

Regular Session, 2010

SENATE BILL NO. 780

BY SENATOR CHEEK AND REPRESENTATIVE BURFORD

SEX OFFENSES. Provides for registration and certain employment activities for sex offenders. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 15:543.1, 544(B)(1) and (E) and to enact R.S. 15:553, relative

3 to sex offenders; to provide for lifetime registration; to prohibit certain types of

4 employment of sex offenders; to provide for penalties; and to provide for related

5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 15:543.1, 544(B)(1) and (E) are hereby amended and reenacted and

8 R.S. 15:553 is hereby enacted to read as follows:

9 §543.1. Written notification by the courts; form to be used

10 STATE V. \_\_\_\_\_ JUDICIAL DISTRICT COURT

11 DOCKET # \_\_\_\_\_ PARISH OF \_\_\_\_\_

12 DIVISION \_\_\_\_\_ STATE OF LOUISIANA

13 Notification to Sex Offender

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

15 \_\_\_\_\_ (name of offender) with the information necessary for

16 awareness of sex offender and child predator registration requirements.

17 \_\_\_\_\_ has pled guilty to or been found guilty of a violation of

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

8 ( ) An aggravated offense as defined in R.S. 15:541, the offender must  
9 update his/her registration, in person, every 90 days from the date of initial  
10 registration, with the appropriate law enforcement agencies as provided in R.S.  
11 15:542.

12 ( ) A sexual offense involving a victim who is a minor as defined in R.S.  
13 15:541, the offender must update his/her registration, in person, every six months  
14 from the date of initial registration, with the appropriate law enforcement agencies  
15 as provided in R.S. 15:542.

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

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

21 (1) The offender, within three (3) business days of establishing residence in  
22 Louisiana or if a current resident, within three (3) business days after conviction or  
23 adjudication if not immediately incarcerated or taken into custody, or within three  
24 (3) business days after release from confinement, shall obtain and provide the  
25 following information to each sheriff or police department in accordance with R.S.  
26 15:542(B) (except in Orleans Parish where registration shall take place with the New  
27 Orleans Police Department):

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

29 (b) Physical address or addresses of residence.

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

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

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

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

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

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

22 (i) A description of every vehicle registered to or operated by the offender,  
23 including license plate number and a copy of the offender's driver's license or  
24 identification card.

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

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

29 (l) Every e-mail address, online screen name or other online identity used by

1 the offender to communicate on the Internet.

2 (m) Temporary lodging information regarding any place where the offender  
3 plans to stay for seven or more days and the length of the stay.

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

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

12 (3) If the offender is incarcerated as a result of the crime, the offender shall  
13 provide all information listed in Paragraph (1) of this Section to the Department of  
14 Public Safety and Corrections, or if a juvenile, to the office of juvenile justice, within  
15 ten (10) days prior to release from confinement. The offender shall still appear in  
16 person at the sheriff's office within three (3) business days of release from  
17 confinement.

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 of  
24 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 within  
12 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 (b) 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.

29 (8) In accordance with R.S. 15:542.1, community notice shall be published

1 on two (2) separate days within this period in the official journal of the governing  
2 authority of the parish where the offender plans to reside, unless ordered to be  
3 published in a different journal or newspaper by the sheriff or local ordinance.

4 \*Those convicted of R.S. 14:92(A)(7) or 89 are not required to publish notice  
5 in the newspaper or official journal as provided in Paragraph (8).

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

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

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

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

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

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

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

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

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

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

28 (17) For those offenders who have been convicted of a sex offense as defined  
29 in R.S. 15:541 involving a victim who was under the age of thirteen (13) at the time

1 of the offense, R.S. 14:91.2 is applicable which prohibits such offenders from  
2 residing or being present in certain locations. A copy of this statute is provided to  
3 you with this notification.

4 THUS DONE AND SIGNED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ in  
5 open court, in \_\_\_\_\_, Louisiana.

6 \_\_\_\_\_  
7 Judge, \_\_\_\_ Judicial District Court

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

13 \_\_\_\_\_  
14 (Name of Sex Offender)  
15 \_\_\_\_\_  
16 Defense Counsel Signature

17 \* \* \*

18 §544. Duration of registration and notification period

19 \* \* \*

20 B.(1) A person required to register pursuant to this Chapter who was  
21 convicted of a sexual offense against a victim who is a minor as defined in R.S.  
22 15:541 shall register and maintain his registration and provide community  
23 notification pursuant to the provisions of this Chapter for ~~a period of twenty-five~~  
24 ~~years from the date of initial registration,~~ or the duration of the lifetime of the  
25 offender ~~as provided in Subsection E of this Section,~~ unless the underlying  
26 conviction is reversed, set aside, or vacated. The requirement to register shall apply  
27 to an offender who is pardoned.

28 \* \* \*

29 E.(1) Notwithstanding the provisions of Subsection A ~~or Paragraph (B)(1)~~ of

1           this Section, the court, upon motion of the district attorney, and after a contradictory  
 2           hearing, shall have the authority to order a person required to register and provide  
 3           notification pursuant to the provisions of this Chapter to register and notify for the  
 4           duration of the lifetime of the offender upon a showing by a preponderance of the  
 5           evidence that the offender poses a substantial risk of committing another offense  
 6           requiring registration pursuant to this Chapter. The district attorney and the offender  
 7           may enter into a plea agreement requiring the offender to register and provide  
 8           notification for the duration of the lifetime of the offender without a contradictory  
 9           hearing.

10                       (2) Whenever the registration and notification period of a sex offender has  
 11           been increased to lifetime pursuant to the provisions of Paragraph (1) of this  
 12           Subsection, upon maintenance of a clean record for the minimum time period  
 13           applicable to the offense of conviction as provided by the provisions of Subsection  
 14           A or Paragraph (B)(1) of this Section, the offender may petition the court in the  
 15           jurisdiction of conviction, or if convicted out of state, in the jurisdiction of the  
 16           offender's residence, to be relieved of the registration and notification requirements  
 17           of this Chapter. The district attorney shall be served with the petition and the matter  
 18           shall be set for contradictory hearing. Upon a finding by clear and convincing  
 19           evidence that the offender has maintained a "clean record" as defined in this Section  
 20           and that the offender does not pose a substantial risk of committing another offense  
 21           requiring registration pursuant to this Chapter, the court may order that the offender  
 22           be relieved of the obligation to register and notify pursuant to this Chapter.

\* \* \*

**§553. Prohibition of employment for certain sex offenders**

**A. It shall be unlawful for any person who is required to maintain registration pursuant Chapter 3-B of Title 15 to operate any carnival or amusement ride, bus, taxicab, or limousine for hire.**

**B. It shall be unlawful for any person who is required to maintain registration pursuant to Chapter 3-B of Title 15 to engage in employment as a**

1 service worker who goes into a residence to provide any type of service.

2 C. For the purposes of this Section, the following terms and phrases  
3 shall have the meanings ascribed to them:

4 (1) "Bus" means a motor vehicle with a seating capacity of six or more  
5 persons, exclusive of the operator, which is used in the transportation of  
6 passengers for hire, excluding any vehicle leased without the provision of a  
7 driver.

8 (2) "Carnival or amusement ride" means either of the following:

9 (a) A device that is intended to give amusement, excitement, pleasure, or  
10 thrills to riders whom the device carries along or around a fixed or restricted  
11 course or within a defined area.

12 (b) A structure that gives amusement, excitement, pleasure, or thrills to  
13 people who move around, over, or through the structure without the aid of a  
14 moving device integral to the structure.

15 (3) "Taxicab" means all motor vehicles for hire, carrying six passengers  
16 or less, including the driver thereof, which are subject to call from a garage,  
17 office, taxistand, or otherwise.

18 C. Any person who violates the provisions of this Section shall be fined  
19 not more than ten thousand dollars and imprisoned for not less than five years  
20 nor more than ten years at hard labor. Three years shall be served without the  
21 benefit of parole, probation, or suspension of sentence.

22 Section 2. This Act shall become effective upon signature by the governor or, if not  
23 signed by the governor, upon expiration of the time for bills to become law without signature  
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
26 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michelle Ducharme.

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#### DIGEST

Present law requires the court to provide written notification to any person convicted of a sex offense and a criminal offense against a victim who is a minor of the registration requirements and the notification requirements as provided in present law.

Proposed law maintains present law and adds that the court shall notify the person convicted of a sex offense and criminal offense against a victim who is a minor that certain types of employment is prohibited for the duration of registration.

Present law provides for the duration of registration and notification period for sex offenders.

Present law provides that a person required to register pursuant to law who was convicted of a sexual offense against a victim who is a minor shall register and maintain his registration and provide community notification for a period of 25 years, or the duration of the lifetime of the offender as provided by law, unless the conviction is reversed, set aside, or vacated.

Proposed law provides that if the offender was convicted of a sexual offense against a victim who is minor, the offender shall register for the duration of his lifetime.

Proposed law prohibits certain sex offenders from maintaining certain types of employment.

Proposed law provides that it shall be unlawful for any person who is required to maintain registration pursuant to law to operate any bus, carnival or amusement ride, taxicab, or limousine for hire. Further prohibits any person who is required to maintain registration to engage in employment as a service worker who goes into a residence to provide any type of service.

Proposed law provides for definitions.

Proposed law provides for penalties if a sex offender who is required to register pursuant to law engages in certain types of employment.

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

(Amends R.S. 15:543.1, 544(B)(1) and (E) and adds R.S. 15:553)