

Regular Session, 2012

HOUSE BILL NO. 558

BY REPRESENTATIVES LOPINTO AND NORTON

SEX OFFENSE/REGISTRY: Provides relative to sex offender registration and notification

1 AN ACT

2 To amend and reenact R.S. 15:542.1.3(A) and (B)(2) and 544(C), (D), and (E) and to enact  
3 R.S. 15:544(F), relative to sex offender registration and notification; to provide  
4 relative to sex offenders convicted under the laws of another state; to provide for  
5 court documentation; to provide for the duration of sex offender registration and  
6 notification for certain offenders; to provide relative to the frequency of in-person  
7 registration renewals; to provide with respect to certification on an offender's  
8 registration history; to provide for an effective date; to provide for prospective  
9 application; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 15:542.1.3(A) and (B)(2) and 544(C), (D), and (E) are hereby  
12 amended and reenacted and R.S. 15:544(F) is hereby enacted to read as follows:

13 §542.1.3. Procedures for offenders convicted or adjudicated under the laws of  
14 another state, or military, territorial, foreign, tribal, or federal law; procedures  
15 for Louisiana offenders with out-of-state activities

16 A. Any person who is convicted or adjudicated of an offense under the laws  
17 of another state, or military, territorial, foreign, tribal, or federal law for which R.S.  
18 15:542 requires registration shall be subject to and shall comply with all of the  
19 registration requirements of this Chapter within three business days of establishing  
20 a residence in Louisiana and shall comply with all notification requirements required

1 in R.S. 15:542.1 within twenty-one days of establishing a residence in Louisiana.  
2 Such person shall also notify the bureau within three business days of establishing  
3 residence in Louisiana and shall provide the bureau, within thirty days of  
4 establishing residence in Louisiana, certified copies of court records pertaining to the  
5 offense or offenses which require registration as a sex offender, including but not  
6 limited to the bill of information, indictment, court minutes, and final disposition.

7 B.

8 \* \* \*

9 (2)(a) Within ~~ninety~~ sixty days of receiving the ~~information~~ certified copies  
10 of court records from the offender as required by the provisions of R.S. 15:542(E)  
11 Subsection A of this Section, the bureau shall determine which time period of  
12 registration under the provisions of R.S. 15:544 and the frequency of in-person  
13 periodic renewals under the provisions of R.S. 15:542.1 is applicable to the offender  
14 while residing in Louisiana. This determination shall be based on a comparison of  
15 the elements of the offense of conviction or adjudication with the elements of the  
16 most comparable Louisiana offense. The bureau shall post this official notification  
17 on the state sex offender and child predator registry within the ninety-day period  
18 provided in this Paragraph. If the most comparable Louisiana offense is carnal  
19 knowledge of a juvenile, the bureau shall indicate so and give notice to the offender  
20 that he may qualify for relief from registration pursuant to the provisions of R.S.  
21 15:542(F)(2) or (3) if the offender's age and the age of the victim are within the  
22 limitations provided by R.S. 15:542.

23 (b) Until the bureau makes a determination and posts an official notification  
24 as to the frequency of in-person periodic renewals, the offender shall renew and  
25 update his registration required by R.S. 15:542 in person every three months from  
26 the date of establishing a residence in Louisiana. Thereafter, the frequency of in-  
27 person periodic renewals of the offender shall be pursuant to the provisions of R.S.  
28 15:542.1.1, based on the determination made by the bureau, comparing the elements

1 of the offense of conviction or adjudication with the elements of the most  
2 comparable Louisiana offense, as required by Subparagraph (a) of this Paragraph.

3 \* \* \*

4 §544. Duration of registration and notification period

5 \* \* \*

6 C. A person who is required to register pursuant to the provisions of R.S.  
7 15:542.1.3 shall register and maintain his registration and provide community  
8 notification pursuant to the provisions of this Chapter for the period of registration  
9 provided by the jurisdiction of conviction or for the period of registration provided  
10 by the provisions of this Section, whichever period is longer.

11 D.(1) If an offender begins the period of registration and notification and is  
12 subsequently incarcerated for any reason other than a misdemeanor arrest or a  
13 misdemeanor conviction or for a felony arrest which does not result in a conviction,  
14 then the period of registration and notification shall begin anew on the day the  
15 offender is released from incarceration, with no credit for the period of time in which  
16 the offender complied with registration and notification requirements prior to his  
17 incarceration.

18 (2) An offender required to register pursuant to the provisions of this Chapter  
19 shall ~~only receive credit~~ receive credit only for the period of time in which he resides  
20 in this state and is in compliance with all registration and notification requirements  
21 of this state.

22 ~~D.~~E.(1) The registration period of fifteen years established in Subsection A  
23 of this Section may be reduced to a period of ten years if the offender maintains a  
24 clean record for the entire ten-year period of registration upon petition to be relieved  
25 of the sex offender registration to the court of conviction for those convicted in  
26 Louisiana, or the court of the parish of residence for those convicted under the laws  
27 of another state, or military, territorial, foreign, tribal, or federal law which have  
28 been determined to be comparable to a Louisiana offense requiring a fifteen-year  
29 registration period by the bureau pursuant to the provisions of R.S. 15:542.1.3. ~~The~~

1 ~~petition shall be accompanied by a certification from the office of state police of the~~  
2 ~~offender's history of registration in Louisiana.~~

3 (2) The lifetime registration period established in Paragraph (B)(2) of this  
4 Section may be reduced to a period of twenty-five years if the offender was  
5 adjudicated delinquent for the offense which requires registration and maintains a  
6 clean record for twenty-five years upon petition to be relieved of the sex offender  
7 registration to the court of adjudication for those adjudicated in Louisiana, or court  
8 of the parish of residence for those adjudicated under the laws of another state, or  
9 military, territorial, foreign, tribal, or federal law. ~~The petition shall be accompanied~~  
10 ~~by a certification from the office of state police of the offender's history of~~  
11 ~~registration in Louisiana.~~

12 (3) For purposes of this Subsection, an offender maintains a "clean record"  
13 by:

14 (a) Not being convicted of any offense for which imprisonment for more  
15 than one year may be imposed;

16 (b) Not being convicted of any sex offense;

17 (c) Successfully completing any periods of supervised release, probation, or  
18 parole; ~~and.~~

19 (d) Successfully completing an appropriate sex offender treatment program  
20 by a registered treatment as provided in R.S. 24:936 or an appropriate sex offender  
21 treatment program certified by the Attorney General of the United States.

22 (e) Complying with all sex offender registration and notification  
23 requirements in Louisiana for the prescribed period of time pursuant to the  
24 provisions of this Chapter.

25 (4) The following procedures shall apply to the provisions of Paragraphs (1)  
26 and (2) of this Subsection:

27 (a) The district attorney shall be served with a copy of the petition and the  
28 Louisiana Department of Public Safety and Corrections, office of state police, and  
29 the Department of Justice shall be given notice of the filing with a copy of the

1       pleading. Upon receipt of the pleading, the office of state police shall issue a  
2       certification of the offender's history of registration in Louisiana to the court in  
3       which the petition was filed. The certification issued by the office of state police  
4       shall be admissible and shall be deemed prima facie evidence of the offender's  
5       history of registration in Louisiana.

6               (b) The court shall order a contradictory hearing to determine whether the  
7       offender is entitled to be relieved of the registration and notification requirements  
8       pursuant to the provisions of Paragraphs (1) and (2) of this Subsection. The  
9       Louisiana Department of Public Safety and Corrections, office of state police, and  
10      the Department of Justice shall be given notice of the hearing date.

11              (c) The provisions of Paragraphs (1) and (2) of this Subsection shall not  
12      apply to any person who was convicted of more than one offense which requires  
13      registration pursuant to the provisions of this Chapter.

14              ~~E.F.~~(1) Notwithstanding the provisions of Subsection A or Paragraph (B)(1)  
15      of this Section, the court, upon motion of the district attorney, and after a  
16      contradictory hearing, shall have the authority to order a person required to register  
17      and provide notification pursuant to the provisions of this Chapter to register and  
18      notify for the duration of the lifetime of the offender upon a showing by a  
19      preponderance of the evidence that the offender poses a substantial risk of  
20      committing another offense requiring registration pursuant to this Chapter. The  
21      district attorney and the offender may enter into a plea agreement requiring the  
22      offender to register and provide notification for the duration of the lifetime of the  
23      offender without a contradictory hearing.

24              (2) Whenever the registration and notification period of a sex offender has  
25      been increased to lifetime pursuant to the provisions of Paragraph (1) of this  
26      Subsection, upon maintenance of a clean record for the minimum time period  
27      applicable to the offense of conviction as provided by the provisions of Subsection  
28      A or Paragraph (B)(1) of this Section, the offender may petition the court in the  
29      jurisdiction of conviction, or if convicted under the laws of another state, or military,

1 territorial, foreign, tribal, or federal law, in the jurisdiction of the offender's  
 2 residence, to be relieved of the registration and notification requirements of this  
 3 Chapter. The district attorney shall be served with the petition, and the matter shall  
 4 be set for contradictory hearing. Upon a finding by clear and convincing evidence  
 5 that the offender has maintained a "clean record" as defined in this Section and that  
 6 the offender does not pose a substantial risk of committing another offense requiring  
 7 registration pursuant to this Chapter, the court may order that the offender be  
 8 relieved of the obligation to register and notify pursuant to this Chapter.

9 Section 2. The provisions of this Act shall only apply to persons who establish a  
 10 residence in Louisiana on or after the effective date of this Act.

11 Section 3. This Act shall become effective upon signature by the governor or, if not  
 12 signed by the governor, upon expiration of the time for bills to become law without signature  
 13 by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If  
 14 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 15 effective on the day following such approval.

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#### 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)]

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Lopinto

HB No. 558

**Abstract:** Provides relative to sex offender registration and notification requirements of persons convicted under the laws of another state and amends procedures relative to documentation pertaining to the offense which requires sex offender registration and notification.

Present law provides that any person who is convicted of an offense under the laws of another state shall be subject to and shall comply with all of the registration requirements in La. within three business days of establishing a residence in La. and shall comply with all notification requirements in La. within 21 days of establishing a residence in La. This person is also required to notify the La. Bureau of Criminal Identification and Information within three business days of establishing residence in La.

Present law requires the bureau, within 90 days of receiving registration information of the out-of-state offender from the sheriff pursuant to present law, to determine which time period of registration and the frequency of in-person periodic renewals is applicable to the offender while residing in La.

Present law provides that the registration period and the frequency of in-person periodic renewals for a person who is convicted of an offense under the laws of another state shall be the same as a person convicted of a similar offense under the laws of this state.

Proposed law makes the following changes:

- (1) Requires a person convicted under the laws of another state to provide certified copies of court records pertaining to the offense or offenses which require registration as a sex offender to the bureau within 30 business days of establishing residence in La.
- (2) Decreases the time period within which the bureau shall make its determination as to the time period of registration and the frequency of in-person periodic renewals from within 90 days of receiving the information from the sheriff to within 60 days of receiving the certified copies of court records from the offender.
- (3) Provides that until the bureau makes this determination the offender shall appear for in-person renewals every three months and thereafter the frequency with which he is required to appear will be based upon the determination by the bureau.
- (4) Provides that a person who is convicted under the laws of another state who is required to register as a sex offender pursuant to La.'s present law shall do so for the period of time required by his state of conviction or for the period of time required by La., whichever period is longer.
- (5) Removes present law requirement that the petition to be relieved of the sex offender registration requirements must be accompanied by a certification from the office of state police of the offender's history of registration in La., and amends the requirement to provide that this information shall be provided to the court upon receipt of the pleading by the office of state police.
- (6) Provides for prospective application, applying to any offender who establishes a residence in La. on or after the effective date of proposed law.

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

(Amends R.S. 15:542.1.3(A) and (B)(2) and 544(C), (D), and (E); Adds R.S. 15:544(F))

#### 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 states that the provisions of proposed law shall apply to persons who were convicted and are required to register pursuant to the laws of another state.
2. Added provision which states that the offender is required to renew and update his registration information in-person as required by present law and provided that the frequency with which the person is required to register shall be pursuant to La. law.

#### House Floor Amendments to the engrossed bill.

1. Increased the time period within which the offender is required to provide the certified copies of court records from three days to 30 days.

2. Decreased the time period within which state police is required to make their determination as to the time period of registration and the frequency of in-person periodic renewals.
3. Added provision which provides that until the bureau makes this determination, the offender shall appear for in-person renewals every three months and thereafter the frequency with which he is required to appear will be based upon the bureau's determination.
4. Clarified provision regarding the duration of registration for an offender convicted in another state who establishes a residence in La.
5. Added provision which provides that the certified registration history issued by bureau to the court relative to a "clean record" petition shall be admissible as evidence and shall be deemed prima facie evidence of the offender's history of registration in La.
6. Added provisions which provide for prospective application and effectiveness upon signature of the governor.