, whichever is later, the following procedures shall apply:

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

4 * * *

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

21 * * *

22 B. For an offender who is required to register pursuant to the provisions of
23 this Chapter for a conviction of a sexual offense against a victim who is a minor as
24 defined by R.S. 15:541, at least twenty-four years after the date of conviction for
25 which the offender is required to register pursuant to the provisions of this Chapter
26 or the date of the offender's latest release from any incarceration, except pursuant to
27 a misdemeanor arrest or conviction or for a felony offense arrest that does not result
28 in a felony conviction, the following procedures shall apply:

29 * * *

1 (2) The Sexual Predator Apprehension Team of the Department of Justice
2 shall review the offender's criminal history and registration history and post a
3 prospective registration and notification period end date to the offender's file in the
4 State Sex Offender and Child Predator Registry. When posting the prospective
5 registration and notification period end date, the Department of Justice shall include
6 any details relied upon at the time to calculate the registration and notification period
7 end date. If at any time after the determination of the registration and notification
8 period end date the offender's criminal history or registration history reflects actions
9 or inaction that, pursuant to the provisions of this Chapter, requires the running of
10 the registration period to begin anew or to be suspended, the registration and
11 notification period end date shall be revised by the Department of Justice
12 accordingly.

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

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

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

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

27 ~~D.E.~~ If an offender, who is currently residing in this state and is under an
28 active obligation to register and provide notification pursuant to the provisions of
29 this Chapter, believes that the determined registration and notification period end
30 date is incorrect, the offender may seek further review of the end date determination

1 by the Department of Justice within forty-five days of date on which the notice was
 2 sent pursuant to Subparagraph (A)(1)(c) or Paragraph (B)(3) of this Section. The
 3 request shall be made in writing and addressed to: Office of the Attorney General,
 4 SPAT Unit, Post Office Box 94005, Baton Rouge, Louisiana 70804-9005. The
 5 request for review shall include all of the following:

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

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

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

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

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

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

22 E.F. If the request for review meets all of the requirements set forth in
 23 Subsection ~~DE~~ of this Section, the request shall be reviewed by the Department of
 24 Justice. The Department of Justice shall post its decision, and any pertinent law and
 25 facts relied upon in making its decision, to the offender's registry file. The
 26 Department of Justice or its authorized agent shall provide written notice of the
 27 department's decision to the offender within thirty days from the date on which the
 28 decision was posted to the offender's file in the State Sex Offender and Child
 29 Predator Registry by the Department of Justice. If the request for review submitted
 30 by the offender does not meet the procedural requirements set forth in Subsection ~~DE~~

1 of this Section, the request for review shall be rejected and the offender shall be
2 given notice of the rejection through the same method as the notification of the
3 prospective registration and notification end date determination and the date of such
4 notice shall be entered into the offender's registry profile.

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

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

25 H.I. If at any time after the determination of the registration and notification
26 period end date is made pursuant to the provisions of this Chapter, the offender's
27 criminal history or registration history reflects actions or inaction that, pursuant to
28 the provisions of this Chapter, requires the running of the registration period to begin
29 anew or to be suspended, and the registration and notification period end date is
30 revised by the Department of Justice, the Department of Justice shall post the

1 updated registration and notification period end date to the offender's file in the State
 2 Sex Offender and Child Predator Registry. Within thirty days from the date on
 3 which the Department of Justice posts the revised registration and notification period
 4 end date to the offender's file, the Department of Justice or its authorized agent shall
 5 give the offender written notice by mail of the revised end date and notify the
 6 offender of his right to seek review of the determination by the Department of Justice
 7 as provided in Subsections ~~D~~ E and ~~F~~ G of this Section.

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

15 K. Nothing in this Section shall be construed to relieve an offender of the
 16 obligation to register and provide notification pursuant to the provisions of this
 17 Chapter prior to complying with the obligations of this Chapter for the requisite
 18 period of time.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____