

Regular Session, 2013

HOUSE BILL NO. 440

BY REPRESENTATIVE BILLIOT

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

SEX OFFENSE/REGISTRY: Provides relative to sex offender registration and notification

1 AN ACT

2 To amend and reenact R.S. 15:542(C)(1)(introductory paragraph), (j), and (n), (C)(2), and
3 (F)(4)(a), (b), and (c), 542.1.2(A)(introductory paragraph), and 543.1, relative to sex
4 offender registration and notification requirements; to provide relative to the time
5 periods within which the sex offender is required to provide certain information to
6 certain entities; to provide relative to the information provided by the sex offender
7 with regard to vehicles and temporary lodging; to provide relative to motions for
8 relief from registration and notification requirements of certain sex offenders
9 convicted of crime against nature; to amend provisions in the written notification of
10 sex offender registration and notification requirements provided by the court to the
11 offender; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 15:542(C)(1)(introductory paragraph), (j), and (n), (C)(2), and
14 (F)(4)(a), (b), and (c), 542.1.2(A)(introductory paragraph), and 543.1 are hereby amended
15 and reenacted to read as follows:

16 §542. Registration of sex offenders and child predators

17 * * *

18 C.(1) The offender shall register and provide all of the following information
19 to the appropriate law enforcement agencies listed in Subsection B of this Section

1 in accordance with the time ~~period~~ periods provided for in ~~Paragraph (2)~~ of this
2 Subsection:

3 * * *

4 (j) A description of every motorized vehicle registered to or operated by the
5 offender, including license plate number and vehicle identification number and a
6 copy of the offender's driver's license ~~or~~ and identification card. This information
7 shall be provided prior to the offender's operation of the vehicle.

8 * * *

9 (n)(i) Temporary lodging information regarding any place where the
10 offender plans to stay for seven or more days. This information shall be provided at
11 least three days prior to the date of departure unless an emergency situation has
12 prevented the timely disclosure of the information.

13 (ii) Temporary lodging information regarding international travel shall be
14 provided regardless of the number of days or nights the offender plans to stay. This
15 information shall be provided at least twenty-one days prior to the date of departure
16 unless an emergency situation has prevented the timely disclosure of the information.
17 Upon receipt of this information by the bureau from the law enforcement agency
18 pursuant to Subsection E of this Section, this information shall then be sent by the
19 bureau to the United States Marshals Service's National Sex Offender Targeting
20 Center for transmission to the proper authorities.

21 * * *

22 (2) ~~Every~~ Unless an earlier time period is specified in the provisions of
23 Paragraph (1) of this Subsection, every offender required to register in accordance
24 with this Section shall appear in person and provide the information required by
25 Paragraph (1) of this Subsection to the appropriate law enforcement agencies within
26 three business days of establishing residence in Louisiana, ~~or if~~. If the offender is
27 a current resident of Louisiana and is not immediately taken into custody or
28 incarcerated after conviction or adjudication, he shall provide the information on the
29 date of conviction to the sheriff of the parish where the offender was convicted or

1 adjudicated and shall, within three business days after conviction or adjudication,
 2 provide the information to the sheriff of the parishes of the offender's residence,
 3 employment, and school ~~if not immediately incarcerated or taken into custody after~~
 4 ~~conviction or adjudication~~. If incarcerated immediately after conviction or placed
 5 in a secure facility immediately after adjudication, the information required by
 6 Paragraph (1) of this Subsection shall be provided to the secretary of the Department
 7 of Public Safety and Corrections, or his designee, or the deputy secretary for youth
 8 services, or his designee, whichever has custody of the offender, within ten days
 9 prior to release from confinement. Once released from confinement, every offender
 10 shall appear in person within three business days to register with the appropriate law
 11 enforcement agencies pursuant to the provision of this Section. The offender shall
 12 register with the sheriff of the parish in which the residence address he initially
 13 supplied to the Department of Public Safety and Corrections is located, unless his
 14 residence address has changed and he has registered with the sheriff of the parish in
 15 which his new residence address is located.

* * *

F.

* * *

19 (4)(a) Any person who was convicted of crime against nature (R.S. 14:89)
 20 prior to August 15, 2010, or the district attorney in the parish where the offender was
 21 convicted, may file a motion in the court of conviction to ~~be relieved~~ relieve the
 22 offender of the sex offender registration and notification requirements of this Chapter
 23 if the offense for which the offender was convicted would be defined as crime
 24 against nature by solicitation (R.S. 14:89.2) had the offender been convicted on or
 25 after August 15, 2010. Offenders convicted of an offense under the laws of another
 26 state, or military, territorial, foreign, tribal, or federal law may file a motion in the
 27 district court of his parish of residence once the administrative procedures of R.S.
 28 15:542.1.3 have been exhausted, and the elements of the offense of conviction have
 29 been found to be equivalent to the current definition of crime against nature by

1 solicitation (R.S. 14:89.2). The provisions of this Subparagraph shall not apply to
2 persons whose conviction for crime against nature pursuant to R.S. 14:89 involved
3 the solicitation of a person under the age of seventeen and would authorize
4 sentencing of the offender pursuant to R.S. 14:89.2(B)(3), had the offender been
5 convicted on or after August 15, 2010.

6 (b) The motion shall be accompanied by supporting documentation to
7 establish that the person was convicted of crime against nature prior to August 15,
8 2010, and that the offense for which the offender was convicted would be defined
9 as crime against nature by solicitation (R.S. 14:89.2) had the offender been convicted
10 on or after August 15, 2010. If the motion is filed by the offender and the district
11 attorney objects, the district attorney shall have the burden of proof by use of an
12 affidavit that the person being solicited was not under the age of seventeen. If the
13 motion is filed by the district attorney, an affidavit establishing that the facts of the
14 case and the underlying conviction meet these requirements shall be deemed
15 sufficient for the granting of relief.

16 (c) ~~The~~ If the offender files a motion pursuant to the provisions of this
17 Paragraph, the district attorney, office of state police, and the Department of Justice,
18 shall be served with a copy of the motion and any order granting relief. If the district
19 attorney files a motion pursuant to the provisions of this Paragraph, the office of state
20 police and the Department of Justice shall be served with a copy of the motion and
21 any order granting relief.

22 * * *

23 §542.1.2. Duty of offenders to notify law enforcement of change of address,
24 residence, or other registration information

25 A. ~~Those~~ Unless an earlier time period is otherwise specified in the
26 provisions of this Chapter, those persons required to register pursuant to the
27 provisions of this Chapter shall appear in person at the sheriff's office in the parish
28 of residence, or the police department in the case of a municipality with a population
29 in excess of three hundred thousand, where the offender is currently registered to

1 update information within three business days of establishing a new or additional
2 physical residential address or of changes in information previously provided when
3 any of the following occur:

4 * * *

5 §543.1. Written notification by the courts; form to be used

6 STATE V. _____ JUDICIAL DISTRICT COURT

7 DOCKET # _____ PARISH OF _____

8 DIVISION _____ STATE OF LOUISIANA

9 Notification to Sex Offender

10 In accordance with R.S. 15:543, this court has the duty to provide
11 _____ (name of offender) with the information necessary for
12 awareness of sex offender and child predator registration requirements.

13 _____ has pled guilty to or been found guilty of a violation of
14 R.S. _____. Based on the provisions of Chapter 3-B of Title 15 of the Louisiana
15 Revised Statutes of 1950 and the substance of the statute violated, IT IS ORDERED
16 that _____ must register for the period of _____ from the
17 date of his release from prison, from the date of his being placed on parole,
18 supervised release or probation, or from the date of his conviction, if the offender is
19 not sentenced to a term of imprisonment or jail. Additionally, since
20 _____ (hereinafter referred to as offender) has been convicted of:

21 () An aggravated offense as defined in R.S. 15:541, the offender must
22 update his/her registration, in person, every ninety days from the date of initial
23 registration, with the appropriate law enforcement agencies as provided in R.S.
24 15:542.

25 () A sexual offense involving a victim who is a minor as defined in R.S.
26 15:541, the offender must update his/her registration, in person, every six months
27 from the date of initial registration, with the appropriate law enforcement agencies
28 as provided in R.S. 15:542.

1 () An offense not defined in R.S. 15:541 as an aggravated offense or a
2 sexual offense involving a victim who is a minor, the offender must update his/her
3 registration, in person, annually from the date of initial registration, with the
4 appropriate law enforcement agencies as provided in R.S. 15:542.

5 Based on the foregoing you are hereby notified of the following:

6 (1) The offender, within three (3) business days of establishing residence in
7 Louisiana or if a current resident, within three (3) business days after conviction or
8 adjudication if not immediately incarcerated or taken into custody, or within three
9 (3) business days after release from confinement, shall obtain and provide the
10 following information to each sheriff or police department in accordance with R.S.
11 15:542(B) (except in Orleans Parish where registration shall take place with the New
12 Orleans Police Department):

13 (a) Name and any aliases used by the offender.

14 (b) Physical address or addresses of residence.

15 (c) Name and physical address of place of employment. If the offender does
16 not have a fixed place of employment, the offender shall provide information with
17 as much specificity as possible regarding the places where he works, including but
18 not limited to travel routes used by the offender.

19 (d) Name and physical address of the school in which he is a student.

20 (e) Two forms of proof of residence for each residential address provided,
21 including but not limited to a driver's license, bill for utility service, and bill for
22 telephone service. If those forms of proof of residence are not available, the offender
23 may provide an affidavit of an adult resident living at the same address. The
24 affidavit shall certify that the affiant understands his obligation to provide written
25 notice pursuant to R.S. 15:542.1.4 to the appropriate law enforcement agency with
26 whom the offender last registered when the offender no longer resides at the
27 residence provided in the affidavit.

28 (f) The crime for which he was convicted and the date and place of such
29 conviction, and if known by the offender, the court in which the conviction was

1 obtained, the docket number of the case, the specific statute under which he was
2 convicted, and the sentence imposed.

3 (g) A current photograph, fingerprints, palm prints, and a DNA sample.

4 (h) Telephone numbers, including fixed location phone and mobile phone
5 numbers assigned to the offender or associated with any residence address of the
6 offender.

7 (i) A description of every motorized vehicle registered to or operated by the
8 offender, including license plate number and vehicle identification number and a
9 copy of the offender's driver's license ~~or~~ and identification card.

10 (j) Social security number and date of birth.

11 (k) A description of the physical characteristics of the offender, including but
12 not limited to sex, race, hair color, eye color, height, age, weight, scars, tattoos, or
13 other identifying marks on the body of the offender.

14 (l) Every e-mail address, online screen name or other online identity used by
15 the offender to communicate on the Internet.

16 (m)(i) Temporary lodging information regarding any place where the
17 offender plans to stay for seven or more days and the length of the stay. This
18 information shall be provided at least three days prior to the date of departure unless
19 an emergency situation has prevented the timely disclosure of the information.

20 (ii) Temporary lodging information regarding international travel shall be
21 provided regardless of the number of days or nights the offender plans to stay. This
22 information shall be provided at least twenty-one days prior to the date of departure
23 unless an emergency situation has prevented the timely disclosure of the information.
24 Upon receipt of this information by the bureau from the law enforcement agency,
25 this information shall then be sent by the bureau to the United States Marshals
26 Service's National Sex Offender Targeting Center for transmission to the proper
27 authorities.

28 (n) Travel and immigration documents, including but not limited to passports
29 and documents establishing immigration status.

1 (2) The offender shall register with the sheriff and police chief in each of
2 his/her residence(s) and with the sheriff of the parish in which the offender is
3 employed and attends school in accordance with R.S. 15:542. ~~and, for~~ For initial
4 registration only, the offender shall register on the date of conviction or adjudication
5 with the sheriff in the parish of the offender's conviction or adjudication in
6 accordance with R.S. 15:542. If the offender lives, works, or attends school in
7 Orleans Parish, however, the offender shall register with the New Orleans Police
8 Department and not with the sheriff of that parish.

9 (3) If the offender is incarcerated as a result of the crime, the offender shall
10 provide all information listed in Paragraph (1) of this Section to the Department of
11 Public Safety and Corrections, or if a juvenile, to the office of juvenile justice, within
12 ten (10) days prior to release from confinement. The offender shall still appear in
13 person at the sheriff's office within three (3) business days of release from
14 confinement. The offender shall register with the sheriff of the parish in which the
15 residence address he initially supplied to the department is located, unless the
16 residence has changed and he has registered with the sheriff of the parish in which
17 the new residence address is located.

18 (4) During the declaration of an emergency, any offender required to register
19 who enters an emergency shelter shall, within the first twenty-four (24) hours of
20 admittance, notify the management of the facility, the chief of police of the
21 municipality, and the sheriff of the parish in which the shelter is located of his sex
22 offender status in accordance with R.S. 15:543.2.

23 (5) An offender required to register has a duty to provide notice of change
24 of address or other registration information to the sheriff of the parish of residence
25 within three business days. If the new or additional residence is located in a different
26 parish, then offender must register with the sheriff of the parish in which the new or
27 additional residence is located. The offender shall also send written notice within
28 three business days of re-registering in the new parish to the sheriff of the parish of
29 former registration in accordance with R.S. 15:542.1.2.

1 (6) The offender shall give notice of the crime for which he was convicted,
2 his name, address, a physical description, and a photograph to the following in
3 accordance with R.S. 15:542(B)(1):

4 (a) At least one person in every residence or business within a one-mile
5 radius in a rural area and a three-tenths of a mile radius in an urban or suburban area
6 of the address of the residence where the offender will reside upon release, including
7 all adult residents of the residence of the offender.

8 (b) The superintendent of the school district where the offender will reside.

9 (c) The lessor, landlord, or owner of the residence or the property on which
10 he resides.

11 (d) The superintendent of the park, playground, and recreation districts
12 within the designated area where the offender will reside only if the victim was under
13 eighteen (18) years of age at the time of the commission of the offense.

14 *Any person convicted of a violation of R.S. 14:89 shall not have to include
15 a photograph in the notice described in Paragraph (6) of this Subsection.

16 *Juveniles adjudicated for a crime requiring registration DO NOT have to
17 provide this community notice.

18 (7) In accordance with R.S. 15:542.1, community notification shall be given
19 by mail within twenty-one days of the date of conviction, if the offender is not taken
20 into custody at the time of conviction, and within twenty-one days of the date of
21 release from confinement if sentenced to a term of imprisonment. This notification
22 shall also occur within twenty-one days of each time the offender changes his
23 residence within twenty-one days of establishing residency in the new locale. This
24 notification shall also occur at least every five years, whether or not the offender
25 changes residences. This notification shall occur in each jurisdiction in which the
26 offender regularly resides.

27 *Juveniles adjudicated for a crime requiring registration DO NOT have to
28 provide this community notice.

1 (8) In accordance with R.S. 15:542.1, community notice shall be published
2 on two (2) separate days within this period in the official journal of the governing
3 authority of the parish where the offender plans to reside, unless ordered to be
4 published in a different journal or newspaper by the sheriff or local ordinance.

5 *Those convicted of R.S. 14:92(A)(7) are not required to publish notice in
6 the newspaper or official journal as provided in Paragraph (8).

7 *Juveniles who are adjudicated for a crime requiring registration DO NOT
8 have to provide this community notice.

9 (9) In accordance with R.S. 15:542.1(B), an offender who provides
10 recreational instruction to persons under the age of seventeen (17) shall post a notice
11 in the building or facility where such instruction is being given.

12 (10) In accordance with R.S. 15:543, an offender must, within ten (10) days
13 prior to release from a correctional facility, provide a photograph and other relevant
14 information noted above to the Department of Public Safety and Corrections, or if
15 a juvenile, to the office of juvenile justice for purposes of the State Sex Offender and
16 Child Predator Registry.

17 (11) In accordance with R.S. 15:542.1.2, if an offender changes his place of
18 residence or establishes a new or additional residence, he shall appear in person at
19 the office of the sheriff of his parish of residence where he is currently registered
20 within three (3) business days of the change to register the new address. If the new
21 address is located in a different parish, then the offender shall also appear in person
22 at the office of the sheriff of his new parish of residence within the same time period.
23 If the offender's parish of residence is in Orleans Parish, then the registration shall
24 take place at the New Orleans Police Department and not with the Orleans Parish
25 Sheriff.

26 (12) In accordance with R.S. 15:542.1.2, if an offender is absent from his
27 current address of registration for more than thirty (30) consecutive days or an
28 aggregate of thirty (30) days or more in a calendar year, and is physically present at
29 another address during that same period of time, the offender shall register in person

1 the new address as one of his addresses of residence. If the new address is in a
2 parish different from his current address, he shall also register in person with the
3 sheriff of the new parish within three (3) business days of the tolling of the time
4 periods listed. This requirement notwithstanding, the offender shall still notify the
5 sheriff of one of his parishes of residence in person if he is to take up temporary
6 lodging for seven (7) or more days. It is only after the thirty-day limit is exceeded
7 that the new registration shall occur.

8 (13) The offender shall also appear in person at the office of the sheriff of
9 any of his parishes of residence when there is a change in the offender's name, place
10 of employment, or enrollment. This appearance shall occur within three (3) business
11 days of the change. If the offender's address of residence is in Orleans Parish, this
12 registration update shall take place at the New Orleans Police Department and not
13 with the Orleans Parish Sheriff's Office.

14 (14) The offender shall be prohibited from certain types of employment in
15 accordance with R.S. 15:553 for the duration of the registration period. A copy of
16 this statute is provided to you with this notification.

17 (15) In accordance with R.S. 15:542(C), the offender shall update his
18 registration annually on the anniversary of the initial registration by appearing in
19 person at the office of each law enforcement agency with which he is required to
20 register and shall pay an annual registration fee of sixty dollars (\$60.00).

21 (16) Failure to comply with any of these registration and notification
22 requirements is a felony for which an offender shall be punished by a fine of up to
23 one thousand dollars (\$1,000.00) and imprisonment at hard labor for not less than
24 two years nor more than ten years without benefit of parole, probation, or suspension
25 of sentence. Upon a second or subsequent conviction, the offender shall be punished
26 by a fine of up to three thousand dollars (\$3,000.00) and imprisonment at hard labor
27 for not less than five years, nor more than twenty years without benefit of parole,
28 probation, or suspension of sentence.

1 (17) For those offenders who have been convicted of a sex offense as defined
2 in R.S. 15:541 involving a victim who was under the age of thirteen (13) at the time
3 of the offense, R.S. 14:91.2 is applicable which prohibits such offenders from
4 residing or being present in certain locations. A copy of this statute is provided to
5 you with this notification.

6 (18) For those offenders who have been convicted of R.S. 14:81 (indecent
7 behavior with juveniles), R.S. 14:81.1 (pornography involving juveniles), R.S.
8 14:81.3 (computer-aided solicitation of a minor), or R.S. 14:283 (video voyeurism)
9 or have been convicted of a sex offense as defined in R.S. 15:541 in which the victim
10 of the sex offense was a minor, R.S. 14:91.5, which prohibits such offenders from
11 using certain social networking websites, is applicable. A copy of this statute is
12 provided to you with this notification.

13 THUS DONE AND SIGNED this ____ day of _____, 20__ in
14 open court, in _____, Louisiana.

15 _____
16 Judge, ____ Judicial District Court

17 I hereby certify that the above requirements have been explained to me, that
18 I have received a copy of the above notice of sex offender registration and
19 notification requirements, and a copy of the statutes providing for such requirements.
20 I also understand that I will be subject to any changes made by the legislature to the
21 registration laws from this day forward.

22 _____
23 (Name of Sex Offender)
24 _____
25 Defense Counsel Signature

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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)]

Billiot

HB No. 440

Abstract: Provides relative to sex offender registration and notification.

Present law requires the sex offender to provide certain information to the appropriate law enforcement agencies when registering as a sex offender, including but not limited to the following:

- (1) A description of every vehicle registered to or operated by the offender, including license plate number and a copy of the offender's driver's license or identification card.
- (2) Temporary lodging information regarding any place where the offender plans to stay for seven or more days.

With regard to information on the offender's vehicles, proposed law provides that the offender shall also provide the vehicle identification number of every motorized vehicle registered to or operated by him, and provides that all information regarding the offender's vehicles shall be provided prior to the offender's operation of the vehicle.

With regard to information on temporary lodging, proposed law provides that temporary lodging information where the offender plans to stay for seven or more days shall be provided at least three days prior to the date of departure.

Proposed law further provides that temporary lodging information regarding international travel shall be provided regardless of the number of days or nights the offender plans to stay, and such information shall be provided at least 21 days prior to the date of departure. This information shall then be sent by the bureau to the U.S. Marshals Service's National Sex Offender Targeting Center for transmission to the proper authorities.

Present law requires such information to be provided by the offender within three business days of establishing residence in Louisiana, or if a current resident, within three business days after conviction or adjudication, if not immediately incarcerated or taken into custody after conviction or adjudication. Requires an offender, once released from incarceration, to register with law enforcement within three days of release.

Proposed law retains these present law time period requirements, but provides that if the offender is a current resident of Louisiana and is not immediately taken into custody after conviction or adjudication, he shall provide the information to the sheriff of the parish of conviction or adjudication on the date of the conviction. Requires the offender to register with the sheriff of the parish in which the residence address provided to the Dept. of Public Safety and Corrections is located unless his residence has changed and he has registered with the sheriff of his new residence.

Present law authorizes certain persons convicted of crime against nature prior to August 15, 2010, to file a motion in the court of conviction to be relieved of the sex offender registration and notification requirements if the offense for which the offender was convicted would be defined as crime against nature by solicitation had the offender been convicted on or after August 15, 2010, and the offense did not involve the solicitation of persons under the age of 17. Present law further provides for the procedure by which such motions are filed.

Proposed law provides for the following relative to such motions:

- (1) The district attorney in the parish where the offender was convicted is also authorized to file such motions.
- (2) If the motion is filed by the district attorney, an affidavit establishing that the facts of the case and the underlying conviction meet the requirements for filing such motions as set forth in present law, shall be deemed sufficient for the granting of relief.
- (3) Provides that if the motion is filed by the offender and the district attorney objects, the district attorney has the burden of proof in establishing that the person being solicited was under the age of seventeen years.
- (4) Provides that the district attorney, the office of state police, and the Department of Justice shall be served with a copy of any motion seeking, and any order granting, such relief.

Present law requires the court to provide written notification to any person who is required to register as a sex offender.

Proposed law amends this written notification form to reflect the changes made by proposed law.

(Amends R.S. 15:542(C)(1)(intro. para.), (j), and (n), (C)(2), and (F)(4)(a), (b), and (c), 542.1.2(A)(intro. para.), and 543.1)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Deleted proposed law changes to the definition of "residence".
2. Made changes to the registration requirements applicable to offenders released from incarceration.
3. Made changes to the proof required for motions to relieve a person convicted of certain offenses involving crime against nature from sex offender registration requirements.