

Regular Session, 2012

ACT No. 205

HOUSE BILL NO. 620

BY REPRESENTATIVES THIERRY, ADAMS, BADON, BARROW, BROWN, BURRELL, GUILLORY, HAZEL, HODGES, HONORE, HOWARD, TERRY LANDRY, MACK, MORENO, NORTON, PYLANT, SMITH, AND ST. GERMAIN AND SENATORS DORSEY-COLOMB AND MILLS

AN ACT

To amend and reenact R.S. 14:91.5 and R.S. 15:543.1, relative to the unlawful use of a social networking website; to provide relative to the crime of unlawful use of a social networking website; to provide for definitions; to remove the exception regarding permission by the court or the probation or parole officer; to provide notice of this crime to sex offenders; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:91.5 is hereby amended and reenacted to read as follows:

§91.5. Unlawful use ~~or access~~ of a social media networking website

A. The following shall constitute unlawful use ~~or access~~ of a social media networking website:

(1) The ~~using or accessing~~ intentional use of a social networking websites, chat rooms, and peer-to-peer networks website by a person who is required to register as a sex offender and who was ~~previously~~ convicted of R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), or R.S. 14:283 (video voyeurism) 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) The provisions of this Section shall also apply to any person ~~previously~~ convicted for an offense under the laws of another state, or military, territorial, foreign, tribal, or federal law which is equivalent to the offenses provided for in Paragraph (1) of this Subsection, unless the tribal court or foreign conviction was not obtained with sufficient safeguards for fundamental fairness and due process for the

1 accused as provided by the federal guidelines adopted pursuant to the Adam Walsh
2 Child Protection and Safety Act of 2006.

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

7 C. For purposes of this Section:

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

11 ~~(2)~~(1) "Minor" means a person under the age of eighteen years.

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

15 ~~(4)~~(2)(a) "Social networking website" means an Internet website, the primary
16 purpose of which is facilitating social interaction with other users of the website and
17 ~~that has any~~ all of the following capabilities:

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

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

22 (b) "Social networking website" shall not include any of the following:

23 (i) An Internet website that provides only one of the following services:
24 photo-sharing, electronic mail, or instant messaging.

25 (ii) An Internet website the primary purpose of which is the facilitation of
26 commercial transactions involving goods or services between its members or
27 visitors.

28 (iii) An Internet website the primary purpose of which is the dissemination
29 of news.

30 (iv) An Internet website of a governmental entity.

(3) "Use" shall mean to create a profile on a social networking website or to contact or attempt to contact other users of the social networking website.

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

(2) Whoever commits the crime of unlawful use ~~or access~~ of a social media networking website, upon a second or subsequent conviction, shall be fined not more than twenty thousand dollars and shall be imprisoned with hard labor for not less than five years nor more than twenty years without benefit of parole, probation, or suspension of sentence.

Section 2. R.S. 15:543.1 is hereby amended and reenacted to read as follows:

§543.1. Written notification by the courts; form to be used

STATE V. _____ JUDICIAL DISTRICT COURT

DOCKET # _____ PARISH OF _____

DIVISION _____ STATE OF LOUISIANA

Notification to Sex Offender

In accordance with R.S. 15:543, this court has the duty to provide _____ (name of offender) with the information necessary for awareness of sex offender and child predator registration requirements.

_____ has pled guilty to or been found guilty of a violation of R.S. _____. Based on the provisions of Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950 and the substance of the statute violated, IT IS ORDERED that _____ must register for the period of _____ from the date of his release from prison, from the date of his being placed on parole, supervised release or probation, or from the date of his conviction, if the offender is not sentenced to a term of imprisonment or jail. Additionally, since _____ (hereinafter referred to as offender) has been convicted of:

() An aggravated offense as defined in R.S. 15:541, the offender must update his/her registration, in person, every ninety days from the date of initial

1 registration, with the appropriate law enforcement agencies as provided in R.S.
2 15:542.

3 () A sexual offense involving a victim who is a minor as defined in R.S.
4 15:541, the offender must update his/her registration, in person, every six months
5 from the date of initial registration, with the appropriate law enforcement agencies
6 as provided in R.S. 15:542.

7 () An offense not defined in R.S. 15:541; as an aggravated offense or a
8 sexual offense involving a victim who is a minor, the offender must update his/her
9 registration, in person, annually from the date of initial registration, with the
10 appropriate law enforcement agencies as provided in R.S. 15:542.

11 Based on the foregoing you are hereby notified of the following:

12 (1) The offender, within three (3) business days of establishing residence in
13 Louisiana or if a current resident, within three (3) business days after conviction or
14 adjudication if not immediately incarcerated or taken into custody, or within three
15 (3) business days after release from confinement, shall obtain and provide the
16 following information to each sheriff or police department in accordance with R.S.
17 15:542(B) (except in Orleans Parish where registration shall take place with the New
18 Orleans Police Department):

19 (a) Name and any aliases used by the offender.

20 (b) Physical address or addresses of residence.

21 (c) Name and physical address of place of employment. If the offender does
22 not have a fixed place of employment, the offender shall provide information with
23 as much specificity as possible regarding the places where he works, including but
24 not limited to travel routes used by the offender.

25 (d) Name and physical address of the school in which he is a student.

26 (e) Two forms of proof of residence for each residential address provided,
27 including but not limited to a driver's license, bill for utility service, and bill for
28 telephone service. If those forms of proof of residence are not available, the offender
29 may provide an affidavit of an adult resident living at the same address. The
30 affidavit shall certify that the affiant understands his obligation to provide written

1 notice pursuant to R.S. 15:542.1.4 to the appropriate law enforcement agency with
2 whom the offender last registered when the offender no longer resides at the
3 residence provided in the affidavit.

4 (f) The crime for which he was convicted and the date and place of such
5 conviction, and if known by the offender, the court in which the conviction was
6 obtained, the docket number of the case, the specific statute under which he was
7 convicted, and the sentence imposed.

8 (g) A current photograph, fingerprints, palm prints, and a DNA sample.

9 (h) Telephone numbers, including fixed location phone and mobile phone
10 numbers assigned to the offender or associated with any residence address of the
11 offender.

12 (i) A description of every vehicle registered to or operated by the offender,
13 including license plate number and a copy of the offender's driver's license or
14 identification card.

15 (j) Social security number and date of birth.

16 (k) A description of the physical characteristics of the offender, including but
17 not limited to sex, race, hair color, eye color, height, age, weight, scars, tattoos, or
18 other identifying marks on the body of the offender.

19 (l) Every e-mail address, online screen name or other online identity used by
20 the offender to communicate on the Internet.

21 (m) Temporary lodging information regarding any place where the offender
22 plans to stay for seven or more days and the length of the stay.

23 (n) Travel and immigration documents, including but not limited to passports
24 and documents establishing immigration status.

25 (2) The offender shall register with the sheriff and police chief in each of
26 his/her residence(s) and with the sheriff of the parish in which the offender is
27 employed and attends school and, for initial registration only, with the sheriff in the
28 parish of the offender's conviction in accordance with R.S. 15:542. If the offender
29 lives, works, or attends school in Orleans Parish, however, the offender shall register
30 with the New Orleans Police Department and not with the sheriff of that parish.

1 (3) If the offender is incarcerated as a result of the crime, the offender shall
2 provide all information listed in Paragraph (1) of this Section to the Department of
3 Public Safety and Corrections, or if a juvenile, to the office of juvenile justice, within
4 ten (10) days prior to release from confinement. The offender shall still appear in
5 person at the sheriff's office within three (3) business days of release from
6 confinement.

7 (4) During the declaration of an emergency, any offender required to register
8 who enters an emergency shelter shall, within the first twenty-four (24) hours of
9 admittance, notify the management of the facility, the chief of police of the
10 municipality, and the sheriff of the parish in which the shelter is located of his sex
11 offender status in accordance with R.S. 15:543.2.

12 (5) An offender required to register has a duty to provide notice of change
13 of address or other registration information to the sheriff of the parish of residence
14 within three business days. If the new or additional residence is located in a different
15 parish, then offender must register with the sheriff of the parish in which the new or
16 additional residence is located. The offender shall also send written notice within
17 three business days of re-registering in the new parish to the sheriff of the parish of
18 former registration in accordance with R.S. 15:542.1.2.

19 (6) The offender shall give notice of the crime for which he was convicted,
20 his name, address, a physical description, and a photograph to the following in
21 accordance with R.S. 15:542(B)(1):

22 (a) At least one person in every residence or business within a one-mile
23 radius in a rural area and a three-tenths of a mile radius in an urban or suburban area
24 of the address of the residence where the offender will reside upon release, including
25 all adult residents of the residence of the offender.

26 (b) The superintendent of the school district where the offender will reside.

27 (c) The lessor, landlord, or owner of the residence or the property on which
28 he resides.

1 (d) The superintendent of the park, playground, and recreation districts
2 within the designated area where the offender will reside only if the victim was under
3 eighteen (18) years of age at the time of the commission of the offense.

4 *Any person convicted of a violation of R.S. 14:89 shall not have to include
5 a photograph in the notice described in Paragraph ~~(b)~~ (6) of this Subsection.

6 *Juveniles adjudicated for a crime requiring registration DO NOT have to
7 provide this community notice.

8 (7) In accordance with R.S. 15:542.1, community notification shall be given
9 by mail within twenty-one days of the date of conviction, if the offender is not taken
10 into custody at the time of conviction, and within twenty-one days of the date of
11 release from confinement if sentenced to a term of imprisonment. This notification
12 shall also occur within twenty-one days of each time the offender changes his
13 residence within twenty-one days of establishing residency in the new locale. This
14 notification shall also occur at least every five years, whether or not the offender
15 changes residences. This notification shall occur in each jurisdiction in which the
16 offender regularly resides.

17 *Juveniles adjudicated for a crime requiring registration DO NOT have to
18 provide this community notice.

19 (8) In accordance with R.S. 15:542.1, community notice shall be published
20 on two (2) separate days within this period in the official journal of the governing
21 authority of the parish where the offender plans to reside, unless ordered to be
22 published in a different journal or newspaper by the sheriff or local ordinance.

23 *Those convicted of R.S. 14:89 or 92(A)(7) are not required to publish notice
24 in the newspaper or official journal as provided in Paragraph (8).

25 *Juveniles who are adjudicated for a crime requiring registration DO NOT
26 have to provide this community notice.

27 (9) In accordance with R.S. 15:542.1(B), an offender who provides
28 recreational instruction to persons under the age of seventeen (17) shall post a notice
29 in the building or facility where such instruction is being given.

1 (10) In accordance with R.S. 15:543, an offender must, within ten (10) days
2 prior to release from a correctional facility, provide a photograph and other relevant
3 information noted above to the Department of Public Safety and Corrections ~~and ,~~
4 or if a juvenile, to the office of juvenile justice for purposes of the State Sex
5 Offender and Child Predator Registry.

6 (11) In accordance with R.S. 15:542.1.2, if an offender changes his place of
7 residence or establishes a new or additional residence, he shall appear in person at
8 the office of the sheriff of his parish of residence where he is currently registered
9 within three (3) business days of the change to register the new address. If the new
10 address is located in a different parish, then the offender shall also appear in person
11 at the office of the sheriff of his new parish of residence within the same time period.
12 If the offender's parish of residence is in Orleans Parish, then the registration shall
13 take place at the New Orleans Police Department and not with the Orleans Parish
14 Sheriff.

15 (12) In accordance with R.S. 15:542.1.2, if an offender is absent from his
16 current address of registration for more than thirty (30) consecutive days or an
17 aggregate of thirty (30) days or more in a calendar year, and is physically present at
18 another address during that same period of time, the offender shall register in person
19 the new address as one of his addresses of residence. If the new address is in a
20 parish different from his current address, he shall also register in person with the
21 sheriff of the new parish within three (3) business days of the tolling of the time
22 periods listed. This requirement notwithstanding, the offender shall still notify the
23 sheriff of one of his parishes of residence in person if he is to take up temporary
24 lodging for seven (7) or more days. It is only after the thirty-day limit is exceeded
25 that the new registration shall occur.

26 (13) The offender shall also appear in person at the office of the sheriff of
27 any of his parishes of residence when there is a change in the offender's name, place
28 of employment, or enrollment. This appearance shall occur within three (3) business
29 days of the change. If the offender's address of residence is in Orleans Parish, this

1 registration update shall take place at the New Orleans Police Department and not
2 with the Orleans Parish Sheriff's Office.

3 (14) The offender shall be prohibited from certain types of employment in
4 accordance with R.S. 15:553 for the duration of the registration period. A copy of
5 this statute is provided to you with this notification.

6 (15) In accordance with R.S. 15:542(C), the offender shall update his
7 registration annually on the anniversary of the initial registration by appearing in
8 person at the office of each law enforcement agency with which he is required to
9 register and shall pay an annual registration fee of sixty dollars (\$60.00).

10 (16) Failure to comply with any of these registration and notification
11 requirements is a felony for which an offender shall be punished by a fine of up to
12 one thousand dollars (\$1,000.00) and imprisonment at hard labor for not less than
13 two years nor more than ten years without benefit of parole, probation, or suspension
14 of sentence. Upon a second or subsequent conviction, the offender shall be punished
15 by a fine of up to three thousand dollars (\$3,000.00) and imprisonment at hard labor
16 for not less than five years, nor more than twenty years without benefit of parole,
17 probation, or suspension of sentence.

18 (17) For those offenders who have been convicted of a sex offense as defined
19 in R.S. 15:541 involving a victim who was under the age of thirteen (13) at the time
20 of the offense, R.S. 14:91.2 is applicable which prohibits such offenders from
21 residing or being present in certain locations. A copy of this statute is provided to
22 you with this notification.

23 (18) For those offenders who have been convicted of R.S. 14:81 (indecent
24 behavior with juveniles), R.S. 14:81.1 (pornography involving juveniles), R.S.
25 14:81.3 (computer-aided solicitation of a minor), or R.S. 14:283 (video voyeurism)
26 or have been convicted of a sex offense as defined in R.S. 15:541 in which the victim
27 of the sex offense was a minor, R.S. 14:91.5, which prohibits such offenders from
28 using certain social networking websites, is applicable. A copy of this statute is
29 provided to you with this notification.

Judge, _____ Judicial District Court

(Name of Sex Offender)

Defense Counsel Signature

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____