

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1803 Session of  
2007

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SONNEY, STABACK, STEIL, VULAKOVICH, WANSACZ AND YOUNGBLOOD,  
SEPTEMBER 11, 2007

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 11, 2007

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, providing for the offense of sexually violent  
4 predators residing or working near schools; further providing  
5 for, in registration of sexual offenders, legislative  
6 findings and declaration of policy, for registration, for  
7 sentencing court information and for verification of  
8 residence; imposing limitations on residence for sexually  
9 violent predators; providing for electronic monitoring; and  
10 further providing for duties of Pennsylvania State Police and  
11 Pennsylvania Board of Probation and Parole.

12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. Title 18 of the Pennsylvania Consolidated  
15 Statutes is amended by adding a section to read:

16 § 5518. Sexually violent predators residing or working near  
17 schools.

18 (a) Offense defined.--A person who is a sexually violent  
19 predator and establishes a residence or place of employment in

1 violation of 42 Pa.C.S. § 9796.1 (relating to limitations on  
2 sexually violent predators) commits an offense under this  
3 section.

4 (b) Grading.--

5 (1) A person who violates subsection (a) commits a  
6 misdemeanor of the second degree.

7 (2) A person who violates subsection (a) and has  
8 previously been convicted of an offense under subsection (a)  
9 or a similar offense commits a misdemeanor of the first  
10 degree.

11 (3) A person who violates subsection (a) and has  
12 previously been convicted of two or more offenses under  
13 subsection (a) or a similar offense commits a felony of the  
14 third degree.

15 (c) Arrests for violation.--

16 (1) A police officer shall have the same right of arrest  
17 without a warrant as in a felony whenever the police officer  
18 has probable cause to believe a person has committed a  
19 violation of this section regardless of whether the violation  
20 occurred in the presence of the police officer.

21 (2) A person arrested for a violation of this section  
22 shall be afforded a preliminary arraignment by the proper  
23 issuing authority without unnecessary delay. In no case may  
24 the person be released from custody without first having  
25 appeared before the issuing authority.

26 (3) Prior to admitting a person arrested for a violation  
27 of this section to bail, the issuing authority shall require  
28 all of the following:

29 (i) The person shall be fingerprinted and  
30 photographed in the manner required by 42 Pa.C.S. Ch. 97

1       Subch. H (relating to registration of sexual offenders).

2           (ii) The person shall provide the Pennsylvania State  
3       Police with all current or intended residences, all  
4       information concerning current or intended employment,  
5       including all employment locations and all information  
6       concerning current or intended enrollment as a student.

7           (iii) Law enforcement officers shall make reasonable  
8       attempts to verify the information provided by the  
9       person.

10       (d) Definitions.--As used in this section, the following  
11       words and phrases shall have the meanings given to them in this  
12       subsection:

13       "Sexually violent predator." This term shall have the same  
14       meaning given to it under 42 Pa.C.S. § 9792 (relating to  
15       definitions).

16       "Similar offense." An offense under the laws of this  
17       Commonwealth, the United States or one of its territories or  
18       possessions, another state, the District of Columbia, the  
19       Commonwealth of Puerto Rico or a foreign nation that is similar  
20       to the offense defined under subsection (a).

21       Section 2. Sections 9791(a), 9795.1(a) and 9795.3 of Title  
22       42 are amended by adding paragraphs to read:

23       § 9791. Legislative findings and declaration of policy.

24       (a) Legislative findings.--It is hereby determined and  
25       declared as a matter of legislative finding:

26           \* \* \*

27       (7) Young children are highly vulnerable when walking to  
28       and from elementary school.

29       (8) The Commonwealth has a compelling State interest in  
30       protecting young children from sexually violent predators.

1       (9) In order to further the compelling State interest to  
2       protect children from sexually violent predators, it is  
3       necessary for the Commonwealth to limit contact between  
4       children and sexually violent predators by prohibiting  
5       sexually violent predators from establishing a residence or  
6       place of employment within walking distance of an elementary  
7       school.

8       \* \* \*

9       § 9795.1. Registration.

10       (a) Ten-year registration.--The following individuals shall  
11       be required to register with the Pennsylvania State Police for a  
12       period of ten years:

13               (1) Individuals convicted of any of the following  
14       offenses:

15               18 Pa.C.S. § 2901 (relating to kidnapping) where the  
16       victim is a minor.

17               18 Pa.C.S. § 2910 (relating to luring a child into a  
18       motor vehicle or structure).

19               18 Pa.C.S. § 3124.2 (relating to institutional sexual  
20       assault).

21               18 Pa.C.S. § 3126 (relating to indecent assault)  
22       where the offense is graded as a misdemeanor of the first  
23       degree or higher.

24               18 Pa.C.S. § 4302 (relating to incest) where the  
25       victim is 12 years of age or older but under 18 years of  
26       age.

27               18 Pa.C.S. § 5902(b) (relating to prostitution and  
28       related offenses) where the actor promotes the  
29       prostitution of a minor.

30               18 Pa.C.S. § 5903(a)(3), (4), (5) or (6) (relating to

1 obscene and other sexual materials and performances)  
2 where the victim is a minor.

3 18 Pa.C.S. § 6312 (relating to sexual abuse of  
4 children).

5 18 Pa.C.S. § 6318 (relating to unlawful contact with  
6 minor).

7 18 Pa.C.S. § 6320 (relating to sexual exploitation of  
8 children).

9 (2) Individuals convicted of an attempt to commit any of  
10 the offenses under paragraph (1) or subsection (b)(2).

11 (2.1) Individuals convicted of solicitation to commit  
12 any of the offenses under paragraph (1) or subsection (b)(2).

13 (3) Individuals currently residing in this Commonwealth  
14 who have been convicted of offenses similar to the crimes  
15 cited in paragraphs (1) and (2) under the laws of the United  
16 States or one of its territories or possessions, another  
17 state, the District of Columbia, the Commonwealth of Puerto  
18 Rico or a foreign nation.

19 \* \* \*

20 § 9795.3. Sentencing court information.

21 The sentencing court shall inform offenders and sexually  
22 violent predators at the time of sentencing of the provisions of  
23 this subchapter. The court shall:

24 \* \* \*

25 (7) Specifically inform the sexually violent predator  
26 concerning the limitations on residence and place of  
27 employment imposed by section 9796.1 (relating to limitations  
28 on sexually violent predators).

29 (8) Require the sexually violent predator to read and  
30 sign a form stating that the limitations on residence and

1 place of employment for sexually violent predators under  
2 section 9796.1 have been explained. Where the sexually  
3 violent predator is incapable of reading, the court shall  
4 certify that the limitations on residence and place of  
5 employment were explained to the sexually violent predator  
6 and the sexually violent predator indicated an understanding  
7 of the limitations on residence and place of employment.

8 Section 3. Section 9796(a) and (c) of Title 42, amended  
9 November 24, 2004 (P.L.1243, No.152), are amended and the  
10 section is amended by adding a subsection to read:

11 § 9796. Verification of residence.

12 (a) Quarterly verification by sexually violent predators.--  
13 The Pennsylvania State Police shall verify the residence [and],  
14 compliance with counseling as provided for in section 9799.4  
15 (relating to counseling of sexually violent predators) and  
16 compliance with limitations on residence imposed by section  
17 9796.1 (relating to limitations on sexually violent predators)  
18 of sexually violent predators every 90 days through the use of a  
19 nonforwardable verification form to the last reported residence.  
20 For the period of registration required by section 9795.1  
21 (relating to registration), a sexually violent predator shall  
22 appear quarterly between January 5 and January 15, April 5 and  
23 April 15, July 5 and July 15 and October 5 and October 15 of  
24 each calendar year at an approved registration site to complete  
25 a verification form and to be photographed.

26 \* \* \*

27 (a.2) Additional random verification by sexually violent  
28 predators.--In addition to the quarterly verification, the  
29 Pennsylvania State Police shall randomly verify the residence  
30 and compliance with counseling as provided for in section 9799.4

1 of sexually violent predators twice each year through the use of  
2 a nonforwardable verification form to the last reported  
3 residence. For the period of registration required by section  
4 9795.1, a sexually violent predator shall appear at an approved  
5 registration site to complete a verification form and to be  
6 photographed within ten days of each random verification.

7 \* \* \*

8 (c) Notification of law enforcement agencies of change of  
9 residence.--A change of residence of an offender or sexually  
10 violent predator required to register under this subchapter  
11 reported to the Pennsylvania State Police shall be immediately  
12 reported by the Pennsylvania State Police to the appropriate law  
13 enforcement agency having jurisdiction of the offender's or the  
14 sexually violent predator's new place of residence. The law  
15 enforcement agency having jurisdiction of the sexually violent  
16 predator's new place of residence shall verify compliance with  
17 limitations on residence imposed by section 9796.1. The  
18 Pennsylvania State Police shall, if the offender or sexually  
19 violent predator changes residence to another state, notify the  
20 law enforcement agency with which the offender or sexually  
21 violent predator must register in the new state.

22 \* \* \*

23 Section 4. Title 42 is amended by adding a section to read:  
24 § 9796.1. Limitations on sexually violent predators.

25 (a) Proximity to schools.--

26 (1) A sexually violent predator who committed any  
27 offense specified in § 9795.1 (relating to registration)  
28 against a victim who was under 13 years of age at the time of  
29 the offense may not establish a residence within a 2,500-foot  
30 radius of any public, private or parochial school that offers

1 instruction on any level from kindergarten through elementary  
2 school or any licensed day-care center, public park or public  
3 swimming pool.

4 (2) Nothing in this section shall be construed:

5 (i) To require a sexually violent predator to sell  
6 or otherwise dispose of any real estate or home acquired  
7 or owned prior to the determination that the individual  
8 is a sexually violent predator.

9 (ii) To require any sexually violent predator to  
10 vacate any real estate or home leased prior to the  
11 determination that the individual is a sexually violent  
12 predator prior to the expiration of the lease term,  
13 excluding any right of renewal

14 (b) Penalties.--A sexually violent predator who violates the  
15 limitations on residence imposed by this section may be subject  
16 to prosecution under 18 Pa.C.S. § 5518 (relating to sexually  
17 violent predators residing or working near schools).

18 (c) Notification by law enforcement agency.--

19 (1) Within 30 days after the effective date of this  
20 section, the law enforcement agency having jurisdiction of a  
21 sexually violent predator's place of residence and place of  
22 employment shall deliver a statement to any sexually violent  
23 predator not currently incarcerated concerning the  
24 limitations on residence and place of employment imposed by  
25 this section.

26 (2) In the presence of the officer, the sexually violent  
27 predator shall read and sign a form stating that the  
28 limitations on residence and place of employment imposed by  
29 this section have been explained. Where the sexually violent  
30 predator is incapable of reading, the officer shall certify



1 that the limitations on residence were explained to the  
2 sexually violent predator and the sexually violent predator  
3 indicated an understanding of the limitations on residence  
4 and place of employment.

5 (d) Notification upon registration.--

6 (1) A person collecting the information required under  
7 section 9795.2 (relating to registration procedures and  
8 applicability) shall provide the sexually violent predator  
9 with a statement concerning the limitations on residence and  
10 place of employment imposed by this section. In the presence  
11 of the person collecting the information, the sexually  
12 violent predator shall read and sign a form stating that the  
13 limitations on residence and place of employment imposed by  
14 this section have been explained. Where the sexually violent  
15 predator is incapable of reading, the person shall certify  
16 that the limitations on residence and place of employment  
17 were explained to the sexually violent predator and the  
18 sexually violent predator indicated an understanding of the  
19 limitations on residence and place of employment.

20 (2) If the person collecting the information is not a  
21 member or employee of the Pennsylvania State Police, that  
22 person shall forward the form to the Pennsylvania State  
23 Police.

24 (e) Waiver for cause.--A sexually violent predator may, for  
25 good cause, petition the court for a waiver from the limitations  
26 on establishing a residence or place of employment in this  
27 section. Good cause shall include, but not be limited to,  
28 medical necessity or a determination by the court that  
29 transportation provided by the school is sufficient to protect  
30 the safety of children. An order under this subsection

1 permitting a waiver may include additional restrictions intended  
2 to limit the sexually violent predator's contact with children  
3 walking to and from an elementary school.

4 Section 5. Section 9798.3 of Title 42, added November 29,  
5 2006 (P.L.1567, No.178), is amended to read:

6 § 9798.3. [Global positioning system technology.] Electronic  
7 monitoring.

8 [The Pennsylvania Board of Probation and Parole and county  
9 probation authorities may impose supervision conditions that  
10 include offender tracking through global positioning system  
11 technology.]

12 (a) General rule.--A person who has been convicted of a  
13 sexual offense against a victim who is a minor shall be required  
14 to have electronic monitoring for the remainder of the person's  
15 probation or supervised release, wearing at all times a  
16 location-transmitting device, including, but not limited to, an  
17 ankle bracelet.

18 (b) Costs.--A person required to have electronic monitoring  
19 under this section shall bear the associate costs unless it is  
20 determined that such costs would result in an undue economic  
21 hardship to the person.

22 Section 6. Sections 9799.1 and 9799.2 of Title 42 are  
23 amended by adding paragraphs to read:

24 § 9799.1. Duties of Pennsylvania State Police.

25 The Pennsylvania State Police shall:

26 \* \* \*

27 (7) Develop the statements and forms to provide  
28 notification of limitations on residence and place of  
29 employment for sexually violent predators under section  
30 9796.1 (relating to limitations on sexually violent

1 predators).

2 § 9799.2. Duties of Pennsylvania Board of Probation and Parole.

3 The Pennsylvania Board of Probation and Parole shall:

4 \* \* \*

5 (5) Create a notification form which will inform State  
6 and county prison and probation and parole personnel how to  
7 inform sexually violent predators about the limitations on  
8 residence and place of employment set forth under section  
9 9796.1 (relating to limitations on sexually violent  
10 predators).

11 (6) Allow the district attorney in a county where a  
12 sexual predator will move after being paroled to speak at the  
13 parole hearing.

14 Section 7. If any provision of this act or the application  
15 thereof to any person or circumstance is held invalid, the  
16 remainder of the act, and the application of such provision to  
17 other persons or circumstances, shall not be affected thereby.

18 Section 8. This act shall take effect in 60 days.