

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.

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

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

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

\* \* \*

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

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

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

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

## Notification to Sex Offender

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

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.

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.

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

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

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.

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.