

Regular Session, 2012

HOUSE BILL NO. 70

BY REPRESENTATIVE ST. GERMAIN

CRIME/SEX OFFENSES: Creates the crime of unlawful presence or contact of a sex offender relative to a former victim

1 AN ACT

2 To enact R.S. 14:91.9, relative to sexual offenders; to prohibit sex offenders from residing
3 or being physically present within a certain distance of a former victim; to prohibit
4 sex offenders from communicating with a former victim; to provide for penalties; to
5 provide for affirmative defenses; 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 enacted to read as follows:

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

9 A. It shall be unlawful for any person convicted of a sex offense as defined
10 in R.S. 15:541 to engage in any of the following:

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

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

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

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

1 C.(1) Whoever violates the provisions of Paragraphs (A)(1) or (2) of this
2 Section shall be fined not more than one thousand dollars, imprisoned with or
3 without hard labor for not more than one year, or both.

4 (2) Whoever violates the provisions of Paragraph (A)(3) of this Section shall
5 be fined not more than five hundred dollars, imprisoned for not more than six
6 months, or both.

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

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

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

18 (b) The affirmative defense provided in Subparagraph (a) of this Paragraph
19 shall not be available to an offender who pleads guilty to or is convicted of a
20 subsequent sex offense as defined in R.S. 15:541 against the same victim after
21 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)]

St. Germain

HB No. 70

Abstract: Creates the crime of unlawful presence or communication of a sex offender relative to a former victim.

Proposed law prohibits a sex offender from engaging in any of the following:

- (1) Establishing a residence or physically residing within three miles of the victim of the offense for which he was convicted.

- (2) Knowingly being physically present within 300 feet of the victim of the offense for which he was convicted.
- (3) Communicating with the victim of the offense for which he was convicted or an immediate family member of the victim, unless the victim consents to such communication in writing.

Proposed law defines "immediate family member" as the spouse, mother, father, aunt, uncle, sibling, or child of the victim, whether related by blood, marriage, or adoption.

Proposed law provides for the following penalties:

- (1) Whoever violates the provisions of Paragraphs (1) and (2) of proposed law shall be fined not more than \$1,000, imprisoned for not more than one year, or both.
- (2) Whoever violates the provisions of Paragraph (3) of proposed law shall be fined not more than \$500, imprisoned for not more than six months, or both.

Provides for the following affirmative defenses to prosecution for a violation of proposed law:

- (1) If the property where the offender resides was occupied by the offender prior to the date on which his victim began residing within three miles of the residence of the offender, unless the offender pleads guilty to or is convicted of a subsequent sex offense against the same victim after the victim began residing within three miles of the offender.
- (2) If the property where the offender resides was occupied by the offender prior to Aug. 1, 2012, unless the offender pleads guilty to or is convicted of a subsequent sex offense against the same victim after Aug. 1, 2012.

(Adds R.S. 14:91.9)

Summary of Amendments Adopted by House

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

1. Provided that the offender cannot knowingly be physically present within 300 feet of the victim of the offense for which he was convicted.