

Regular Session, 2011

HOUSE BILL NO. 9

BY REPRESENTATIVE HENRY BURNS

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

CRIME/SEX OFFENSES: Amends provisions relative to sex offender residency and presence restrictions

1 AN ACT

2 To amend and reenact R.S. 14:91.1(A)(2), 91.2(A)(1), (2), (3), and (4) and (B)(1) and (2),  
3 and R.S. 15:538(D)(1)(a), (b), and (c), (5)(introductory paragraph), and (6)(a), (b),  
4 and (c), relative to sex offenders and sexually violent predators; to amend provisions  
5 relative to the crime of unlawful presence of sex offenders and sexually violent  
6 predators; to expand the residency and presence restrictions of sex offenders and  
7 sexually violent predators; to amend conditions of probation and parole for sex  
8 offenders with regard to residency and presence restrictions; and to provide for  
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 14:91.1(A)(2), 91.2(A)(1), (2), (3), and (4) and (B)(1) and (2) are  
12 hereby amended and reenacted to read as follows:

13 §91.1. Unlawful presence of a sexually violent predator

14 A. Unlawful presence of a sexually violent predator is:

15 \* \* \*

16 (2) The physical residing of a sexually violent predator within ~~one~~ two  
17 thousand feet of any public or private elementary or secondary school, a day care  
18 center, group home, residential home, or child care facility as defined in R.S.  
19 46:1403, a family child day care home as defined in R.S. 46:1441.1, playground,

1 public or private youth center, public swimming pool, or free standing video arcade  
2 facility.

3 \* \* \*

4 §91.2. Unlawful presence of a sex offender

5 A. The following acts when committed by a person convicted of a sex  
6 offense as defined in R.S. 15:541 when the victim is under the age of thirteen years  
7 shall constitute the crime of unlawful residence or presence of a sex offender:

8 (1) The physical presence of the offender in, on, or within ~~one~~ two thousand  
9 feet of the school property of any public or private elementary or secondary school  
10 or the physical presence in any motor vehicle or other means of conveyance owned,  
11 leased, or contracted by such school to transport students to or from school or a  
12 school-related activity when persons under the age of eighteen years are present on  
13 the school property or in a school vehicle.

14 (2) The offender establishing a residence within ~~one~~ two thousand feet of  
15 any public or private elementary or secondary school.

16 (3) The physical presence of the offender in, on, or within ~~one~~ two thousand  
17 feet of a public park or recreational facility.

18 (4) The offender establishing a residence within ~~one~~ two thousand feet of  
19 any public park or recreational facility.

20 B. The following acts, when committed by a person convicted of an  
21 aggravated offense as defined in R.S. 15:541(2) when the victim is under the age of  
22 thirteen years, shall constitute the crime of unlawful residence or presence of a sex  
23 offender:

24 (1) The physical presence of the offender in, on, or within ~~one~~ two thousand  
25 feet of a day care center, group home, residential home, or child care facility as  
26 defined in R.S. 46:1403, or a family child day care home as defined in R.S.  
27 46:1441.1.

28 (2) The establishment of a residence within ~~one~~ two thousand feet of any day  
29 care center, group home, residential home, or child care facility as defined in R.S.

1 46:1403, a family child day care home as defined in R.S. 46:1441.1, playground,  
2 public or private youth center, public swimming pool, or free standing video arcade  
3 facility.

4 \* \* \*

5 Section 2. R.S. 15:538(D)(1)(a), (b), and (c), (5)(introductory paragraph), and (6)(a),  
6 (b), and (c) are hereby amended and reenacted to read as follows:

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

8 \* \* \*

9 D.(1) No sexual offender, whose offense involved a minor child, shall be  
10 eligible for probation, parole, or suspension of sentence unless, as a condition  
11 thereof, the sexual offender is prohibited from:

12 (a) Going in, on, or within ~~one~~ two thousand feet of the school property of  
13 any public or private elementary or secondary school, or the physical presence in any  
14 motor vehicle or other means of conveyance owned, leased, or contracted by such  
15 school to transport students to or from school or a school-related activity when  
16 persons under the age of eighteen years are present on the school property or in a  
17 school vehicle.

18 (b) Going in, on, or within ~~one~~ two thousand feet of a day care center, group  
19 home, residential home, or child care facility as defined in R.S. 46:1403, a family  
20 child day care home as defined in R.S. 46:1441.1, playground, public or private  
21 youth center, public swimming pool, or free-standing video arcade facility.

22 (c) Physically residing within ~~one~~ two thousand feet of any public or private  
23 elementary or secondary school, day care center, group home, residential home, or  
24 child care facility as defined in R.S. 46:1403, a family child day care home as  
25 defined in R.S. 46:1441.1, playground, public or private youth center, public  
26 swimming pool, or free-standing video arcade facility.

27 \* \* \*

1 (5) Notwithstanding the provisions of this Subsection, a requirement that a  
2 defendant not go in, on, or within ~~one~~ two thousand feet of certain premises does not  
3 apply to a defendant while the defendant is in or going immediately to or from a:

4 \* \* \*

5 (6) Any sexual offender, whose offense involved a minor child, and who was  
6 placed on probation or was paroled prior to August 15, 2004, and is on probation or  
7 parole as of August 15, 2005, shall have the following prohibitions added as  
8 conditions of probation and parole pursuant to Code of Criminal Procedure Articles  
9 895 and 896 or R.S. 15:574.4 and 574.7:

10 (a) Going in, on, or within ~~one~~ two thousand feet of the school property of  
11 any public or private elementary or secondary school, or the physical presence in any  
12 motor vehicle or other means of conveyance owned, leased, or contracted by such  
13 school to transport students to or from school or a school-related activity when  
14 persons under the age of eighteen years are present on the school property or in a  
15 school vehicle.

16 (b) Going in, on, or within ~~one~~ two thousand feet of a day care center, group  
17 home, residential home, or child care facility as defined in R.S. 46:1403, a family  
18 child day care home as defined in R.S. 46:1441.1, playground, public or private  
19 youth center, public swimming pool, or free-standing video arcade facility.

20 (c) Physically residing within ~~one~~ two thousand feet of any public or private  
21 elementary or secondary school, day care center, group home, residential home, or  
22 child care facility as defined in R.S. 46:1403, a family child day care home as  
23 defined in R.S. 46:1441.1, playground, public or private youth center, public  
24 swimming pool, or free-standing video arcade facility.

25 \* \* \*

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**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)]

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Henry Burns

HB No. 9

**Abstract:** Expands residency and presence restrictions of a sex offender from 1,000 feet to 2,000 feet.

Present law prohibits a sexually violent predator from residing within 1,000 feet of any public or private elementary or secondary school, a day care center, group home, residential home, or child care facility, a family child day care home, playground, public or private youth center, public swimming pool, or free standing video arcade facility.

Present law prohibits sex offenders from the following when the victim of the offense was under the age of 13:

- (1) Being physically present in, on, or within 1,000 feet of the school property of any public or private elementary or secondary school or the physical presence in any motor vehicle or other means of conveyance owned, leased, or contracted by such school to transport students to or from school or a school-related activity when persons under the age of 18 are present on the school property or in a school vehicle.
- (2) Establishing a residence within 1,000 feet of any public or private elementary or secondary school.
- (3) Being physically present in, on, or within 1,000 feet of a public park or recreational facility.
- (4) Establishing a residence within 1,000 feet of any public park or recreational facility.

Present law prohibits sex offenders convicted of an aggravated offense from the following when the victim is under the age of 13:

- (1) Being physically present in, on, or within 1,000 feet of a day care center, group home, residential home, child care facility, or a family child day care home.
- (2) Establishing a residence within 1,000 feet of any day care center, group home, residential home, child care facility, a family child day care home, playground, public or private youth center, public swimming pool, or free standing video arcade facility.

Present law provides that no sex offender, whose offense involved a minor child, shall be eligible for probation, parole, or suspension of sentence unless as a condition thereof, the sex offender is prohibited from the following:

- (1) Going in, on, or within 1,000 feet of the school property of any public or private elementary or secondary school, or the physical presence in any motor vehicle or other means of conveyance owned, leased, or contracted by such school to transport students to or from school or a school-related activity when persons under the age of 18 are present on the school property or in a school vehicle.
- (2) Going in, on, or within 1,000 feet of a day care center, group home, residential home, or child care facility, a family child day care home, playground, public or private youth center, public swimming pool, or free standing video arcade facility.

- (3) Physically residing within 1,000 feet of any public or private elementary or secondary school, day care center, group home, residential home, or child care facility, a family child day care home, playground, public or private youth center, public swimming pool, or free standing video arcade facility.

Proposed law amends present law extending the distance in which a sex offender or sexually violent predator is prohibited from being present or establishing a residence from 1,000 feet to 2,000 feet.

(Amends R.S. 14:91.1(A)(2), 91.2(A)(1), (2), (3), and (4) and (B)(1) and (2), and R.S. 15:538(D)(1)(a), (b), and (c), (5)(intro. para.), and (6)(a), (b), and (c))