

Regular Session, 2012

HOUSE BILL NO. 338

BY REPRESENTATIVE JOHNSON

SEX OFFENSE/REGISTRY: Authorizes the use of truth verification examinations for certain sex offenders

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 895(I), (J), (K), (L), and (M) and
3 to enact R.S. 15:538(E) and 574.4.3(F) and Code of Criminal Procedure Article
4 895(N), relative to sex offenders; to provide relative to conditions of probation and
5 parole for certain sex offenders; to authorize the use of truth verification
6 examinations; to provide relative to the administration of truth verification
7 examinations; to prohibit the use of test results for certain purposes; to provide for
8 definitions; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

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

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

12 * * *

13 E.(1) In cases where the sexual offender has been convicted of or where
14 adjudication has been deferred or withheld for the perpetration or attempted
15 perpetration of a sex offense as defined in R.S. 15:541 and the victim of that offense
16 is a minor, the court or the Board of Parole may, as an additional condition of
17 probation or parole, authorize the use of truth verification examinations to determine
18 if the sexual offender has violated a condition of probation or parole. If ordered by
19 the court or the Board of Parole as a condition of probation or parole, the Department
20 of Public Safety and Corrections, division of probation and parole, is hereby

1 authorized to administer a truth verification examination pursuant to the order of the
2 court or the Board of Parole and the provisions of this Subsection.

3 (2) Any examination conducted pursuant to the provisions of this Subsection
4 shall be subsequent to an allegation that the sexual offender has violated a condition
5 of probation or parole or at the discretion of the probation or parole officer who has
6 reason to believe that the sexual offender has violated a condition of probation or
7 parole.

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

10 (4) The results of the truth verification examination may be considered in
11 determining the level of supervision and treatment needed by the sexual offender and
12 in the determination of the probation or parole officer as to whether the sexual
13 offender has violated a condition of probation or parole; however, such results shall
14 not be used as evidence in court or by the Board of Parole to prove that a violation
15 of a condition or probation or parole has occurred.

16 (5) For purposes of this Subsection:

17 (a) "Polygraph examination" shall mean an examination conducted with the
18 use of an instrument or apparatus for simultaneously recording cardiovascular
19 pressure, pulse and respiration, and variations in electrical resistance of the skin.

20 (b) "Truth verification examination" shall include a polygraph examination
21 or a voice stress analysis.

22 (c) "Voice stress analysis" shall mean an examination conducted with the use
23 of an instrument or apparatus which records psychophysiological stress responses
24 that are present in a human voice when a person suffers psychological stress in
25 response to a stimulus.

26 * * *

27 §574.4.3. Parole requirements for certain sex offenders

28 * * *

1 F.(1) In cases where the offender has been convicted of or where
2 adjudication has been deferred or withheld for the perpetration or attempted
3 perpetration of a sex offense as defined in R.S. 15:541 and the victim of that offense
4 is a minor, the board may, as an additional condition of parole, authorize the use of
5 truth verification examinations to determine if the offender has violated a condition
6 of parole. If ordered by the board as a condition of parole, the Department of Public
7 Safety and Corrections, division of probation and parole, is hereby authorized to
8 administer a truth verification examination pursuant to the board's order and the
9 provisions of this Subsection.

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

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

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

21 (5) For purposes of this Subsection:

22 (a) "Polygraph examination" shall mean an examination conducted with the
23 use of an instrument or apparatus for simultaneously recording cardiovascular
24 pressure, pulse and respiration, and variations in electrical resistance of the skin.

25 (b) "Truth verification examination" shall include a polygraph examination
26 or a voice stress analysis.

27 (c) "Voice stress analysis" shall mean an examination conducted with the use
28 of an instrument or apparatus which records psychophysiological stress responses

1 (a) "Polygraph examination" shall mean an examination conducted with the
2 use of an instrument or apparatus for simultaneously recording cardiovascular
3 pressure, pulse and respiration, and variations in electrical resistance of the skin.

4 (b) "Truth verification examination" shall include a polygraph examination
5 or a voice stress analysis.

6 (c) "Voice stress analysis" shall mean an examination conducted with the use
7 of an instrument or apparatus which records psychophysiological stress responses
8 that are present in a human voice when a person suffers psychological stress in
9 response to a stimulus.

10 F. J. The defendant shall be given a certificate setting forth the conditions of
11 his probation and shall be required to agree in writing to the conditions.

12 F. K. In cases where the defendant has been convicted of an offense involving
13 criminal sexual activity, the court shall order as a condition of probation that the
14 defendant successfully complete a sex offender treatment program. As part of the
15 sex offender treatment program, the offender shall participate with a victim impact
16 panel or program providing a forum for victims of criminal sexual activity and sex
17 offenders to share experiences on the impact of the criminal sexual activity in their
18 lives. The Department of Public Safety and Corrections shall establish guidelines
19 to implement victim impact panels where, in the judgment of the licensed
20 professional responsible for the sexual treatment program, appropriate victims are
21 available, and shall establish guidelines for other programs where such victims are
22 not available. All costs for the sex offender treatment program shall be paid by the
23 offender.

24 K. L. A conviction for any offense involving criminal sexual activity as
25 provided for in Paragraph H of this Article, includes a conviction for an equivalent
26 offense under the laws of another state. Criminal sexual offenders under the
27 supervision and legal authority of the Department of Public Safety and Corrections
28 pursuant to the terms and conditions of the interstate compact agreement provided
29 for in R.S. 15:574.14 shall be notified of the registration requirements provided for

1 in this Article at the time the department accepts supervision and has legal authority
2 of the individual.

3 ~~E.M.~~(1) In all cases where the defendant has been convicted of an offense
4 of domestic abuse as provided in R.S. 46:2132(3) to a family or household member
5 as provided in R.S. 46:2132(4), or of an offense of dating violence as provided in
6 R.S. 46:2151(C) to a dating partner as provided in R.S. 46:2151(B), the court shall
7 order that the defendant submit to and successfully complete a court-approved course
8 of counseling or therapy related to family or dating violence, for all or part of the
9 period of probation. If the defendant has already completed such a counseling
10 program, said counseling requirement shall be required only upon a finding by the
11 court that such counseling or therapy would be effective in preventing future
12 domestic abuse or dating violence.

13 (2) All costs for the counseling or therapy shall be paid by the offender. In
14 addition, the court may order that the defendant pay an amount not to exceed one
15 thousand dollars to a family violence program located in the parish where the offense
16 of domestic abuse occurred.

17 ~~M.N.~~ If a defendant is injured or suffers other loss in the performance of
18 community service work required as a condition of probation, neither the state nor
19 any political subdivision, nor any officer, agent, or employee of the state or political
20 subdivision shall be liable for any such injury or loss, unless the injury or loss was
21 caused by the gross negligence or intentional acts of the officer, agent, or employee
22 of the state or political subdivision. No provision of this Paragraph shall negate any
23 requirement that an officer, agent, or employee secure proper and appropriate
24 medical assistance for a defendant who is injured while performing community
25 service work and in need of immediate medical attention.

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)]

Johnson

HB No. 338

Abstract: Authorizes the use of truth verification examinations for certain sex offenders who are on probation and parole.

Present law provides for certain conditions of probation and parole imposed upon certain sex offenders.

Proposed law authorizes the use of truth verification examinations for sex offenders convicted of a sex offense where the victim was a minor, if ordered by the court or the Board of Parole, in order to determine whether the offender has violated a condition of his probation or parole.

Proposed law provides that the truth verification examination shall be subsequent to an allegation, or at the discretion of the probation or parole officer who has reason to believe, that the sexual offender has violated a condition of probation or parole.

Proposed law provides that the truth verification examination shall be conducted by a trained and certified polygraphist or voice stress examiner.

Proposed law provides that the results of the truth verification examination shall not be used as evidence in court or by the Board of Parole to prove that a violation of a condition of probation or parole has occurred.

Proposed law provides definitions for the following: "polygraph examination", "truth verification examinations", and "voice stress analysis".

(Amends C.Cr.P. Art. 895(I), (J), (K), (L), and (M); Adds R.S. 15:538(E) and 574.4.3(F) and C.Cr.P. Art. 895(N))