

Regular Session, 2014

HOUSE BILL NO. 1216

BY REPRESENTATIVE JOHNSON

SEX OFFENSE/REGISTRY: Amends the crime of unlawful presence of a sex offender relative to a former victim

1 AN ACT

2 To amend and reenact R.S. 14:91.9, relative to the unlawful presence of a sex offender; to
3 amend the crime of unlawful presence of a sex offender relative to a former victim;
4 to prohibit certain persons convicted of a sex offense from establishing a residence
5 within seven miles of the victim; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:91.9 is hereby amended and reenacted to read as follows:

8 §91.9. Unlawful presence or contact of a sex offender relative to a former victim

9 A. ~~It~~ Except as provided in Subsection B of this Section, it shall be unlawful
10 for any person convicted of a sex offense as defined in R.S. 15:541 to do any of the
11 following:

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

14 (2) Knowingly be physically present within three hundred feet of the victim
15 of the offense for which he was convicted.

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

20 B.(1) The provisions of this Subsection shall apply to all of the following:

1 (a) Any person who is convicted of a sex offense as defined by R.S. 15:541
2 on or after August 1, 2014, and who is not sentenced to a term of imprisonment for
3 the conviction.

4 (b) Any person who is convicted of a sex offense as defined by R.S. 15:541
5 and who is released from incarceration for the offense on or after August 1, 2014,
6 regardless of the date of conviction.

7 (c) Any person subject to the three-mile restriction as provided in Subsection
8 (A) of this Section prior to August 1, 2014, who establishes a new residence on or
9 after August 1, 2014.

10 (2) It shall be unlawful for any person provided for in Paragraph (1) of this
11 Subsection to do any of the following:

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

14 (b) Knowingly be physically present within three hundred feet of the victim
15 of the offense for which he was convicted.

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

20 ~~B.C.~~ For purposes of this Section, "immediate family member" means the
21 spouse, mother, father, aunt, uncle, sibling, or child of the victim, whether related by
22 blood, marriage, or adoption.

23 ~~E.D.~~(1) Whoever violates the provisions of Paragraphs (A)(1) or (2) or
24 Subparagraphs (B)(2)(a) or (b) of this Section shall be fined not more than one
25 thousand dollars, imprisoned with or without hard labor for not more than one year,
26 or both.

27 (2) Whoever violates the provisions of Paragraph (A)(3) or Subparagraph
28 (B)(2)(c) of this Section shall be fined not more than five hundred dollars,
29 imprisoned for not more than six months, or both.

1 ~~D.E.~~(1)(a) It shall be an affirmative defense to prosecution for a violation of
2 Paragraph (A)(1) of this Section if the property where the offender resides was
3 occupied by the offender prior to the date on which the victim began residing within
4 three miles of the residence of the offender.

5 (b) The affirmative defense provided in Subparagraph (a) of this Paragraph
6 shall not be available to an offender who pleads guilty to or is convicted of a
7 subsequent sex offense as defined in R.S. 15:541 against the same victim after the
8 victim began residing within three miles of the residence of the offender.

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

12 (b) The affirmative defense provided in Subparagraph (a) of this Paragraph
13 shall not be available to an offender who pleads guilty to or is convicted of a
14 subsequent sex offense as defined in R.S. 15:541 against the same victim after
15 August 1, 2012.

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)]

Johnson

HB No. 1216

Abstract: Amends the crime of unlawful presence of a sex offender relative to a former victim relative to persons convicted, released from incarceration, or who establish a new residence on or after Aug. 1, 2014.

Present law prohibits a person convicted of a sex offense as defined by present law from establishing a residence or physically residing within three miles of the victim of the offense for which he was convicted, and further provides criminal penalties for a violation of this prohibition.

Provides that any person who violates the provisions of present law shall be punished by a fine of up to \$1,000, imprisonment for not more than one year, or both.

Proposed law retains present law as it relates to persons not provided for in proposed law.

Proposed law provides that for the following persons, it shall be unlawful to establish a residence or physically reside within seven miles of the victim of the offense for which the person was convicted:

- (1) Any person who is convicted of a sex offense as defined by present law on or after Aug. 1, 2014, and who is not sentenced to a term of imprisonment for the conviction.
- (2) Any person who is convicted of a sex offense as defined by present law and who is released from incarceration for the offense on or after Aug. 1, 2014, regardless of the date of conviction.
- (3) Any person subject to the three-mile restriction as provided for in present law prior to Aug. 1, 2014, who establishes a new residence on or after Aug. 1, 2014.

Proposed law subjects any person who violates the provisions of proposed law to the same penalties provided by present law.

(Amends R.S. 14:91.9)