

Regular Session, 2011

HOUSE BILL NO. 55

BY REPRESENTATIVE THIERRY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME/SEX OFFENSES: Prohibits certain sex offenders from using or accessing social networking websites, chat rooms, and peer-to-peer networks

1 AN ACT

2 To enact R.S. 14:91.5, relative to sex offenders; to create the crime of unlawful use or access
3 of social media; to prohibit certain convicted sex offenders from using or accessing
4 social networking websites, chat rooms, and peer-to-peer networks; to provide for
5 definitions; to provide for penalties; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:91.5 is hereby enacted to read as follows:

8 §91.5. Unlawful use or access of social media

9 A.(1) The following shall constitute unlawful use or access of social media:

10 (a) The using or accessing of social networking websites, chat rooms, and
11 peer-to-peer networks by a person previously convicted of a sex offense as defined
12 in R.S. 15:541 when the sex offense for which the person was convicted involved or
13 was facilitated by the use of a computer or any other device with Internet capability.

14 (b) The contacting of a minor through the use of a social networking website,
15 chat room, electronic mail, instant messenger, or any device with Internet capability
16 by a person previously convicted of a sex offense as defined in R.S. 15:541 in which
17 the victim of the sex offense was a minor, and when the sex offense for which the
18 person was convicted involved or was facilitated by the use of a computer or any
19 other device with Internet capability.

20 (2) The provisions of this Section shall also apply to any person convicted
21 of a sex offense under the laws of another state, or military, territorial, foreign, tribal,

1 or federal law which is equivalent to a sex offense as defined in R.S. 15:541, and the
2 offense for which the person was convicted involved or was facilitated by the use of
3 a computer or any other device with Internet capability, unless the tribal court or
4 foreign conviction was not obtained with sufficient safeguards for fundamental
5 fairness and due process for the accused as provided by the federal guidelines
6 adopted pursuant to the Adam Walsh Child Protection and Safety Act of 2006.

7 B.(1) It shall not be a violation of the provisions of this Section if the
8 offender has permission to use or access social networking websites, chat rooms, or
9 peer-to-peer networks from his probation or parole officer or a court of competent
10 jurisdiction.

11 (2) It shall not be a violation of the provisions of this Section if the offender
12 contacts a minor with the approval of the minor's legal guardian and with the
13 approval of his probation or parole officer or a court of competent jurisdiction.

14 C. For purposes of this Section:

15 (1) "Chat room" means any Internet website through which users have the
16 ability to communicate via text and which allows messages to be visible to all other
17 users or to a designated segment of all other users.

18 (2) "Minor" means a person under the age of eighteen years.

19 (3) "Peer-to-peer network" means a connection of computer systems
20 whereby files are shared directly between the systems on a network without the need
21 of a central server.

22 (4) "Social networking website" means an Internet website that has any of
23 the following capabilities:

24 (a) Allows users to create web pages or profiles about themselves that are
25 available to the general public or to any other users.

26 (b) Offers a mechanism for communication among users, such as a forum,
27 chat room, electronic mail, or instant messaging.

28 D.(1) Whoever violates the provisions of this Section shall, upon a first
29 conviction, be fined not more than ten thousand dollars and shall be imprisoned with

1 hard labor for not more than ten years without benefit of parole, probation, or
2 suspension of sentence.

3 (2) Whoever violates the provisions of this Section, upon a second or
4 subsequent conviction, shall be fined not more than twenty thousand dollars and
5 shall be imprisoned with hard labor for not less than five years nor more than twenty
6 years without benefit of parole, probation, or suspension of sentence.

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)]

Thierry

HB No. 55

Abstract: Creates the crime of unlawful use or access of social media by certain convicted sex offenders.

Proposed law creates the crime of unlawful use or access of social media. Prohibits the use or access of social networking websites, chat rooms, or peer-to-peer networks by a person previously convicted of a sex offense when the sex offense for which the person was convicted involved or was facilitated by the use of a computer or any other device with Internet capability.

Proposed law further prohibits convicted sex offenders from contacting a minor through the use of a social networking website, chat room, electronic mail, instant messenger, or any device with Internet capability when the victim of the offense for which the sex offender was convicted was a minor, and the sex offense involved or was facilitated by the use of a computer or any other device with Internet capability.

Proposed law provides an exception for those sex offenders who have permission to access social networking websites, chat rooms, or peer-to-peer networks from his probation or parole officer or a court of competent jurisdiction, or if the offender contacts a minor, with the approval of the minor's legal guardian and with the approval of his probation or parole officer or a court of competent jurisdiction.

Proposed law defines "chat room", "minor", "peer-to-peer network", and "social networking website".

Proposed law provides for the following penalties:

- (1) Upon a first conviction, the offender shall be fined not more than \$10,000 and shall be imprisoned with hard labor for not more than 10 years without benefit of parole, probation, or suspension of sentence.
- (2) Upon a second or subsequent conviction, the offender shall be fined not more than \$20,000 and shall be imprisoned with hard labor for not less than five years nor more than 20 years without benefit of parole, probation, or suspension of sentence.

(Adds R.S. 14:91.5)