

Regular Session, 2011

HOUSE BILL NO. 55

BY REPRESENTATIVES THIERRY, ARNOLD, BILLIOT, HENRY BURNS, TIM BURNS, CARMODY, CARTER, CHANEY, CONNICK, EDWARDS, GREENE, GUINN, HAZEL, HENRY, HOFFMANN, HOWARD, HUTTER, KATZ, LANDRY, LEBAS, MORENO, PONTI, POPE, RICHARD, RICHARDSON, ROY, SEABAUGH, GARY SMITH, JANE SMITH, ST. GERMAIN, THIBAUT, AND WILLIAMS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME/SEX OFFENSES: Prohibits certain sex offenders from using or accessing social networking websites, chat rooms, and peer-to-peer networks

1 AN ACT

2 To enact R.S. 14:91.5, relative to sex offenders; to create the crime of unlawful use or access
3 of social media; to prohibit certain convicted sex offenders from using or accessing
4 social networking websites, chat rooms, and peer-to-peer networks; to provide for
5 definitions; to provide for penalties; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:91.5 is hereby enacted to read as follows:

8 §91.5. Unlawful use or access of social media

9 A. The following shall constitute unlawful use or access of social media:

10 (1) The using or accessing of social networking websites, chat rooms, and
11 peer-to-peer networks by a person who is required to register as a sex offender and
12 who was previously convicted of R.S. 14:81 (indecent behavior with juveniles), R.S.
13 14:81.1 (pornographyinvolving juveniles), R.S. 14:81.3 (computer-aided solicitation
14 of a minor), or R.S. 14:283 (video voyeurism) or was previously convicted of a sex
15 offense as defined in R.S. 15:541 in which the victim of the sex offense was a minor.

16 (2) The provisions of this Section shall also apply to any person previously
17 convicted for an offense under the laws of another state, or military, territorial,
18 foreign, tribal, or federal law which is equivalent to the offenses provided for in

1 Paragraph (1) of this Subsection, unless the tribal court or foreign conviction was not
2 obtained with sufficient safeguards for fundamental fairness and due process for the
3 accused as provided by the federal guidelines adopted pursuant to the Adam Walsh
4 Child Protection and Safety Act of 2006.

5 B. The use or access of social media shall not be considered unlawful for
6 purposes of this Section if the offender has permission to use or access social
7 networking websites, chat rooms, or peer-to-peer networks from his probation or
8 parole officer or the court of original jurisdiction.

9 C. For purposes of this Section:

10 (1) "Chat room" means any Internet website through which users have the
11 ability to communicate via text and which allows messages to be visible to all other
12 users or to a designated segment of all other users.

13 (2) "Minor" means a person under the age of eighteen years.

14 (3) "Peer-to-peer network" means a connection of computer systems
15 whereby files are shared directly between the systems on a network without the need
16 of a central server.

17 (4) "Social networking website" means an Internet website that has any of
18 the following capabilities:

19 (a) Allows users to create web pages or profiles about themselves that are
20 available to the general public or to any other users.

21 (b) Offers a mechanism for communication among users, such as a forum,
22 chat room, electronic mail, or instant messaging.

23 D.(1) Whoever commits the crime of unlawful use or access of social media
24 shall, upon a first conviction, be fined not more than ten thousand dollars and shall
25 be imprisoned with hard labor for not more than ten years without benefit of parole,
26 probation, or suspension of sentence.

27 (2) Whoever commits the crime of unlawful use or access of social media,
28 upon a second or subsequent conviction, shall be fined not more than twenty
29 thousand dollars and shall be imprisoned with hard labor for not less than five years

- 1 nor more than twenty years without benefit of parole, probation, or suspension of
 2 sentence.

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)]

Thierry

HB No. 55

Abstract: Creates the crime of unlawful use or access of social media by certain convicted sex offenders.

Proposed law creates the crime of unlawful use or access of social media. Prohibits the use or access of social networking websites, chat rooms, or peer-to-peer networks by a person who is required to register as a sex offender and who was either previously convicted of indecent behavior with juveniles, pornography involving juveniles, computer-aided solicitation of a minor, or video voyeurism or was previously convicted of a sex offense in which the victim of the offense was a minor.

Proposed law provides an exception for those sex offenders who have permission to access social networking websites, chat rooms, or peer-to-peer networks from his probation or parole officer or a court of original jurisdiction.

Proposed law defines "chat room", "minor", "peer-to-peer network", and "social networking website".

Proposed law provides for the following penalties:

- (1) Upon a first conviction, the offender shall be fined not more than \$10,000 and shall be imprisoned with hard labor for not more than 10 years without benefit of parole, probation, or suspension of sentence.
- (2) Upon a second or subsequent conviction, the offender shall be fined not more than \$20,000 and shall be imprisoned with hard labor for not less than five years nor more than 20 years without benefit of parole, probation, or suspension of sentence.

(Adds R.S. 14:91.5)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Redefined the crime to prohibit the using or accessing of social networking sites, chat rooms, and peer-to-peer networks by a person who is required to register as a sex offender and who was either previously convicted of specified offenses or was previously convicted of a sex offense as defined in R.S. 15:541 in which the victim of the sex offense was a minor.
2. Changed the court in which an offender may seek permission to use or access the social networking sites, chat rooms, and peer-to-peer networks from a court of competent jurisdiction to the court of original jurisdiction.