

Regular Session, 2010

HOUSE BILL NO. 1438

BY REPRESENTATIVE GARY SMITH

SEX OFFENSE/REGISTRY: Provides for restrictions on sex offenders

1 AN ACT

2 To amend and reenact R.S. 14:91.2(A)(4) and (B)(2) and to enact R.S. 14:91.2.1, relative to
3 sex offenders; to provide relative to the crime of unlawful presence of sex offenders;
4 to prohibit sex offenders from residing in areas of high concentration of children; to
5 provide for definitions; to provide for criminal penalties; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:91.2(A)(4) and (B)(2) are hereby amended and reenacted and R.S.
9 14:91.2.1 is hereby enacted to read as follows:

10 §91.2. Unlawful presence of a sex offender

11 A. The following acts when committed by a person convicted of a sex
12 offense as defined in R.S. 15:541 when the victim is under the age of thirteen years
13 shall constitute the crime of unlawful residence or presence of a sex offender:

14 * * *

15 (4) The offender establishing a residence within one thousand feet of any
16 religious building property as defined in R.S. 40:981.3(C)(4), library, public park or
17 recreational facility.

18 B. The following acts, when committed by a person convicted of an
19 aggravated offense as defined in R.S. 15:541(2) when the victim is under the age of

1 thirteen years, shall constitute the crime of unlawful residence or presence of a sex
2 offender:

3 * * *

4 (2) The establishment of a residence within one thousand feet of any day
5 care center, group home, residential home, or child care facility as defined in R.S.
6 46:1403, a family child day care home as defined in R.S. 46:1441.1, religious
7 building property as defined in R.S. 40:981.3(C)(4), library, playground, public or
8 private youth center, public swimming pool, or free standing video arcade facility.

9 * * *

10 §91.2.1. Unlawful residence of a sex offender; areas of high concentration of
11 children

12 A. It shall be unlawful for any person convicted of a sex offense as defined
13 in R.S. 15:541 to establish a residence in an area of high concentration of children
14 following the determination of such area in accordance with the provisions of this
15 Section.

16 B. When a local law enforcement agency receives information regarding the
17 establishment of a residence pursuant to the provisions of R.S. 15:541 et seq., the law
18 enforcement agency shall make a determination as to whether the residence exists
19 in an area of high concentration of children. In making this determination, law
20 enforcement shall assess all residences located in the area extending five hundred
21 feet from all sides of a residence.

22 C. For purposes of this Section, an area shall be determined to be an "area
23 of high concentration of children" when over sixty percent of all persons residing in
24 the area are under the age of thirteen years.

25 D. Whoever violates the provisions of this Section shall be fined not more
26 than one thousand dollars, imprisoned with or without hard labor for not more than
27 one year, or both.

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)]

Gary Smith

HB No. 1438

Abstract: Prohibits sex offenders from living in areas of high concentration of children and provides penalties for violations of this prohibition.

Present law prohibits sex offenders from the following when the victim of the crime was under the age of 13:

- (1) Being physically present within 1,000 feet of the school property of any public or private elementary or secondary school or being physically present in any motor vehicle or other means of conveyance owned, leased, or contracted by such school to transport students to or from school or a school-related activity when persons under the age of 18 are present on the school property or in a school vehicle.
- (2) Establishing a residence within 1,000 feet of any public or private elementary or secondary school.
- (3) Being physically present or establishing a residence within 1,000 feet of a public park or recreational facility.

Present law prohibits sex offenders convicted of an aggravated sex offense from the following when the victim of the crime was under the age of 13:

- (1) Being physically present within 1,000 feet of a day care center, group home, residential home, child care facility, or family child day care home.
- (2) Establishing a residence within 1,000 feet of any day care center, group home, residential home, child care facility, family child day care home, playground, public or private youth center, public swimming pool, or free standing video arcade facility.

Proposed law adds religious building properties and libraries to the present law residential restrictions.

Proposed law prohibits sex offenders from establishing a residence in an area of high concentration of children. Provides for criminal penalties to include a fine of not more than \$1,000, imprisonment with or without hard labor for not more than one year, or both.

Proposed law defines "area of high concentration of children".

(Amends R.S. 14:91.2(A)(4) and (B)(2); Adds R.S. 14:91.2.1)