

2016 Regular Session

SENATE BILL NO. 289

BY SENATOR JOHNS

SEX OFFENSES. Provides relative to malfeasance in office by law enforcement officers involving sexual conduct. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 15:541(24)(a) and to enact R.S. 14:134.4, relative to unlawful
3 conduct by law enforcement officers; to provide for malfeasance in office by law
4 enforcement officers involving sexual conduct; to provide certain offenses as sex
5 offenses requiring registry and notification; to provide penalties; to provide for
6 effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:134.4 is hereby enacted to read as follows:

9 **§134.4. Malfeasance in office by law enforcement officer; sexual conduct**

10 **A. It shall be unlawful and constitute malfeasance in office for any law**
11 **enforcement officer while on duty to entice, compel, or coerce any person to**
12 **engage in sexual intercourse or any other sexual conduct with the officer.**

13 **B. Whoever violates a provision of this Section shall be fined not more**
14 **than five thousand dollars or imprisoned at hard labor for not more than five**
15 **years, or both.**

16 **C. For purposes of this Section, "law enforcement officer" shall include**
17 **commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy**

1 **marshals, correctional officers, constables, wildlife enforcement agents, state**
2 **park wardens, and probation and parole officers.**

3 Section 2. R.S. 15:541(24)(a) is hereby amended and reenacted to read as follows:

4 §541. Definitions

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

7 * * *

8 (24)(a) "Sex offense" means deferred adjudication, adjudication withheld, or
9 conviction for the perpetration or attempted perpetration of or conspiracy to commit
10 human trafficking when prosecuted under the provisions of R.S. 14:46.2(B)(2), R.S.
11 14:46.3 (trafficking of children for sexual purposes), R.S. 14:89 (crime against
12 nature), R.S. 14:89.1 (aggravated crime against nature), R.S. 14:89.2(B)(3) (crime
13 against nature by solicitation), R.S. 14:80 (felony carnal knowledge of a juvenile),
14 R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1 (pornography involving
15 juveniles), R.S. 14:81.2 (molestation of a juvenile or a person with a physical or
16 mental disability), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S.
17 14:81.4 (prohibited sexual conduct between an educator and student), R.S. 14:82.1
18 (prostitution; persons under eighteen), R.S. 14:82.2(C)(4) and (5) (purchase of
19 commercial sexual activity), R.S. 14:92(A)(7) (contributing to the delinquency of
20 juveniles), R.S. 14:93.5 (sexual battery of persons with infirmities), R.S.
21 14:106(A)(5) (obscenity by solicitation of a person under the age of seventeen), R.S.
22 14:283 (video voyeurism), R.S. 14:41 (rape), R.S. 14:42 (aggravated or first degree
23 rape), R.S. 14:42.1 (forcible or second degree rape), R.S. 14:43 (simple or third
24 degree rape), R.S. 14:43.1 (sexual battery), R.S. 14:43.2 (second degree sexual
25 battery), R.S. 14:43.3 (oral sexual battery), R.S. 14:43.5 (intentional exposure to
26 AIDS virus), **R.S. 14:134.1 (malfeasance in office; sexual conduct prohibited**
27 **with persons in the custody and supervision of the Department of Public Safety**
28 **and Corrections), R.S. 14:134.4 (malfeasance in office by law enforcement**
29 **officer; sexual conduct)**, or a second or subsequent conviction of R.S. 14:283.1

1 (voyeurism), committed on or after June 18, 1992, or committed prior to June 18,
 2 1992, if the person, as a result of the offense, is under the custody of the Department
 3 of Public Safety and Corrections on or after June 18, 1992. A conviction for any
 4 offense provided in this definition includes a conviction for the offense under the
 5 laws of another state, or military, territorial, foreign, tribal, or federal law which is
 6 equivalent to an offense provided for in this Chapter, unless the tribal court or
 7 foreign conviction was not obtained with sufficient safeguards for fundamental
 8 fairness and due process for the accused as provided by the federal guidelines
 9 adopted pursuant to the Adam Walsh Child Protection and Safety Act of 2006.

10 * * *

11 Section 3. This Act shall become effective upon signature by the governor or, if not
 12 signed by the governor, upon expiration of the time for bills to become law without signature
 13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 14 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 15 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

SB 289 Engrossed

2016 Regular Session

Johns

Present law provides that it is malfeasance in office for any of the following persons to engage in sexual intercourse or any other sexual conduct with a person who is under their supervision and who is confined in a prison, jail, work release facility, or correctional institution, or who is under the supervision of the division of probation and parole:

- (1) A law enforcement officer, which includes commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, state park wardens, and probation and parole officers.
- (2) An officer, employee, contract worker, or volunteer of the Department of Public Safety and Corrections or any prison, jail, work release facility, or correctional institution.

Present law provides a penalty of a fine of not more than \$10,000 or imprisonment at hard labor for not more than 10 years, or both.

Proposed law retains present law.

Proposed law prohibits any law enforcement officer, as defined above in present law, while on duty, to entice, compel, or coerce any person to engage in sexual intercourse or any other sexual conduct with the officer.

Proposed law provides a penalty of a fine up to \$5,000, imprisonment with or without hard labor for not less than five years, or both.

Present law requires that any adult residing in this state who has pled guilty to, has been convicted of, or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of, or any conspiracy to commit certain offenses, including a sex offense as defined in present law to register and provide notification as a sex offender in accordance with present law.

Proposed law includes R.S. 14:134.1 (malfeasance in office, sexual conduct prohibited with persons in the custody and supervision of the Department of Public Safety and Corrections) and R.S. 14:134.4 (malfeasance in office by law enforcement officer; sexual conduct) as sex offenses requiring registry and notification. Otherwise retains present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 15:541(24)(a); adds R.S. 14:134.4)