

Regular Session, 2012

SENATE BILL NO. 402

BY SENATOR MORRELL

SEX OFFENSES. Provides relative to out of state sex offender registration and notification.  
(gov sig)

1 AN ACT  
2 To amend and reenact R.S. 15:542.1.3(A) and 544, relative to sex offender registration and  
3 notification; to provide relative to the duration of sex offender registration and  
4 notification for certain offenders; to amend procedures relative to petitions to reduce  
5 the sex offender registration and notification period; to provide relative to sex  
6 offenders convicted under the laws of another state; and to provide for related  
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 15:542.1.3(A) and 544 are hereby amended and reenacted to read as  
10 follows:

11 §542.1.3. Procedures for offenders convicted or adjudicated under the laws of  
12 another state, or military, territorial, foreign, tribal, or federal law;  
13 procedures for Louisiana offenders with out-of-state activities

14 A. Any person who is convicted or adjudicated of an offense under the laws  
15 of another state, or military, territorial, foreign, tribal, or federal law for which R.S.  
16 15:542 requires registration shall be subject to and shall comply with all of the  
17 registration requirements of this Chapter within three business days of establishing

1 a residence in Louisiana and shall comply with all notification requirements required  
 2 in R.S. 15:542.1 within twenty-one days of establishing a residence in Louisiana.  
 3 Such person shall also ~~notify~~ **provide certified copies of court records pertaining**  
 4 **to the offense or offenses which require registration as a sex offender, including**  
 5 **but not limited to, the bill of information, indictment, court minutes, and final**  
 6 **disposition, to** the bureau within three business days of establishing residence in  
 7 Louisiana.

8 \* \* \*

9 §544. Duration of registration and notification period

10 A. Except as provided for in Subsection B of this Section, a person required  
 11 to register and provide notification pursuant to the provisions of this Chapter shall  
 12 comply with the requirement for a period of fifteen years from the date of the initial  
 13 registration in Louisiana, or the duration of the lifetime of the offender as provided  
 14 in Subsection ~~E~~ **F** of this Section, unless the underlying conviction is reversed, set  
 15 aside, or vacated. The requirement to register shall apply to an offender who is  
 16 pardoned.

17 B.(1) A person required to register pursuant to this Chapter who was  
 18 convicted of a sexual offense against a victim who is a minor as defined in R.S.  
 19 15:541 shall register and maintain his registration and provide community  
 20 notification pursuant to the provisions of this Chapter for a period of twenty-five  
 21 years from the date of initial registration in Louisiana, or the duration of the lifetime  
 22 of the offender as provided in Subsection ~~E~~ **F** of this Section, unless the underlying  
 23 conviction is reversed, set aside, or vacated. The requirement to register shall apply  
 24 to an offender who is pardoned.

25 (2) Any of the following persons required to register pursuant to this Chapter  
 26 shall register and provide notification for the duration of their lifetime, even if  
 27 granted a first offender pardon, unless the underlying conviction is reversed, set  
 28 aside, or vacated:

29 (a) A person required to register pursuant to this Chapter who was convicted

1 of an aggravated offense as defined in R.S. 15:541;

2 (b) A juvenile adjudicated for the enumerated offenses in R.S. 15:542(A)(3);

3 ~~or~~;

4 (c) A person with a prior conviction or adjudication for an offense for which  
5 registration is required by the provisions of this Chapter, whether or not the prior  
6 offense required registration at the time of commission or conviction, who  
7 subsequently is convicted of or adjudicated for an offense which requires registration  
8 under the provisions of this Chapter.

9 **C. A person who was convicted or adjudicated of an offense under the**  
10 **laws of another state, or military, territorial, foreign, tribal or federal law who**  
11 **is required to register as a sex offender pursuant to the provisions of this**  
12 **Chapter shall be required to register for the period of registration provided by**  
13 **the jurisdiction of their conviction or the period of registration provided by the**  
14 **provisions of this Section, whichever period is longer.**

15 ~~C.D.~~(1) If an offender begins the period of registration and notification and  
16 is subsequently incarcerated for any reason other than a misdemeanor arrest or a  
17 misdemeanor conviction or for a felony arrest which does not result in a conviction,  
18 then the period of registration and notification shall begin anew on the day the  
19 offender is released from incarceration, with no credit for the period of time in which  
20 the offender complied with registration and notification requirements prior to his  
21 incarceration.

22 (2) An offender required to register pursuant to the provisions of this Chapter  
23 shall only receive credit for the period of time in which he resides in this state and  
24 is in compliance with all registration and notification requirements of this state.

25 ~~D.E.~~(1) The registration period of fifteen years established in Subsection A  
26 of this Section may be reduced to a period of ten years if the offender maintains a  
27 clean record for the entire ten-year period of registration upon petition to be relieved  
28 of the sex offender registration to the court of conviction for those convicted in  
29 Louisiana, or the court of the parish of residence for those convicted under the laws

1 of another state, or military, territorial, foreign, tribal, or federal law which have  
2 been determined to be comparable to a Louisiana offense requiring a fifteen-year  
3 registration period by the bureau pursuant to the provisions of R.S. 15:542.1.3. ~~The~~  
4 ~~petition shall be accompanied by a certification from the office of state police of the~~  
5 ~~offender's history of registration in Louisiana.~~

6 (2) The lifetime registration period established in Paragraph (B)(2) of this  
7 Section may be reduced to a period of twenty-five years if the offender was  
8 adjudicated delinquent for the offense which requires registration and maintains a  
9 clean record for twenty-five years upon petition to be relieved of the sex offender  
10 registration to the court of adjudication for those adjudicated in Louisiana, or court  
11 of the parish of residence for those adjudicated under the laws of another state, or  
12 military, territorial, foreign, tribal, or federal law. ~~The petition shall be accompanied~~  
13 ~~by a certification from the office of state police of the offender's history of~~  
14 ~~registration in Louisiana.~~

15 (3) For purposes of this Subsection, an offender maintains a "clean record"  
16 by:

17 (a) Not being convicted of any offense for which imprisonment for more  
18 than one year may be imposed;<sub>2</sub>

19 (b) Not being convicted of any sex offense;<sub>2</sub>

20 (c) Successfully completing any periods of supervised release, probation, or  
21 parole; ~~and~~<sub>2</sub>

22 (d) Successfully completing an appropriate sex offender treatment program  
23 by a registered treatment as provided in R.S. 24:936 or an appropriate sex offender  
24 treatment program certified by the Attorney General of the United States.

25 (e) Complying with all sex offender registration and notification requirements  
26 in Louisiana for the prescribed period of time pursuant to the provisions of this  
27 Chapter.

28 (4) The following procedures shall apply to the provisions of Paragraphs (1)  
29 and (2) of this Subsection:

1 (a) The district attorney shall be served with a copy of the petition and the  
2 Louisiana Department of Public Safety and Corrections, office of state police, and  
3 the Department of Justice shall be given notice of the filing with a copy of the  
4 pleading. **Upon receipt of the pleading, the office of state police shall issue a**  
5 **certification of the offender's history of registration in Louisiana to the court in**  
6 **which the petition was filed.**

7 (b) The court shall order a contradictory hearing to determine whether the  
8 offender is entitled to be relieved of the registration and notification requirements  
9 pursuant to the provisions of Paragraphs (1) and (2) of this Subsection. The  
10 Louisiana Department of Public Safety and Corrections, office of state police and the  
11 Department of Justice shall be given notice of the hearing date.

12 (c) The provisions of Paragraphs (1) and (2) of this Subsection shall not apply  
13 to any person who was convicted of more than one offense which requires  
14 registration pursuant to the provisions of this Chapter.

15 \* \* \*

16 ~~E.F.~~(1) Notwithstanding the provisions of Subsection A or Paragraph (B)(1)  
17 of this Section, the court, upon motion of the district attorney, and after a  
18 contradictory hearing, shall have the authority to order a person required to register  
19 and provide notification pursuant to the provisions of this Chapter to register and  
20 notify for the duration of the lifetime of the offender upon a showing by a  
21 preponderance of the evidence that the offender poses a substantial risk of  
22 committing another offense requiring registration pursuant to this Chapter. The  
23 district attorney and the offender may enter into a plea agreement requiring the  
24 offender to register and provide notification for the duration of the lifetime of the  
25 offender without a contradictory hearing.

26 (2) Whenever the registration and notification period of a sex offender has  
27 been increased to lifetime pursuant to the provisions of Paragraph (1) of this  
28 Subsection, upon maintenance of a clean record for the minimum time period  
29 applicable to the offense of conviction as provided by the provisions of Subsection

1 A or Paragraph (B)(1) of this Section, the offender may petition the court in the  
2 jurisdiction of conviction, or if convicted under the laws of another state, or military,  
3 territorial, foreign, tribal, or federal law, in the jurisdiction of the offender's  
4 residence, to be relieved of the registration and notification requirements of this  
5 Chapter. The district attorney shall be served with the petition, and the matter shall  
6 be set for contradictory hearing. Upon a finding by clear and convincing evidence  
7 that the offender has maintained a "clean record" as defined in this Section and that  
8 the offender does not pose a substantial risk of committing another offense requiring  
9 registration pursuant to this Chapter, the court may order that the offender be  
10 relieved of the obligation to register and notify pursuant to this Chapter.

11 Section 2. This Act shall become effective upon signature by the governor or, if not  
12 signed by the governor, upon expiration of the time for bills to become law without signature  
13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
14 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
15 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Angela L. De Jean.

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#### DIGEST

Present law provides that any person who is convicted of an offense under the laws of another state will be subject to and will comply with all of the registration requirements in La. within three business days of establishing a residence in La. and will comply with all notification requirements in La. within 21 days of establishing a residence in La. This person is also required to notify the La. Bureau of Criminal Identification and Information within three business days of establishing residence in La.

Proposed law requires such persons to provide certified copies of court records pertaining to the offense or offenses which require registration as a sex offender to the bureau within three business days of establishing residence in La.

Present law provides that the registration period for a person who is convicted of an offense under the laws of another state will be the same as a person convicted of a similar offense under the laws of this state.

Proposed law amends present law and provides that for any person convicted under the laws of another state who moves to La. and is required to register under the laws of this state, will do so for the length of time required by the jurisdiction of their conviction or the length of time required in La., whichever period is longer.

Proposed law removes the present law requirement that the petition to be relieved of the sex offender registration requirements be accompanied by a certification from the office of state

police of the offender's history of registration in La., and amends the requirement to provide that this information will be provided to the court upon receipt of the pleading by the office of state police.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 15:542.1.3(A) and 544)