

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

ACT No. 705

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, if the department has the equipment
17 and appropriately trained personnel, as an additional condition of probation or
18 parole, authorize the use of truth verification examinations to determine if the sexual
19 offender has violated a condition of probation or parole. If ordered by the court or
20 the Board of Parole as a condition of probation or parole, the Department of Public
21 Safety and Corrections, division of probation and parole, is hereby authorized to
22 administer a truth verification examination pursuant to the order of the court or the
23 Board of Parole and the provisions of this Subsection.

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

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

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

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

17 (6) For purposes of this Subsection:

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

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

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

27 * * *

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

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

7 Section 2. Code of Criminal Procedure Article 895(I), (J), (K), (L), and (M) are
8 hereby amended and reenacted and Code of Criminal Procedure Article 895(N) is hereby
9 enacted to read as follows:

10 Art. 895. Conditions of probation

11 * * *

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

22 (2) Any examination conducted pursuant to the provisions of this Paragraph
23 shall be subsequent to an allegation that the defendant has violated a condition of
24 probation or at the discretion of the probation officer who has reason to believe that
25 the defendant has violated a condition of probation.

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

28 (4) The results of the truth verification examination may be considered in
29 determining the level of supervision and treatment needed by the defendant and in
30 the determination of the probation officer as to whether the defendant has violated

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.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____