

Regular Session, 2012

HOUSE BILL NO. 338

BY REPRESENTATIVE JOHNSON

SEX OFFENSE/REGISTRY: Authorizes the use of truth verification examinations for certain sex offenders

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 895(I), (J), (K), (L), and (M) and  
3 to enact R.S. 15:538(E) and 574.4.3(F) and Code of Criminal Procedure Article  
4 895(N), relative to sex offenders; to provide relative to conditions of probation and  
5 parole for certain sex offenders; to authorize the use of truth verification  
6 examinations; to provide relative to the administration of truth verification  
7 examinations; to prohibit the use of test results for certain purposes; to provide for  
8 definitions; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 15:538(E) and 574.4.3(F) are hereby enacted to read as follows:

11 §538. Conditions of probation, parole, and suspension or diminution of sentence

12 \* \* \*

13 E.(1) In cases where the sexual offender has been convicted of or where  
14 adjudication has been deferred or withheld for the perpetration or attempted  
15 perpetration of a sex offense as defined in R.S. 15:541 and the victim of that offense  
16 is a minor, the court or the Board of Parole may, as an additional condition of  
17 probation or parole, authorize the use of truth verification examinations to determine  
18 if the sexual offender has violated a condition of probation or parole. If ordered by  
19 the court or the Board of Parole as a condition of probation or parole, the Department  
20 of Public Safety and Corrections, division of probation and parole, is hereby

1 authorized to administer a truth verification examination pursuant to the order of the  
2 court or the Board of Parole and the provisions of this Subsection.

3 (2) Any examination conducted pursuant to the provisions of this Subsection  
4 shall be subsequent to an allegation that the sexual offender has violated a condition  
5 of probation or parole or at the discretion of the probation or parole officer who has  
6 reason to believe that the sexual offender has violated a condition of probation or  
7 parole.

8 (3) The truth verification examination shall be conducted by a trained and  
9 certified polygraphist or voice stress examiner.

10 (4) The results of the truth verification examination may be considered in  
11 determining the level of supervision and treatment needed by the sexual offender and  
12 in the determination of the probation or parole officer as to whether the sexual  
13 offender has violated a condition of probation or parole; however, such results shall  
14 not be used as evidence in court or by the Board of Parole to prove that a violation  
15 of a condition or probation or parole has occurred.

16 (5) The sexual offender may request a second truth verification examination  
17 to be conducted by a trained and certified polygraphist or voice stress examiner of  
18 his choice. The cost of the second examination shall be borne by the offender.

19 (6) For purposes of this Subsection:

20 (a) "Polygraph examination" shall mean an examination conducted with the  
21 use of an instrument or apparatus for simultaneously recording cardiovascular  
22 pressure, pulse and respiration, and variations in electrical resistance of the skin.

23 (b) "Truth verification examination" shall include a polygraph examination  
24 or a voice stress analysis.

25 (c) "Voice stress analysis" shall mean an examination conducted with the use  
26 of an instrument or apparatus which records psychophysiological stress responses  
27 that are present in a human voice when a person suffers psychological stress in  
28 response to a stimulus.

29 \* \* \*

1 §574.4.3. Parole requirements for certain sex offenders

2 \* \* \*

3 F.(1) In cases where the offender has been convicted of or where  
4 adjudication has been deferred or withheld for the perpetration or attempted  
5 perpetration of a sex offense as defined in R.S. 15:541 and the victim of that offense  
6 is a minor, the board may, as an additional condition of parole, authorize the use of  
7 truth verification examinations to determine if the offender has violated a condition  
8 of parole. If ordered by the board as a condition of parole, the Department of Public  
9 Safety and Corrections, division of probation and parole, is hereby authorized to  
10 administer a truth verification examination pursuant to the board's order and the  
11 provisions of this Subsection.

12 (2) Any examination conducted pursuant to the provisions of this Subsection  
13 shall be subsequent to an allegation that the offender has violated a condition of  
14 parole or at the discretion of the parole officer who has reason to believe that the  
15 offender has violated a condition of parole.

16 (3) The truth verification examination shall be conducted by a trained  
17 certified polygraphist or voice stress examiner.

18 (4) The results of the truth verification examination may be considered in  
19 determining the level of supervision and treatment needed by the offender and in the  
20 determination of the parole officer as to whether the offender has violated a  
21 condition of parole; however, such results shall not be used by the board as the basis  
22 for a finding that a violation of a condition of parole has occurred.

23 (5) The sexual offender may request a second truth verification examination  
24 to be conducted by a trained and certified polygraphist or voice stress examiner of  
25 his choice. The cost of the second examination shall be borne by the offender.

26 (6) For purposes of this Subsection:

27 (a) "Polygraph examination" shall mean an examination conducted with the  
28 use of an instrument or apparatus for simultaneously recording cardiovascular  
29 pressure, pulse and respiration, and variations in electrical resistance of the skin.



1        a condition of probation; however, such results shall not be used as evidence in court  
2        to prove that a violation of a condition of probation has occurred.

3                (5) The sexual offender may request a second truth verification examination  
4        to be conducted by a trained and certified polygraphist or voice stress examiner of  
5        his choice. The cost of the second examination shall be borne by the offender.

6                (6) For purposes of this Article:

7                (a) "Polygraph examination" shall mean an examination conducted with the  
8        use of an instrument or apparatus for simultaneously recording cardiovascular  
9        pressure, pulse and respiration, and variations in electrical resistance of the skin.

10               (b) "Truth verification examination" shall include a polygraph examination  
11        or a voice stress analysis.

12               (c) "Voice stress analysis" shall mean an examination conducted with the use  
13        of an instrument or apparatus which records psychophysiological stress responses  
14        that are present in a human voice when a person suffers psychological stress in  
15        response to a stimulus.

16               F. J. The defendant shall be given a certificate setting forth the conditions of  
17        his probation and shall be required to agree in writing to the conditions.

18               ~~F. K.~~ In cases where the defendant has been convicted of an offense involving  
19        criminal sexual activity, the court shall order as a condition of probation that the  
20        defendant successfully complete a sex offender treatment program. As part of the  
21        sex offender treatment program, the offender shall participate with a victim impact  
22        panel or program providing a forum for victims of criminal sexual activity and sex  
23        offenders to share experiences on the impact of the criminal sexual activity in their  
24        lives. The Department of Public Safety and Corrections shall establish guidelines  
25        to implement victim impact panels where, in the judgment of the licensed  
26        professional responsible for the sexual treatment program, appropriate victims are  
27        available, and shall establish guidelines for other programs where such victims are  
28        not available. All costs for the sex offender treatment program shall be paid by the  
29        offender.

1           ~~K.L.~~ A conviction for any offense involving criminal sexual activity as  
2 provided for in Paragraph H of this Article, includes a conviction for an equivalent  
3 offense under the laws of another state. Criminal sexual offenders under the  
4 supervision and legal authority of the Department of Public Safety and Corrections  
5 pursuant to the terms and conditions of the interstate compact agreement provided  
6 for in R.S. 15:574.14 shall be notified of the registration requirements provided for  
7 in this Article at the time the department accepts supervision and has legal authority  
8 of the individual.

9           ~~E.M.~~(1) In all cases where the defendant has been convicted of an offense  
10 of domestic abuse as provided in R.S. 46:2132(3) to a family or household member  
11 as provided in R.S. 46:2132(4), or of an offense of dating violence as provided in  
12 R.S. 46:2151(C) to a dating partner as provided in R.S. 46:2151(B), the court shall  
13 order that the defendant submit to and successfully complete a court-approved course  
14 of counseling or therapy related to family or dating violence, for all or part of the  
15 period of probation. If the defendant has already completed such a counseling  
16 program, said counseling requirement shall be required only upon a finding by the  
17 court that such counseling or therapy would be effective in preventing future  
18 domestic abuse or dating violence.

19           (2) All costs for the counseling or therapy shall be paid by the offender. In  
20 addition, the court may order that the defendant pay an amount not to exceed one  
21 thousand dollars to a family violence program located in the parish where the offense  
22 of domestic abuse occurred.

23           ~~M.N.~~ If a defendant is injured or suffers other loss in the performance of  
24 community service work required as a condition of probation, neither the state nor  
25 any political subdivision, nor any officer, agent, or employee of the state or political  
26 subdivision shall be liable for any such injury or loss, unless the injury or loss was  
27 caused by the gross negligence or intentional acts of the officer, agent, or employee  
28 of the state or political subdivision. No provision of this Paragraph shall negate any  
29 requirement that an officer, agent, or employee secure proper and appropriate

- 1 medical assistance for a defendant who is injured while performing community  
 2 service work and in need of immediate medical attention.

## 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)]

Johnson

HB No. 338

**Abstract:** Authorizes the use of truth verification examinations for certain sex offenders who are on probation and parole.

Present law provides for certain conditions of probation and parole imposed upon certain sex offenders.

Proposed law authorizes the use of truth verification examinations for sex offenders convicted of a sex offense where the victim was a minor, if ordered by the court or the Board of Parole, in order to determine whether the offender has violated a condition of his probation or parole.

Proposed law provides that the truth verification examination shall be subsequent to an allegation, or at the discretion of the probation or parole officer who has reason to believe, that the sexual offender has violated a condition of probation or parole.

Proposed law provides that the truth verification examination shall be conducted by a trained and certified polygraphist or voice stress examiner.

Proposed law provides that the results of the truth verification examination shall not be used as evidence in court or by the Board of Parole to prove that a violation of a condition of probation or parole has occurred.

Proposed law authorizes the offender to request a second truth verification examination to be conducted by a trained and certified examiner of the offender's choice and at the offender's cost.

Proposed law provides definitions for the following: "polygraph examination", "truth verification examinations", and "voice stress analysis".

(Amends C.Cr.P. Art. 895(I), (J), (K), (L), and (M); Adds R.S. 15:538(E) and 574.4.3(F) and C.Cr.P. Art. 895(N))

Summary of Amendments Adopted by House

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

1. Added provision which authorizes the offender to request a second truth verification examination at his expense.