

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 605 Session of 2011

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REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 10, 2011

AN ACT

1 Providing for registration by sex offenders and sexually violent  
2 predators of Internet accounts and Internet identifiers;  
3 establishing a State registry of Internet accounts and  
4 Internet identifiers of sex offenders and sexually violent  
5 predators; and establishing a matching system for social  
6 networking Internet websites.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Pennsylvania  
11 Kids Act.

12 Section 2. Definitions.

13 The following words and phrases when used in this act shall  
14 have the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

16 "Internet access provider." A business, organization or  
17 other entity engaged in the business of providing access to the

Internet in exchange for consideration or through an agreement to view specific advertisement or content.

"Internet account." System information provided by an Internet access provider to allow a user to access the Internet, including the ability to communicate through electronic messages with other users.

"Internet identifier." An electronic mail address or other designation used for self-identification or routing in Internet communication or postings on or using a social networking website.

"PSP." The Pennsylvania State Police.

"Registry." The database of information established and maintained by the Pennsylvania State Police under section 4.

"Sex offender." A sexually violent predator or any other individual required to register under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders) or under former 42 Pa.C.S. § 9793 (relating to registration of certain offenders for ten years).

"Sexually violent predator." The term shall have the meaning given to it in 42 Pa.C.S. § 9792 (relating to definitions).

"Social networking website." An Internet website with all of the following characteristics:

(1) It allows users, through the creation of Internet web pages or profiles or by other means, to provide information about themselves that is available to the public or to other users.

(2) It offers a mechanism for communication with other users.

(3) Its primary purpose is to facilitate online social interactions.

1 The term includes contractors or agents used by the Internet  
2 website to act on behalf of the Internet website in carrying out  
3 the purposes of this act.

4 Section 3. Registration procedures.

5 (a) Registration.--

6 (1) From and after the effective date of this section,  
7 sex offenders shall register all of their current or intended  
8 Internet accounts and Internet identifiers with the PSP, on a  
9 form and in a manner determined by the PSP, upon the  
10 occurrence of any of the following:

11 (i) Release from incarceration.

12 (ii) Parole from a State or county correctional  
13 institution.

14 (iii) Commencement of a sentence of intermediate  
15 punishment or probation.

16 (2) An individual subject to the provisions of this  
17 subsection shall be required to keep the information  
18 registered under paragraph (1) current. This obligation shall  
19 include, but not be limited to, providing the following  
20 information to the PSP as soon as practicable but in no event  
21 later than 48 hours following receipt by the individual of  
22 the information:

23 (i) A change of an Internet account or establishment  
24 of an additional Internet account.

25 (ii) A change of an Internet identifier or  
26 establishment of an additional Internet identifier.

27 (b) Failure to register.--An individual subject to the  
28 provisions of subsection (a) who fails to register or fails to  
29 keep the information registered current as required by this  
30 section may be subject to prosecution under 18 Pa.C.S. § 4915

(relating to failure to comply with registration of sexual offenders requirements) as if the individual failed to register under 42 Pa.C.S. § 9795.1 (relating to registration).

Section 4. Registry.

The PSP shall create and maintain a searchable electronic database of the information registered under section 3.

Section 5. Matching of Internet accounts and Internet identifiers.

(a) General.--

(1) The PSP shall establish and maintain a secure system that permits a participating social networking website to compare information contained in the registry with the Internet accounts and Internet identifiers of users of the social networking website for purposes of determining whether any users of the social networking website are sex offenders. The following shall apply:

(i) The system shall not require or permit a social networking website to transmit Internet account or Internet identifier information to the operator of the system.

(ii) The system shall use secure procedures that preserve the confidentiality of the information made available by the PSP, including measures that render the Internet account and Internet identifier information and other data elements indecipherable.

(b) Requirements for use of the matching system.--A social networking website that desires to participate in the matching activity described in subsection (a) must obtain the approval of the PSP for such use. To initiate the approval process, the website manager or owner of the social networking website shall

1 submit an application to the PSP, on a form provided by the PSP,  
2 which provides the following information:

3 (1) The name and legal status of the social networking  
4 website.

5 (2) The contact information for the social networking  
6 website.

7 (3) A description of the nature and operations of the  
8 social networking website.

9 (4) Evidence that the social networking website has  
10 adopted policies and procedures to ensure that:

11 (i) An individual who is denied access to the social  
12 networking website on the basis of information obtained  
13 through the system described in subsection (a) is  
14 promptly notified of the basis for the denial and has the  
15 ability to challenge the denial of access.

16 (ii) If the social networking website finds that  
17 information is inaccurate, incomplete or cannot be  
18 verified, the social networking website immediately  
19 notifies the PSP so that the PSP may delete or correct  
20 the information in the registry.

21 (5) The identity and address of, and contact information  
22 for, any contractor that will be engaged by the social  
23 networking website to use the system.

24 (6) Such other information as the PSP may reasonably  
25 require.

26 (c) Use of the system.--The following shall apply:

27 (1) A social networking website may only use the system  
28 described in subsection (a) for the purpose of determining  
29 whether any of its users has registered with the PSP under  
30 section 3.

1           (2) A social networking website approved by the PSP to  
2 use the system may conduct searches under the system as  
3 frequently as the PSP may allow in its approval but only so  
4 long as the PSP's approval is in place.

5           (3) The PSP may deny, suspend or terminate use of the  
6 system by a social networking website that:

7               (i) Provides false information in its application  
8 for use of the system.

9               (ii) Uses or seeks to use the system for any  
10 unlawful or improper purpose.

11              (iii) Fails to comply with its own policies and  
12 procedures required under section (b) (4) .

13              (iv) Uses information obtained from the system in  
14 any way that is inconsistent with the purposes of this  
15 act or violates the nondisclosure provisions of paragraph  
16 (4) .

17           (4) Neither the PSP nor a social networking website  
18 approved to use the system may disclose or otherwise release  
19 to the public any Internet account or Internet identifier  
20 information contained in the registry.

21           (5) A social networking website shall minimize the  
22 number of employees that are provided with access to the  
23 Internet account and Internet identifier information for  
24 which a match has been found through the system.

25           (6) The PSP may charge a reasonable fee to a social  
26 networking website for access to the system. Fees collected  
27 under this paragraph shall be retained by the PSP to be used  
28 to defray the cost of the PSP's obligations under this act,  
29 including the creation and maintenance of the registry. Such  
30 fees are appropriated to the PSP on a continuing basis for

1 such use.

2 (7) The PSP may post on its Internet website the names  
3 of social networking systems approved to use the system.

4 Section 6. Limitation of liability.

5 A social networking website or Internet access provider shall  
6 not be liable for any of the following:

7 (1) Identifying, removing, disabling, blocking or  
8 otherwise affecting an individual in accordance with this act  
9 based on a good faith belief that the individual's Internet  
10 account or Internet identifier information appeared in the  
11 registry.

12 (2) Failing to identify or block or otherwise preventing  
13 an individual from registering for its services, or failing  
14 to remove or disable or otherwise affecting an individual  
15 whose Internet account or Internet identifier information  
16 appears in the registry.

17 (3) Not participating in the use of the system described  
18 in section 5(a).

19 Section 7. Limited Internet access.

20 (a) General rule.--A judge imposing a sentence on an  
21 individual convicted of an offense referred to in 42 Pa.C.S. §  
22 9795.1 (relating to registration) or convicted of an attempt to  
23 commit an offense referred to in section 9795.1 may include as  
24 part of the sentence a limitation on the individual's Internet  
25 access if the Internet was used by the individual in commission  
26 of the crime or if Internet use is determined to be an activity  
27 leading to the commission of the crime. The limitation shall be  
28 tailored to prevent further use of the Internet by the  
29 individual to commit a crime. The Board of Probation and Parole  
30 shall consider a sentencing order issued under this section for

1 an individual with a maximum period of incarceration of more  
2 than two years to be an advisory under 61 Pa.C.S. § 6134(b) (2)  
3 (relating to sentencing court to transmit records to board).

4 (b) Exception.--An individual subject to limited Internet  
5 access under subsection (a) may be authorized during the period  
6 of limitation, by a parole or probation office or by order of  
7 the court, to access the Internet for the purpose of engaging in  
8 or seeking employment or for other employment-related purposes.  
9 This use may be subject to reasonable conditions prescribed by  
10 the parole or probation officer or the judge.

11 (c) Periodic inspection.--An individual subject to limited  
12 Internet access under subsection (a) shall be required to submit  
13 to periodic, unannounced inspection and examination of all  
14 computers and computer-related equipment owned or possessed by  
15 the individual during the period of limitation, as directed by a  
16 parole or probation officer or by order of the court.

17 (d) Key logging.--An individual subject to limited Internet  
18 access under subsection (a) may be required to install, at the  
19 individual's expense, on any computer to which the individual  
20 may have access, one or more key logging programs or other  
21 hardware or software designed to monitor computer usage directed  
22 by a parole or probation officer or a judge.

## 23 Section 8. Construction.

24 Nothing in this act shall be construed to require an Internet  
25 access provider or social networking website to participate in  
26 the matching activity described in section 5(a) or to otherwise  
27 use the system described in that section.

## 28 Section 9. Effective date.

29 This act shall take effect in 60 days.