

Regular Session, 2012  
HOUSE BILL NO. 338  
BY REPRESENTATIVE JOHNSON

# ACT No. 705

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

\* \* \*

E.(1) In cases where the sexual offender has been convicted of or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of a sex offense as defined in R.S. 15:541 and the victim of that offense is a minor, the court or the Board of Parole may, if the department has the equipment and appropriately trained personnel, as an additional condition of probation or parole, authorize the use of truth verification examinations to determine if the sexual offender has violated a condition of probation or parole. If ordered by the court or the Board of Parole as a condition of probation or parole, the Department of Public Safety and Corrections, division of probation and parole, is hereby authorized to administer a truth verification examination pursuant to the order of the court or the Board of Parole and the provisions of this Subsection.



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, if the department has the equipment and appropriately  
7 trained personnel, as an additional condition of parole, authorize the use of truth  
8 verification examinations to determine if the offender has violated a condition of  
9 parole. If ordered by the board as a condition of parole, the Department of Public  
10 Safety and Corrections, division of probation and parole, is hereby authorized to  
11 administer a truth verification examination pursuant to the board's order and the  
12 provisions of this Subsection.

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

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

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

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

27 (6) For purposes of this Subsection:

28 (a) "Polygraph examination" shall mean an examination conducted with the  
29 use of an instrument or apparatus for simultaneously recording cardiovascular  
30 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          †.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          †.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~~ 15:574.31 et seq. shall be notified of the registration  
 7           requirements provided for in this Article at the time the department accepts  
 8           supervision and has legal authority of the individual.

9           ~~L.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

1            requirement that an officer, agent, or employee secure proper and appropriate  
2            medical assistance for a defendant who is injured while performing community  
3            service work and in need of immediate medical attention.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_