

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), and (2), and

3 (F)(4)(a), (b), and (c), 542.1.1(B), 542.1.2(A)(introductory paragraph), and 543.1,

4 relative to sex offender registration and notification requirements; to provide relative

5 to the time periods within which the sex offender is required to provide certain

6 information to certain entities; to provide relative to the information provided by the

7 sex offender with regard to vehicles and temporary lodging; to provide relative to

8 motions for relief from registration and notification requirements of certain sex

9 offenders convicted of crime against nature; to amend provisions in the written

10 notification of sex offender registration and notification requirements provided by

11 the court to the 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), and (2), and

14 (F)(4)(a), (b), and (c), 542.1.1(B), 542.1.2(A)(introductory paragraph), and 543.1 are hereby

15 amended and reenacted to read as follows:

16 §542. Registration of sex offenders and child predators

17 * * *

1 C.(1) The offender shall register and provide all of the following information
2 to the appropriate law enforcement agencies listed in Subsection B of this Section
3 in accordance with the time ~~period~~ periods provided for in ~~Paragraph (2)~~ of this
4 Subsection:

5 * * *

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

10 * * *

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

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

23 * * *

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

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

18 * * *

19 F.

20 * * *

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

1 15:542.1.3 have been exhausted, and the elements of the offense of conviction have
2 been found to be equivalent to the current definition of crime against nature by
3 solicitation (R.S. 14:89.2). The provisions of this Subparagraph shall not apply to
4 persons whose conviction for crime against nature pursuant to R.S. 14:89 involved
5 the solicitation of a person under the age of seventeen and would authorize
6 sentencing of the offender pursuant to R.S. 14:89.2(B)(3), had the offender been
7 convicted on or after August 15, 2010.

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

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

24 * * *

25 §542.1.1. In person periodic renewal of registration by offenders

26 * * *

27 B.(1) Each periodic renewal shall occur with the sheriff of the parish of
28 residence or residences of the offender. Such periodic registration renewals shall
29 continue for the period of registration required by the provisions of R.S. 15:544. The

1 sheriff of the parish of residence shall immediately forward the information obtained
2 through the periodic renewals to each law enforcement agency as provided in R.S.
3 15:542(B) and to the bureau for inclusion in the State Sex Offender and Child
4 Predator Registry. The sheriff shall also comply with the requirements in R.S.
5 15:543(B) at least annually with each offender.

6 (2) Notwithstanding the in-person periodic renewals with the sheriff required
7 by the provisions of this Subsection, any offender who lives within the jurisdiction
8 of a municipality with a police department shall appear in-person annually on the
9 anniversary of his registration period start date at the police department in his
10 municipality of residence to update his registration and pay the annual registration
11 fee as provided in R.S. 15:542 (D).

12 §542.1.2. Duty of offenders to notify law enforcement of change of address,
13 residence, or other registration information

14 A. ~~Those~~ Unless an earlier time period is otherwise specified in the
15 provisions of this Chapter, those persons required to register pursuant to the
16 provisions of this Chapter shall appear in person at the sheriff's office in the parish
17 of residence, or the police department in the case of a municipality with a population
18 in excess of three hundred thousand, where the offender is currently registered to
19 update information within three business days of establishing a new or additional
20 physical residential address or of changes in information previously provided when
21 any of the following occur:

22 * * *

23 §543.1. Written notification by the courts; form to be used

24 STATE V. _____ JUDICIAL DISTRICT COURT

25 DOCKET # _____ PARISH OF _____

26 DIVISION _____ STATE OF LOUISIANA

27 Notification to Sex Offender

28 In accordance with R.S. 15:543, this court has the duty to provide

29 _____ (name of offender) with the information necessary for

1 awareness of sex offender and child predator registration requirements.
 2 _____ has pled guilty to or been found guilty of a violation of
 3 R.S. _____. Based on the provisions of Chapter 3-B of Title 15 of the Louisiana
 4 Revised Statutes of 1950 and the substance of the statute violated, IT IS ORDERED
 5 that _____ must register for the period of _____ from the
 6 date of his release from prison, from the date of his being placed on parole,
 7 supervised release or probation, or from the date of his conviction, if the offender is
 8 not sentenced to a term of imprisonment or jail. Additionally, since
 9 _____ (hereinafter referred to as offender) has been convicted of:

10 () An aggravated offense as defined in R.S. 15:541, the offender must
 11 update his/her registration, in person, every ninety days from the date of initial
 12 registration, with the appropriate law enforcement agencies as provided in R.S.
 13 15:542.

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

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

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

23 (1) The offender, within three (3) business days of establishing residence in
 24 Louisiana or if a current resident, within three (3) business days after conviction or
 25 adjudication if not immediately incarcerated or taken into custody, or within three
 26 (3) business days after release from confinement, shall obtain and provide the
 27 following information to each sheriff or police department in accordance with R.S.

1 15:542(B) (except in Orleans Parish where registration shall take place with the New
2 Orleans Police Department):

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

4 (b) Physical address or addresses of residence.

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

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

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

18 (f) The crime for which he was convicted and the date and place of such
19 conviction, and if known by the offender, the court in which the conviction was
20 obtained, the docket number of the case, the specific statute under which he was
21 convicted, and the sentence imposed.

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

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

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

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

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

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

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

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

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

20 (2) The offender shall register with the sheriff and police chief in each of
21 his/her residence(s) and with the sheriff of the parish in which the offender is
22 employed and attends school in accordance with R.S. 15:542. ~~and, for~~ For initial
23 registration only, the offender shall register on the date of conviction or adjudication
24 with the sheriff in the parish of the offender's conviction or adjudication in
25 accordance with R.S. 15:542. If the offender lives, works, or attends school in
26 Orleans Parish, however, the offender shall register with the New Orleans Police
27 Department and not with the sheriff of that parish.

28 (3) If the offender is incarcerated as a result of the crime, the offender shall
29 provide all information listed in Paragraph (1) of this Section to the Department of

1 Public Safety and Corrections, or if a juvenile, to the office of juvenile justice, within
2 ten (10) days prior to release from confinement. The offender shall still appear in
3 person at the sheriff's office within three (3) business days of release from
4 confinement. The offender shall register with the sheriff of the parish in which the
5 residence address he initially supplied to the department is located, unless the
6 residence has changed and he has registered with the sheriff of the parish in which
7 the new residence address is located.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (12) In accordance with R.S. 15:542.1.2, if an offender is absent from his
16 current address of registration for more than thirty (30) consecutive days or an
17 aggregate of thirty (30) days or more in a calendar year, and is physically present at
18 another address during that same period of time, the offender shall register in person
19 the new address as one of his addresses of residence. If the new address is in a
20 parish different from his current address, he shall also register in person with the
21 sheriff of the new parish within three (3) business days of the tolling of the time
22 periods listed. This requirement notwithstanding, the offender shall still notify the
23 sheriff of one of his parishes of residence in person if he is to take up temporary
24 lodging for seven (7) or more days. It is only after the thirty-day limit is exceeded
25 that the new registration shall occur.

26 (13) The offender shall also appear in person at the office of the sheriff of
27 any of his parishes of residence when there is a change in the offender's name, place
28 of employment, or enrollment. This appearance shall occur within three (3) business
29 days of the change. If the offender's address of residence is in Orleans Parish, this

1 registration update shall take place at the New Orleans Police Department and not
2 with the Orleans Parish Sheriff's Office.

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

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

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

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

23 (18) For those offenders who have been convicted of R.S. 14:81 (indecent
24 behavior with juveniles), R.S. 14:81.1 (pornography involving juveniles), R.S.
25 14:81.3 (computer-aided solicitation of a minor), or R.S. 14:283 (video voyeurism)
26 or have been convicted of a sex offense as defined in R.S. 15:541 in which the victim
27 of the sex offense was a minor, R.S. 14:91.5, which prohibits such offenders from
28 using certain social networking websites, is applicable. A copy of this statute is
29 provided to you with this notification.

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

3 _____
4 Judge, ____ Judicial District Court

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

10 _____
11 (Name of Sex Offender)
12 _____
13 Defense Counsel Signature

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 sex offenders 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 requires sex offenders to provide periodic renewals of registration information to the sheriff of the parish of residence, and further requires sex offenders to pay an annual registration fee of \$60 for the cost of maintaining the record of the offender.

Proposed law retains present law and requires sex offenders who live within the jurisdiction of a municipality with a police department to appear in-person annually to update their registration and to pay the annual registration fee.

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), and (2), and (F)(4)(a), (b), and (c), 542.1.1(B), 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.

House Floor Amendments to the engrossed bill.

1. Required certain sex offenders to appear annually before the local municipal police department to update registration information and to pay the annual registration fee.