
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2590 Session of
2008

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SWANGER, J. TAYLOR, TRUE, VULAKOVICH AND WATSON,
JUNE 11, 2008

REFERRED TO COMMITTEE ON JUDICIARY, JUNE 11, 2008

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, restricting Internet and
3 World Wide Web access for certain sex offenders; and allowing
4 law enforcement authorities and other governmental agencies
5 to access certain records and other information related to
6 sex-related offenses.

7 WHEREAS, Computers, computer networks, telecommunications
8 devices and systems and Internet access have created great
9 opportunities for advancement of education, science, business
10 and the arts and have made information more widely available;
11 and

12 WHEREAS, Certain individuals have abused Internet access to
13 commit heinous sex offenses and have taken advantage of the
14 relative anonymity of the Internet to camouflage their
15 intentions, hide their identities and otherwise engage in
16 criminal activity; and

1 WHEREAS, The General Assembly believes that it is appropriate
2 to restrict Internet access for persons who have committed
3 certain sex-related offenses in addition to requiring them to
4 register and imposing other legal obligations related to their
5 offenses with limited and closely supervised Internet access
6 serving as a means to support their rehabilitation and
7 appropriate integration into society; and

8 WHEREAS, The General Assembly believes it is appropriate to
9 assist law enforcement agencies in oversight of persons who have
10 used the Internet to commit certain sex-related offenses.

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

13 Section 1. Section 9792 of Title 42 of the Pennsylvania
14 Consolidated Statutes is amended by adding definitions to read:
15 § 9792. Definitions.

16 The following words and phrases when used in this subchapter
17 shall have the meanings given to them in this section unless the
18 context clearly indicates otherwise:

19 "Access." To intercept, instruct, communicate with, store
20 data in, retrieve data from or otherwise make use of any
21 resources of a computer, computer system, computer network,
22 telecommunications device or database.

23 * * *

24 "Computer." An electronic, magnetic, optical, hydraulic,
25 organic or other high-speed data processing device or system
26 which performs logic, arithmetic or memory functions and
27 includes all input, output, processing, storage, software or
28 communication facilities which are or have been connected or
29 related to the device in a system or network.

30 "Computer data." A representation of information, knowledge,

1 facts, concepts or instructions which is being prepared or has
2 been prepared and is intended to be processed, is being
3 processed or has been processed in a computer or computer
4 network and may be in any form, whether readable only by a
5 computer or only by a human or by either, including, but not
6 limited to, computer printouts, magnetic storage media, punched
7 card or stored internally in the memory of the computer.

8 "Computer network." The interconnection of two or more
9 computers through the usage of satellite, microwave, line or
10 other communication medium.

11 "Computer program." An ordered set of instructions or
12 statements and related data that, when automatically executed in
13 actual or modified form in a computer system, causes it to
14 perform specified functions.

15 "Computer software." A set of computer programs, procedures
16 or associated documentation concerned with the operation of a
17 computer system.

18 "Computer system." A set of related, connected or
19 unconnected computer equipment, devices and software.

20 "Electronic communication." Any transfer of signs, signals,
21 writing, images, sounds, data or intelligence of any nature
22 transmitted in whole or in part by a wire, radio,
23 electromagnetic, photoelectronic or photo-optical system.

24 "Electronic communication system." Any wire, radio,
25 electromagnetic, photo-optical or photoelectronic facilities for
26 the transmission of electronic communications and any computer
27 facilities or related electronic equipment for the electronic
28 storage of such communications.

29 "Electronic mail service provider." A person who is an
30 intermediary in sending or receiving electronic mail or who

1 provides to end-users of electronic mail services the ability to
2 send or receive electronic mail.

3 "Electronic mail transmission information." Information used
4 to identify the origin or destination of a transmission or to
5 aid in its routing, including information recorded as part of
6 electronic mail whether or not such information is displayed
7 initially to the user upon receipt of electronic mail, that
8 purports to represent the information used to identify the
9 origin or destination of a transmission or to aid in its
10 routing.

11 "Electronic storage." Storage of a wire or electronic
12 communication incidental or otherwise related to the electronic
13 transmission thereof, or storage of such a communication by an
14 electronic communication service or otherwise for the purpose of
15 backup protection of the communication.

16 * * *

17 "Internet." The myriad of computer and telecommunications
18 facilities, including equipment and operating software, which
19 comprise the interconnected worldwide network of networks that
20 employ the transmission control protocol, Internet protocol or
21 any predecessor or successor protocols to such protocol to
22 communicate information of all kinds by wire, radio or other
23 medium.

24 "Internet service provider." A person who provides a service
25 that enables users to access content, information, electronic
26 mail or other services offered over the Internet.

27 * * *

28 "Remote computing service." The provision to the public of
29 computer storage or processing services by means of an
30 electronic communications system.

1 * * *

2 "Telecommunication device." Any type of instrument, device,
3 machine or equipment which is capable of transmitting,
4 acquiring, encrypting, decrypting or receiving any telephonic,
5 electronic, data, Internet access, audio, video, microwave or
6 radio transmissions, signals, communications or services,
7 including the receipt, acquisition, transmission, encryption or
8 decryption of all such communications, transmissions, signals or
9 services over any cable television, telephone, satellite,
10 microwave, radio or wireless distribution system or facility, or
11 any part, accessory or component thereof, including any computer
12 circuit, security module, smart card, software, computer chip,
13 electronic mechanism or other component, accessory or part which
14 is capable of facilitating the transmission, encryption,
15 decryption, acquisition or reception of all such communications
16 transmissions, signals or services.

17 "Telecommunication service provider." A person or entity
18 providing telecommunication service, including, but not limited
19 to, a cellular, paging or other wireless communications company
20 or other person or entity which, for a fee, supplies the
21 facility, cell site, mobile telephone switching office or other
22 equipment or telecommunication service, including any person or
23 entity providing any telecommunication service, including, but
24 not limited to, any person or entity owning or operating any
25 cable television, satellite, telephone, wireless, microwave or
26 radio distribution system or facility.

27 "World Wide Web." The term includes, but is not limited to,
28 a computer server-based file archive accessible over the
29 Internet, using a hypertext transfer protocol, file transfer
30 protocol or other similar protocols.

1 Section 2. Section 9795.2(a) of Title 42 is amended to read:

2 § 9795.2. Registration procedures and applicability.

3 (a) Registration.--

4 (1) Offenders and sexually violent predators shall be
5 required to register with the Pennsylvania State Police upon
6 release from incarceration, upon parole from a State or
7 county correctional institution or upon the commencement of a
8 sentence of intermediate punishment or probation. For
9 purposes of registration, offenders and sexually violent
10 predators shall provide the Pennsylvania State Police with
11 all current or intended residences, all information
12 concerning current or intended employment [and], all
13 information concerning current or intended enrollment as a
14 student[.] and all information necessary to determine whether
15 the person has access to or use of a computer or any other
16 device with Internet capability or the capability to access
17 the World Wide Web if the person is subject to the
18 restrictions on Internet and World Wide Web access described
19 in section 9795.6 (relating to limited Internet and World
20 Wide Web access).

21 (2) Offenders and sexually violent predators shall
22 inform the Pennsylvania State Police within 48 hours of:

23 (i) Any change of residence or establishment of an
24 additional residence or residences.

25 (ii) Any change of employer or employment location
26 for a period of time that will exceed 14 days or for an
27 aggregate period of time that will exceed 30 days during
28 any calendar year, or termination of employment.

29 (iii) Any change of institution or location at which
30 the person is enrolled as a student, or termination of

1 enrollment.

2 (iv) Becoming employed or enrolled as a student if
3 the person has not previously provided that information
4 to the Pennsylvania State Police.

5 (v) Any change in the person's availability of
6 access to the Internet or World Wide Web, or changes to
7 any of the information provided under paragraph (1) if
8 the person is subject to the restrictions on Internet and
9 World Wide Web access described in section 9795.6.

10 (2.1) Registration with a new law enforcement agency
11 shall occur no later than 48 hours after establishing
12 residence in another state.

13 (3) The ten-year registration period required in section
14 9795.1(a) (relating to registration) shall be tolled when an
15 offender is recommitted for a parole violation or sentenced
16 to an additional term of imprisonment. In such cases, the
17 Department of Corrections or county correctional facility
18 shall notify the Pennsylvania State Police of the admission
19 of the offender.

20 (4) This paragraph shall apply to all offenders and
21 sexually violent predators:

22 (i) Where the offender or sexually violent predator
23 was granted parole by the Pennsylvania Board of Probation
24 and Parole or the court or is sentenced to probation or
25 intermediate punishment, the board or county office of
26 probation and parole shall collect registration
27 information from the offender or sexually violent
28 predator and forward that registration information to the
29 Pennsylvania State Police. The Department of Corrections
30 or county correctional facility shall not release the

1 offender or sexually violent predator until it receives
2 verification from the Pennsylvania State Police that it
3 has received the registration information. Verification
4 by the Pennsylvania State Police may occur by electronic
5 means, including e-mail or facsimile transmission. Where
6 the offender or sexually violent predator is scheduled to
7 be released from a State correctional facility or county
8 correctional facility because of the expiration of the
9 maximum term of incarceration, the Department of
10 Corrections or county correctional facility shall collect
11 the information from the offender or sexually violent
12 predator no later than ten days prior to the maximum
13 expiration date. The registration information shall be
14 forwarded to the Pennsylvania State Police.

15 (ii) Where the offender or sexually violent predator
16 scheduled to be released from a State correctional
17 facility or county correctional facility due to the
18 maximum expiration date refuses to provide the
19 registration information, the Department of Corrections
20 or county correctional facility shall notify the
21 Pennsylvania State Police or police department with
22 jurisdiction over the facility of the failure to provide
23 registration information and of the expected date, time
24 and location of the release of the offender or sexually
25 violent predator.

26 * * *

27 Section 3. Title 42 is amended by adding sections to read:

28 § 9795.6. Limited Internet and World Wide Web access.

29 (a) General rule.--A person subject to the registration
30 requirements of this subchapter who utilized the Internet or

World Wide Web to commit, or to facilitate the commission of,
any offense referred to in section 9795.1 (relating to
registration) shall be prohibited from accessing or using the
Internet or World Wide Web for the period of registration
required for the offense which the person utilized the Internet
or World Wide Web to commit or facilitate, except as set forth
in this section.

(b) Exception.--A person subject to limited Internet and
World Wide Web access under subsection (a) may be authorized by
the Pennsylvania State Police, with respect to a person who is
no longer under the supervision of a parole or probation
officer, by a parole or probation officer or by order of court
to access the Internet or the World Wide Web for the purpose of
engaging in or seeking employment, for other employment-related
purposes, for educational purposes, for information-gathering
purposes and for other purposes for which good cause is shown
and which, in the judgment of the person providing such
authorization, do not increase the risk of the person committing
an offense referred to in section 9795.1. In all cases such
access is subject to limitations imposed by the Pennsylvania
State Police as provided in this subsection, by the parole or
probation officer or by the order of court granting such
authorization.

(1) A person subject to limited Internet and World Wide
Web access under subsection (a) shall be required to submit
to unannounced inspections and examination of all computers,
computer data, computer networks, computer software, computer
programs, computer systems, telecommunications devices,
telecommunications systems, electronic communications
systems, electronic mail, electronic mail transmissions

1 systems, electronic storage devices or arrangements, and all
2 related equipment which is owned, used, available to, under
3 the control of or possessed by the person, as directed by the
4 Pennsylvania State Police as provided in this subsection, by
5 a parole or probation officer or by order of court. Such
6 examinations and inspections may include the retrieval and
7 copying of all data from any of the locations described in
8 this subsection, as well as any internal or external
9 peripherals and removal of such information, equipment or
10 device for a period deemed by the Pennsylvania State Police
11 as provided in this subsection, by the parole or probation
12 officer or by the order of court to be necessary for the
13 purposes of such inspection and examination by the
14 Pennsylvania State Police as provided in this subsection, by
15 a parole or probation officer or by order of court.

16 (2) Incident to the inspections permitted under
17 paragraph (1), a person subject to limited Internet and World
18 Wide Web access under subsection (a) shall be required to
19 produce information related to any property or information so
20 inspected or examined, including account records, usage
21 history, electronic mail transmission information passwords,
22 encryption or scrambling keys or codes, decryption or
23 unscrambling keys or codes, any computer software, hardware,
24 peripherals or other measures which preclude or restrict
25 access to complete information about the person's use of and
26 access to the Internet and World Wide Web, as well as
27 licenses, registrations, information on modulation or other
28 techniques of which the essential parameters have been
29 withheld or hidden with the effect of preserving the privacy
30 of the person's communications, and any other information

1 which in the judgment of the Pennsylvania State Police as
2 provided in this subsection, the parole or probation officer
3 or the court shall be deemed to be necessary or desirable for
4 a complete and accurate depiction of Internet and World Wide
5 Web availability, access and use by the person who is subject
6 to limited Internet and World Wide Web access under
7 subsection (a).

8 (c) Key logging and other tracking processes.--A person
9 subject to limited Internet or World Wide Web access under
10 subsection (a) may be required to install, at the person's
11 expense, one or more key logging programs, or other hardware or
12 computer software or computer programs designed or with the
13 capacity to monitor computer, World Wide Web or Internet usage
14 as the Pennsylvania State Police as provided in subsection (b),
15 a parole or probation officer or the court shall direct.

16 (d) Access.--A person subject to limited Internet or World
17 Wide Web access under subsection (a) may be required by the
18 Pennsylvania State Police as provided in subsection (b), by a
19 parole or probation officer or by order of court to authorize
20 unannounced access to all computers, computer networks, computer
21 software, computer programs, computer data, computer systems,
22 telecommunications devices, telecommunications systems,
23 electronic communications systems, electronic mail transmission
24 systems, electronic mail service providers, electronic storage
25 devices or arrangements and all related equipment which is
26 owned, used, available to, under the control of or possessed by
27 the person's employer, Internet service providers, remote
28 computing services, electronic communication services, computer
29 network administrators, telecommunication service providers or
30 any other person to the extent deemed necessary or desirable by

1 the Pennsylvania State Police as provided in subsection (b), by
2 a parole or probation officer or by order of court to allow for
3 a complete and accurate depiction of Internet and World Wide Web
4 availability, access and use by the person who is subject to
5 limited Internet and World Wide Web access under subsection (a).

6 (e) Imposition.--The restrictions and requirements imposed
7 by this subsection on offenders and sexually violent predators
8 shall be in addition to any other disposition provided for under
9 this chapter or otherwise.

10 § 9799.10. Training and assistance.

11 The Pennsylvania State Police shall approve and provide for
12 the implementation of training programs for persons charged with
13 the administration of section 9795.6 (relating to limited
14 Internet and World Wide Web access). Such programs shall
15 include, at a minimum, instruction in conducting investigations
16 in which computers, computer networks, telecommunications
17 devices and other high technology instruments are utilized in
18 the commission or facilitation of sex offenses. The programs
19 shall also include instruction in techniques of forensic
20 recovery, evidence preservation and analysis of data in computer
21 systems, electronic mail systems and telecommunications systems,
22 seized incident inspections, examinations and criminal or
23 unlawful activity.

24 Section 4. The addition of 42 Pa.C.S. § 9795.6 shall apply
25 to all offenders, whether they are convicted before, on or after
26 the effective date of this act.

27 Section 5. This act shall take effect in 60 days.