

Regular Session, 2012

HOUSE BILL NO. 566

BY REPRESENTATIVE BROSSETT

SEX OFFENSE/REGISTRY: Provides relative to persons convicted of crimes against nature by solicitation

1 AN ACT

2 To enact R.S. 15:542(F)(4), relative to sex offender registration and notification
3 requirements; to authorize certain persons convicted of crime against nature to
4 petition the court to be relieved of sex offender registration and notification
5 requirements; to provide for exceptions; to provide for procedures; and to provide
6 for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 15:542(F)(4) is hereby enacted to read as follows:

9 §542. Registration of sex offenders and child predators

10 * * *

11 F.

12 * * *

13 ~~(b)~~ (4)(a) Any person who was convicted of crime against nature (R.S.
14 14:89) prior to August 15, 2010, may file a motion in the court of conviction to be
15 relieved of the sex offender registration and notification requirements of this Chapter
16 if the offense for which the offender was convicted would be defined as crime
17 against nature by solicitation (R.S. 14:89.2) had the offender been convicted on or
18 after August 15, 2010. Offenders convicted of an offense under the laws of another
19 state, or military, territorial, foreign, tribal, or federal law may file a motion in the
20 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.

13 (c) The district attorney shall be served with a copy of the motion.

14 (d) If the supporting documentation described in Subparagraph (b) of this
15 Paragraph is provided and meets the requirements of Subparagraph (4)(b), relief shall
16 be granted unless the district attorney objects and provides supporting documentation
17 proving that the offense for which the person was convicted, and which requires
18 registration and notification pursuant to the provisions of this Chapter, involved the
19 solicitation of a person under the age of seventeen.

20 (e) If the district attorney proves by clear and convincing evidence that the
21 conviction for crime against nature pursuant to R.S. 14:89 involved the solicitation
22 of a person under the age of seventeen, the court shall deny the motion to be relieved
23 of the sex offender registration and notification requirements as provided by the
24 provisions of this Paragraph.

25 (f) The provisions of this Paragraph shall not apply to any person who was
26 convicted of more than one offense which requires registration pursuant to the
27 provisions of this Chapter.

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)]

Brossett

HB No. 566

Abstract: Authorizes certain persons convicted of crime against nature to be relieved of the sex offender registration and notification provisions and provides for a procedure by which such relief is granted.

Present law provides that sex offender registration and notification requirements are mandatory and shall not be waived or suspended.

Present law provides for crime against nature (R.S. 14:89) and crime against nature by solicitation (R.S. 14:89.2). Act No. 882 of the 2010 R.S. created a separate provision for present law crime against nature, prior to which the unlawful acts defined in both crimes, crime against nature and crime against nature by solicitation, were encompassed in one provision for crime against nature.

Present law, pursuant to Act No. 223 of the 2011 R.S., provides that compliance with the sex offender registration and notification provisions is only required for those persons convicted of crime against nature by solicitation (R.S. 14:89.2) when the person being solicited is under the age of 17.

Proposed law authorizes any person who was convicted of crime against nature (R.S. 14:89) prior to Aug. 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 (R.S. 14:89.2) had the offender been convicted on or after Aug. 15, 2010.

Further provides that these provisions of proposed law shall not apply to persons whose offense involved the solicitation of persons under the age of 17.

Proposed law provides that the motion shall be accompanied by supporting documentation which proves that the person filing the motion meets the proposed law requirements necessary to have the authority to file such motion. Upon providing this proof, proposed law requires the court to grant the person's motion unless the district attorney objects and proves by clear and convincing evidence that the conviction involved the solicitation of a person under the age of 17.

(Adds R.S. 15:542(F)(4))

Summary of Amendments Adopted by House

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

1. Amended proposed law procedures by which relief from sex offender registration and notification requirements is granted pursuant to proposed law.
2. Made technical corrections to incorporate changes.