

Regular Session, 2010

SENATE BILL NO. 614

BY SENATOR THOMPSON

CRIMINAL RECORDS. Creates the Louisiana Arson Registry. (8/15/10)

1 AN ACT

2 To enact Chapter 3-F of Title 15 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 15:562 through 15:562.6, relative to the crime of arson; to provide for the
4 creation of the registration of arson offenders; to provide for purposes and
5 notification; to provide for definitions; to provide for certain criteria; to provide for
6 penalties, and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 3-F of Title 15 of the Louisiana Revised Statutes of 1950, to be
9 comprised of R.S. 15:562 through 15:562.6 is hereby enacted to read as follows:

10 **CHAPTER 3-F. REGISTRATION OF ARSON OFFENDERS**

11 **§562. Findings; purpose**

12 **The legislature finds that arson offenders, even after being released from**
13 **incarceration or commitment, are of paramount governmental interest. The**
14 **legislature further finds that local law enforcement officers' efforts to protect**
15 **their communities, conduct investigations, and quickly apprehend offenders**
16 **who commit arson offenses are impaired by the lack of information available**
17 **to law enforcement agencies about convicted arson offenders, who live within**

1 the agency's jurisdiction, and the penal and mental health components of our
2 justice system are largely hidden from public view and that lack of information
3 from either may result in failure of both systems to meet this paramount
4 concern of public safety. Release of information about arson offenders, to
5 public agencies, will further the governmental interests of public safety and
6 public scrutiny of the criminal and mental health systems so long as the
7 information released is rationally related to the furtherance of those goals.
8 Therefore, this state's policy is to assist local law enforcement agencies' efforts
9 to protect their communities by requiring arson offenders to register with the
10 state fire marshal and to require the exchange of relevant information about
11 arson offenders among state, local, and federal public agencies and officials.

12 §562.1. Definitions

13 For the purposes of this Chapter, the definitions of terms in this Section
14 shall apply:

15 (1) "Administration of criminal justice" means performance of any of
16 the following activities: detection, apprehension, detention, pretrial release,
17 post-trial release, prosecution, adjudication, correctional supervision, or
18 rehabilitation of accused persons or criminal offenders. The term also includes
19 criminal identification activities, the collection, storage, and dissemination of
20 criminal history record information, and the compensation of victims of crime.

21 (2) "Arson offense" means a conviction for the perpetration or
22 attempted perpetration of, or conspiracy to commit, any of the following:

23 (a) Aggravated arson (R.S. 14:51).

24 (b) Simple arson (R.S. 14:52).

25 (c) Simple arson of a religious building (R.S. 14:52.1).

26 (d) Arson with intent to defraud (R.S. 14:53).

27 (e) Communicating of false information of planned arson (R.S. 14:54.1).

28 (f) Manufacture and possession of delayed action incendiary devices
29 (R.S. 14:54.2).

1 **(g) Manufacture and possession of a bomb (R.S. 14:54.3).**

2 **(h) Fake explosive device (R.S. 14:54.5).**

3 **(3) "Conviction or other disposition adverse to the subject" means any**
4 **disposition of charges, except a decision not to prosecute, a dismissal, or an**
5 **acquittal, except when the acquittal is due to a finding of not guilty by reason**
6 **of insanity and the person was committed. However, a dismissal entered after**
7 **a period of probation, suspension, or deferral of sentence shall be considered a**
8 **disposition adverse to the subject.**

9 **(4) "Conviction record" means criminal history record information**
10 **relating to an incident which has led to a conviction or other disposition adverse**
11 **to the subject.**

12 **(5) "Court determination" means a determination that a person is an**
13 **arsonist or a determination that a person is no longer an arsonist that shall be**
14 **made by the sentencing court after receiving a report by the commission.**

15 **(6) "Criminal history record information" means information contained**
16 **in records collected by criminal justice agencies, other than courts, on**
17 **individuals, consisting of identifiable descriptions and notations of arrests,**
18 **detention, indictments, information, or other formal criminal charges, and any**
19 **disposition arising therefrom, including sentences, correctional supervision, and**
20 **release. The term includes information contained in records maintained by or**
21 **obtained from criminal justice agencies, other than courts, which records**
22 **provide individual identification of a person together with any portion of the**
23 **individual's record of involvement in the criminal justice system as an alleged**
24 **or convicted offender, except:**

25 **(a) Posters, announcements, or lists for identifying or apprehending**
26 **fugitives or wanted persons.**

27 **(b) Original records of entry maintained by criminal justice agencies to**
28 **the extent that such records are compiled and maintained chronologically and**
29 **are accessible only on a chronological basis.**

1 (c) Court indices and records of public judicial proceedings, court
2 decisions, and opinions, and information disclosed during judicial proceedings.

3 (d) Records of traffic violations which are not punishable by a maximum
4 term of imprisonment of more than ninety days.

5 (e) Records of any traffic offenses as maintained by the office of motor
6 vehicles for the purpose of regulating the issuance, suspension, revocation, or
7 renewal of drivers' or other operators' licenses.

8 (f) Records of any aviation violation or offenses as maintained by the
9 Department of Transportation and Development for the purpose of regulating
10 pilots or other aviation operators.

11 (g) Announcements of pardons.

12 (7) "Criminal justice agency" means:

13 (a) A court.

14 (b) A government agency which performs the administration of criminal
15 justice pursuant to a statute or executive order and which allocates a substantial
16 part of its annual budget to the administration of criminal justice.

17 (8) "Disposition" means the formal conclusion of a criminal proceeding
18 at whatever stage it occurs in the criminal justice system.

19 (9) "Dissemination" means disclosing criminal history record
20 information or disclosing the absence of criminal history record information to
21 any person or agency outside the agency possessing the information, subject to
22 the following exceptions:

23 (a) When criminal justice agencies jointly participate in the maintenance
24 of a single recordkeeping department as an alternative to maintaining separate
25 records, the furnishing of information by that department to personnel of any
26 participating agency.

27 (b) The furnishing of information by any criminal justice agency to
28 another for the purpose of processing a matter through the criminal justice
29 system, such as a police department providing information to a prosecutor for

1 **use in preparing a charge.**

2 **(c) The reporting of an event to a recordkeeping agency for the purpose**
3 **of maintaining the record.**

4 **(10) "Residence" means a dwelling where an offender regularly resides,**
5 **regardless of the number of days or nights spent there. For those offenders who**
6 **lack a fixed abode or dwelling, "residence" shall include the area or place where**
7 **the offender habitually lives, including but not limited to a rural area with no**
8 **address or a shelter.**

9 **§562.2 Powers and duties of state fire marshal**

10 **In addition to any other powers and duties conferred in this Chapter, the**
11 **state fire marshal shall:**

12 **(1) Be responsible for the policy management and administration of the**
13 **registration of arson offenders to support arson investigations, enforcement and**
14 **prevention activities.**

15 **(2) Have the authority to enforce the provisions of this Chapter.**

16 **§562.3 Registration of arson offenders**

17 **A. Any person residing in this state who has pled guilty to, has been**
18 **convicted of, or where adjudication has been deferred or withheld for the**
19 **perpetration or attempted perpetration of, or any conspiracy to commit an**
20 **arson offense as defined in R.S. 15:562.1 shall be required to register as an**
21 **arson offender with the state fire marshal.**

22 **B.(1) The offender shall register and provide all of the following**
23 **information to the state fire marshal:**

24 **(a) Name and any aliases used by the offender.**

25 **(b) Physical address or addresses of residence.**

26 **(c) Two forms of proof of residence for each residential address**
27 **provided, including but not limited to a driver's license, bill for utility service,**
28 **and bill for telephone service. If those forms of proof of residence are not**
29 **available, the offender may provide an affidavit of an adult resident living at the**

1 same address. The affidavit shall certify that the affiant understands his
2 obligation to provide written notice pursuant to R.S. 15:562.5.

3 (d) The crime for which he was convicted and the date and place of such
4 conviction, and if known by the offender, the court in which the conviction was
5 obtained, the docket number of the case, the specific statute under which he was
6 convicted, and the sentence imposed.

7 (e) A current photograph.

8 (f) Telephone numbers, including fixed location phone and mobile phone
9 numbers assigned to the offender or associated with any residence address of
10 the offender.

11 (g) A description of every vehicle registered to or operated by the
12 offender, including license plate number and a copy of the offender's driver's
13 license or identification card.

14 (h) Social security number and date of birth.

15 (i) Past or current employment, membership, or association with a public
16 safety agency or emergency service organization.

17 (2) Every offender required to register in accordance with this Section
18 shall appear in person and provide the information required by Paragraph (1)
19 of this Subsection to the state fire marshal within thirty business days of
20 establishing residence in Louisiana, or if a current resident, within thirty
21 business days after conviction or adjudication if not immediately incarcerated
22 or taken into custody after conviction or adjudication. If incarcerated, once
23 released from confinement, every offender shall appear in person within thirty
24 business days to register with the state fire marshal pursuant to the provisions
25 of this Section.

26 (3) Knowingly providing false information to the state fire marshal
27 pursuant to the provisions of this Chapter shall constitute a failure to register
28 pursuant to R.S. 15:562.5(A)(1).

29 C. (1)The offender shall pay to the state fire marshal an annual

1 registration fee of sixty dollars to defray the costs of maintaining the record of
2 the offender. The payment of such a fee shall be made in accordance with any
3 rule regarding indigency adopted by the judges of the judicial district court in
4 the jurisdiction. The offender shall pay such fee upon the initial registration and
5 on the anniversary thereof. Failure by the offender to pay the fee within thirty
6 days of initial registration shall constitute a failure to register and shall subject
7 the offender to penalties under the provisions of R.S. 15:562.5(A)(3). The
8 offender shall not be prevented from registering in accordance with this Section
9 for failure to pay the annual registration fee.

10 (2) The fees collected pursuant to this Chapter shall be deposited into the
11 State Fire Marshal Arson Enforcement and Prevention Fund within the state
12 treasury as provided by law. The monies shall be deposited to the credit of the
13 fund and shall, in addition to any other monies available for such purpose, be
14 available to the state fire marshal to support arson investigation, enforcement
15 and prevention activities.

16 D. Upon receipt of the registration information as required by the
17 provisions of this Section, the state fire marshal shall immediately forward such
18 information to the bureau electronically.

19 E. The arson offender registration requirements required by this
20 Chapter are mandatory and shall not be waived or suspended by any court. Any
21 order waiving or suspending arson offender registration requirements shall be
22 null, void, and of no effect. Any order waiving or suspending registration
23 requirements shall not be construed to invalidate an otherwise valid conviction.
24 §562.4 Duty of offenders to notify law enforcement of change of address,
25 residence, or other registration information

26 A. Those persons required to register pursuant to the provisions of this
27 Chapter shall appear in person at the fire marshal's office within thirty business
28 days of establishing a new or additional physical residential address or of
29 changes in information previously provided when any of the following occur:

1 (1) The offender changes his place of residence or establishes a new or
2 additional residence; or

3 (2) When the offender has vacated his current address of registration
4 with the intent not to return; or

5 (3) When the offender has been absent from his current address of
6 registration for more than ninety consecutive days or an aggregate of ninety
7 days or more per calendar year and is physically present at another address
8 during that same time period; or

9 (4) The offender has a change in name.

10 B. The notice of change of address required by this Section shall include
11 proof of residence as required by R.S. 15:562.3(B)(1)(c).

12 C. Any arson offender who fails to provide change of address or other
13 information as provided in this Section shall be subject to criminal prosecution
14 as provided in R.S. 15:562.5.

15 §562.5. Failure to register as an arson offender; penalties

16 A.(1) A person who fails to register, periodically renew and update
17 registration, provide proof of residence or notification of change of address or
18 other registration information, as required by the provisions of this Chapter,
19 and a person who knowingly provides false information to the state fire marshal
20 as provided in R.S. 15:562.3(B)(3), shall, upon first conviction, be fined not
21 more than five hundred dollars.

22 (2) Upon second or subsequent convictions, the offender shall be fined
23 one thousand dollars.

24 (3) An offender who fails to pay the annual registration fee in accordance
25 with the provisions of R.S. 15:562.3 shall be fined not more than five hundred
26 dollars. Upon a second or subsequent conviction for the failure to pay the
27 annual registration fee, the offender shall be fined not more than one thousand
28 dollars.

29 B.(1) Any person who certifies by affidavit the location of the residence

1 of the offender shall send written notice to the state fire marshal. This
 2 notification shall be made any time the offender is absent from the residence for
 3 a period of ninety days or more, or the offender vacates the residence with the
 4 intent to establish a new residence at another location. This notification shall be
 5 sent within thirty days of the offender vacating the residence with the requisite
 6 intent.

7 (2) Any person who fails to provide the notice required by this
 8 Subsection shall be fined not more than five hundred dollars.

9 **§562.6. Duration of registration and notification period**

10 A person required to register pursuant to the provisions of this Chapter
 11 shall comply with the requirement for five years for a first offense and for the
 12 duration of the lifetime of the offender for a second or subsequent offense,
 13 unless the underlying conviction is reversed, set aside, or vacated.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michael Bell.

DIGEST

Proposed law creates the Louisiana Arson Registry.

Proposed law provides for definitions.

Proposed law provides that any person residing in this state who has pled guilty to, or has been convicted of an arson offense must register with the state fire marshal.

Proposed law provides for an offender to pay to the appropriate law enforcement agencies with whom he is required to register an annual registration fee of \$60 to defray the costs of maintaining the record of the offender.

Proposed law provides for the exemption of any juvenile from any notification requirements of proposed law, except for the notification required for providing recreational instructions to persons under the age of 17.

Proposed law provides for offenders to notify law enforcement of changes of address and residence.

Proposed law requires the offender to provide notification for five years on a first conviction and for the duration of his lifetime for a second or subsequent conviction, unless the underlying conviction is reversed, set aside, or vacated.

Proposed law provides for the following penalties:

On a first conviction, a fine of not more than \$500.

On a second or subsequent convictions, the offender will be fined \$1,000.

Effective August 15, 2010.

(Adds R.S. 15:562 through 562.6)