

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 7

Special Session No. 1 of
1995

INTRODUCED BY GREENLEAF, TOMLINSON, FISHER, O'PAKE, SHAFFER,
BRIGHTBILL, ANDREZESKI, WAGNER, LOEPER, WENGER, SALVATORE,
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HOLL, BAKER, ROBBINS, MUSTO, STAPLETON, PORTERFIELD, RHOADES,
ARMSTRONG, MADIGAN, PUNT, SHUMAKER, LAVALLE, AFFLERBACH,
BELAN, HART, GERLACH, ULIANA, TARTAGLIONE AND KASUNIC,
JANUARY 24, 1995

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 27, 1995

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for sexually
3 violent offenders.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Chapter 97 of Title 42 of the Pennsylvania
7 Consolidated Statutes is amended by adding a subchapter to read:

8 SUBCHAPTER H

9 REGISTRATION OF SEXUAL OFFENDERS

10 Sec.

11 9791. Legislative findings and declaration of policy.

12 9792. Definitions.

13 9793. Registration of certain offenders for ten years.

14 9794. Designation of sexually violent predators.

15 9795. Registration of ~~sexually violent predators~~ OFFENDERS.

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1 9796. Verification of residence.

2 ~~9797. Notification.~~

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3 ~~9798. Duties of Pennsylvania State Police.~~

4 ~~9799. Duties of Pennsylvania Board of Probation and Parole.~~

5 ~~9799.1. Board.~~

6 ~~9799.2. Sexually violent predators.~~

7 9797. VICTIM NOTIFICATION.

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8 9798. OTHER NOTIFICATION.

9 9799. IMMUNITY FOR GOOD FAITH CONDUCT.

10 9799.1. DUTIES OF PENNSYLVANIA STATE POLICE.

11 9799.2. DUTIES OF PENNSYLVANIA BOARD OF PROBATION AND PAROLE.

12 9799.3. BOARD.

13 9799.4. SEXUALLY VIOLENT PREDATORS.

14 9799.5. EXEMPTION FROM NOTIFICATION.

15 § 9791. Legislative findings and declaration of policy.

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

18 (1) If the public is provided adequate notice and
19 information about ~~sexual~~ SEXUALLY VIOLENT predators and
20 certain other offenders, the community can develop
21 constructive plans to prepare themselves and their children
22 for the offender's release. This allows communities to meet
23 with law enforcement to prepare and obtain information about
24 the rights and responsibilities of the community and to
25 provide education and counseling to their children.

<—

26 (2) These ~~sexual predators and offenders~~ SEXUALLY
27 VIOLENT PREDATORS pose a high risk of engaging in further
28 offenses even after being released from incarceration or
29 commitments and that protection of the public from this type
30 of offender is a paramount governmental interest.

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1 (3) The penal and mental health components of our
2 justice system are largely hidden from public view and lack
3 of information from either may result in failure of both
4 systems to meet this paramount concern of public safety.

5 (4) Overly restrictive confidentiality and liability
6 laws governing the release of information about ~~sexual~~ <—
7 ~~predators and certain other offenders~~ SEXUALLY VIOLENT <—
8 PREDATORS have reduced the willingness to release information
9 that could be appropriately released under the public
10 disclosure laws, and have increased risks to public safety.

11 (5) Persons found to have committed such an offense have
12 a reduced expectation of privacy because of the public's
13 interest in public safety and in the effective operation of
14 government.

15 (6) Release of information about ~~sexual predators and~~ <—
16 ~~certain other offenders~~ SEXUALLY VIOLENT PREDATORS to public <—
17 agencies and under limited circumstances, the general public,
18 will further the governmental interests of public safety and
19 public scrutiny of the criminal and mental health systems so
20 long as the information released is rationally related to the
21 furtherance of those goals.

22 (b) Declaration of policy.--It is hereby declared to be the
23 intention of the General Assembly to protect the safety and
24 general welfare of the people of this Commonwealth by providing
25 for registration and community notification regarding ~~sexual~~ <—
26 ~~predators and certain other offenders~~ SEXUALLY VIOLENT PREDATORS <—
27 who are about to be released from custody and will live in or
28 near their neighborhood. It is further declared to be the policy
29 of this Commonwealth to require the exchange of relevant
30 information about ~~sexual predators and certain other offenders~~ <—

1 SEXUALLY VIOLENT PREDATORS among public agencies and officials <—
2 and to authorize the release of necessary and relevant
3 information about ~~sexual predators and certain other offenders~~ <—
4 SEXUALLY VIOLENT PREDATORS to members of the general public as a <—
5 means of assuring public protection and shall not be construed
6 as punitive.

7 § 9792. Definitions.

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

11 "Board." The State Board to Assess Sexually Violent
12 Predators.

13 "Mental abnormality." A congenital or acquired condition of
14 a person that affects the emotional or volitional capacity of
15 the person in a manner that predisposes that person to the
16 commission of criminal sexual acts to a degree that makes the
17 person a menace to the health and safety of other persons.

18 "Municipality." A city, borough, incorporated town or
19 township.

20 "Offender." An individual who is:

21 (1) designated a sexually violent predator under the
22 provisions of this subchapter; or

23 (2) required to register under section 9793(b) (relating
24 to registration of certain offenders for ten years).

25 "Predatory." An act directed at a stranger or at a person
26 with whom a relationship has been established or promoted for
27 the primary purpose of victimization.

28 "Sexually violent offense." Any criminal offense specified
29 in section 9793(b) (relating to registration of certain
30 offenders for ten years).

1 "Sexually violent predator." A person who has been convicted
2 of a sexually violent offense as set forth in section 9793(b)
3 (relating to registration of certain offenders for ten years)
4 and who is determined to be a sexually violent predator under
5 section ~~9794(d)~~ 9794(E) (relating to designation of sexually <—
6 violent predators) due to a mental abnormality or personality
7 disorder that makes the person likely to engage in predatory
8 sexually violent offenses.

9 § 9793. Registration of certain offenders for ten years.

10 (a) Registration.--A person convicted of any of the offenses
11 set forth in subsection (b) shall be required to register a
12 current address with the Pennsylvania ~~Board of Probation and~~ <—
13 ~~Parole~~ STATE POLICE upon RELEASE FROM INCARCERATION, UPON parole <—
14 from a State or county correctional institution or upon the
15 commencement of a sentence of intermediate punishment or
16 probation. The period of registration shall be ten years.

17 (b) Persons required to register.--

18 (1) Persons convicted of any of the following offenses
19 that are classified as a felony and involve a victim who is a
20 minor:

21 18 Pa.C.S. § 2901 (relating to kidnapping) except by
22 a parent.

23 18 Pa.C.S. § 3121 (relating to rape).

24 18 Pa.C.S. § 3123 (relating to involuntary deviate
25 sexual intercourse).

26 18 Pa.C.S. § 5902 (relating to prostitution and
27 related offenses).

28 18 Pa.C.S. § 5903(a)(3), (4), (5) or (6) (relating to
29 obscene and other sexual materials and performances).

30 (2) Persons convicted of any of the following offenses

1 regardless of the age of the victim:

2 18 Pa.C.S. § 3121.

3 18 Pa.C.S. § 3123.

4 18 Pa.C.S. § 3125 (relating to aggravated indecent
5 assault).

6 18 Pa.C.S. § 3128(a) and (b) (relating to spousal
7 sexual assault).

8 (C) REGISTRATION INFORMATION.--THE PENNSYLVANIA STATE POLICE <—
9 SHALL PROVIDE THE INFORMATION OBTAINED UNDER SECTION 9799(3) AND
10 (4) (RELATING TO IMMUNITY FOR GOOD FAITH CONDUCT) TO THE CHIEF
11 LAW ENFORCEMENT OFFICER OF THE POLICE DEPARTMENT OF THE
12 MUNICIPALITY IN WHICH THE OFFENDER WILL RESIDE. IN ADDITION, THE
13 PENNSYLVANIA STATE POLICE SHALL PROVIDE THIS OFFICER WITH THE
14 ADDRESS AT WHICH THE OFFENDER WILL RESIDE FOLLOWING HIS RELEASE
15 FROM INCARCERATION, PAROLE OR PROBATION.

16 § 9794. Designation of sexually violent predators.

17 (a) Order for assessment.--After conviction, but before
18 sentencing, a court shall order a person convicted of a sexually
19 violent offense specified in section 9793(b) (relating to
20 registration of certain offenders for ten years) to be assessed
21 by the board.

22 (B) PRESUMPTION.--AN OFFENDER CONVICTED OF ANY OFFENSE SET <—
23 FORTH IN SECTION 9793(B) SHALL BE PRESUMED BY THE BOARD AND THE
24 COURT TO BE A SEXUALLY VIOLENT PREDATOR. THIS PRESUMPTION MAY BE
25 REBUTTED BY THE OFFENDER BY CLEAR AND CONVINCING EVIDENCE AT A
26 HEARING HELD IN ACCORDANCE WITH SUBSECTION (E).

27 ~~(b)~~ (C) Assessment.--The board shall conduct an assessment <—
28 of the offender to determine if the offender is a sexually
29 violent predator. Such an assessment shall include, but not be
30 limited to, such factors as:

1 (1) Age of the offender.

2 (2) Offender's prior criminal record, sexual offenses as
3 well as other offenses.

4 (3) Age of the victim.

5 (4) Whether the offense involved multiple victims.

6 (5) Use of illegal drugs by the offender.

7 (6) Whether the offender completed his prior sentence
8 and whether the offender participate in available programs
9 for sexual offenders.

10 (7) Any mental illness or mental disability of the
11 offender.

12 (8) The nature of the sexual contact with the victim and
13 whether the sexual contact was part of a demonstrated pattern
14 of abuse.

15 (9) Whether the offense included a display of unusual
16 cruelty by the offender during the commission of the crime.

17 (10) Any behavioral characteristics that contribute to
18 the offender's conduct.

19 ~~(e)~~ (D) Submission of findings.--The board shall submit its <—
20 findings to the court no later than 30 days from the date of
21 conviction of the defendant.

22 ~~(d) Court review of findings. Upon receipt of the report by <—~~
23 ~~the board, the court shall determine if the offender is a~~
24 ~~sexually violent predator. Where the court so determines, it~~
25 ~~shall state on the sentencing order that the offender has been~~
26 ~~determined to be a sexually violent predator.~~

27 (E) COURT REVIEW OF FINDINGS.--UPON RECEIPT OF THE BOARD'S <—
28 REPORT, THE COURT SHALL DETERMINE IF THE OFFENDER IS A SEXUALLY
29 VIOLENT PREDATOR. THIS DETERMINATION SHALL BE MADE BASED ON
30 EVIDENCE PRESENTED AT A HEARING HELD PRIOR TO SENTENCING AND

1 BEFORE THE TRIAL JUDGE. THE OFFENDER AND DISTRICT ATTORNEY SHALL
2 BE GIVEN NOTICE OF THE HEARING AND AN OPPORTUNITY TO BE HEARD,
3 THE RIGHT TO CALL WITNESSES, THE RIGHT TO CALL EXPERT WITNESSES
4 AND THE RIGHT TO CROSS-EXAMINE WITNESSES. IN ADDITION, THE
5 OFFENDER SHALL HAVE THE RIGHT TO COUNSEL AND TO HAVE A LAWYER
6 APPOINTED TO REPRESENT HIM IF HE CANNOT AFFORD ONE. AFTER A
7 REVIEW OF ALL EVIDENCE PRESENTED AT THIS HEARING, THE COURT MAY
8 DETERMINE WHETHER THE PRESUMPTION ARISING UNDER SUBSECTION (B)
9 HAS BEEN REBUTTED AND SHALL SET FORTH THIS DETERMINATION ON THE
10 SENTENCING ORDER.

11 ~~(e)~~ (F) Subsequent board review.--No sooner than one year <—
12 prior to release from a State or county correctional
13 institution, or in five-year intervals thereafter, an offender
14 designated as a sexually violent predator may petition the court
15 WITH ORIGINAL JURISDICTION IN THE MATTER for reconsideration of <—
16 the determination. The court may review the determination and
17 request a new report by the board. The court may enter an order
18 terminating the designation in which case the court shall notify
19 the Pennsylvania ~~Board of Probation and Parole~~ STATE POLICE. <—

20 § 9795. Registration of ~~sexually violent predators~~ OFFENDERS. <—

21 (a) Registration.--~~A sexually violent predator~~ AN OFFENDER <—
22 shall be required to register all current addresses with the
23 Pennsylvania ~~Board of Probation and Parole~~ STATE POLICE upon <—
24 RELEASE FROM INCARCERATION, UPON parole from a State or county <—
25 correctional institution or upon the commencement of a sentence
26 of intermediate punishment or probation. The registration shall
27 continue unless the court determines the person is no longer a
28 sexually violent predator as provided in ~~subsection (e)~~ SECTION <—
29 9794(F) (RELATING TO DESIGNATION OF SEXUALLY VIOLENT PREDATORS).

30 (b) Court information.--The sentencing court shall inform

1 offenders designated in section 9793 (relating to registration
2 of certain offenders for ten years) and sexually violent
3 predators designated in subsection (a) at the time of sentencing
4 of the provisions of this subchapter. The court shall:

5 (1) Specifically inform the offender of the duty to
6 register and obtain the information required for each
7 registration.

8 (2) Specifically inform the offender of the duty to
9 inform the Pennsylvania ~~Board of Probation and Parole~~ STATE <—
10 POLICE within ten days if the offender changes residence.

11 (3) Specifically inform the offender of the duty to
12 register with a new law enforcement agency if the offender
13 moves to another state no later than ten days after
14 establishing residence in another state.

15 (4) Order the fingerprints and photograph of the person
16 to be provided to the ~~Pennsylvania Board of Probation and~~ <—
17 ~~Parole and the~~ Pennsylvania State Police upon sentencing.

18 (5) Require the offender to read and sign a form stating
19 that the duty to register under this subchapter has been
20 explained. Where the offender is incapable of reading, the
21 court shall certify the duty to register was explained to the
22 offender and the offender indicated an understanding of the
23 duty.

24 (c) Notice by correctional facility and paroling
25 authorities.--When the offender is to be RELEASED FROM <—
26 INCARCERATION OR paroled from a State or county correctional
27 facility, the prison official of the State or county
28 correctional facility shall no later than ten days prior to the
29 RELEASE OR parole of the offender again provide the offender <—
30 with notice of the duty to register with the Pennsylvania ~~Board~~ <—

1 ~~of Probation and Parole~~ STATE POLICE under this subchapter. <—

2 (d) Penalty.--Any offender who fails to register with the
3 Pennsylvania ~~Board of Probation and Parole~~ STATE POLICE as <—
4 required in this section commits a felony of the third degree.
5 § 9796. Verification of residence.

6 (a) Quarterly verification.--The Pennsylvania ~~Board of~~ <—
7 ~~Probation and Parole~~ STATE POLICE shall verify the residence of <—
8 sexually violent predators every 90 days through the use of a
9 nonforwardable verification form to the last reported address.
10 The form shall be returned by the offender within ten days.

11 (b) Annual verification.--The Pennsylvania ~~Board of~~ <—
12 ~~Probation and Parole~~ STATE POLICE shall verify the residence of <—
13 offenders designated in section 9793 (relating to registration
14 of certain offenders for ten years) annually through the use of
15 a residence verification form. The form shall be returned by the
16 offender within ten days.

17 (c) Notification of law enforcement agencies of change in
18 address.--A change of address of an offender required to
19 register under this subchapter reported to the Pennsylvania
20 ~~Board of Probation and Parole~~ STATE POLICE shall be immediately <—
21 reported by the Pennsylvania ~~Board of Probation and Parole~~ STATE <—
22 POLICE to the appropriate law enforcement agency having
23 jurisdiction of the offender's new place of residence. The
24 Pennsylvania ~~Board of Probation and Parole~~ STATE POLICE shall, <—
25 if the offender changes residence to another state, notify the
26 law enforcement agency with which the offender must register in
27 the new state.

28 (d) Failure to provide verification.--Where any offender
29 fails to provide verification of residence within the ten-day
30 period as set forth in this section, the Pennsylvania ~~Board of~~ <—

1 ~~Probation and Parole~~ STATE POLICE shall immediately notify the <—
2 municipal police department of the offender's last verified
3 residence. THE LOCAL MUNICIPAL POLICE SHALL LOCATE THE OFFENDER <—
4 AND ARREST HIM FOR VIOLATING THIS SECTION. The Pennsylvania
5 State Police shall assume responsibility for ~~tracking~~ LOCATING <—
6 the offender AND ARRESTING HIM in jurisdictions where no <—
7 municipal police jurisdiction exists ~~and~~. THE PENNSYLVANIA STATE <—
8 POLICE shall assist ~~in the tracking of missing offenders~~ ANY <—
9 MUNICIPAL POLICE DEPARTMENT REQUESTING ASSISTANCE WITH LOCATING
10 AND ARRESTING AN OFFENDER WHO FAILS TO VERIFY HIS RESIDENCE.

11 (e) Penalty.--Any offender who fails to verify his residence
12 as required in this section commits a felony of the third
13 degree.

14 ~~§ 9797. Notification.~~ <—

15 ~~(a) Victim. The Pennsylvania Board of Probation and Parole~~
16 ~~shall give written notice to the victim of an offender when the~~
17 ~~offender registers or notifies the Pennsylvania Board of~~
18 ~~Probation and Parole of a change of address. The written notice~~
19 ~~shall be given within 72 hours after the offender registers or~~
20 ~~notifies the Pennsylvania Board of Probation and Parole of a~~
21 ~~change of address. The notice shall include the released~~
22 ~~offender's name and the address at which he is residing.~~

23 ~~(b) Neighbors. The chief law enforcement officer of the~~
24 ~~police department in the municipality of residence of an~~
25 ~~offender, excluding any offender registered under section~~
26 ~~9793(b)(2) (relating to registration of certain offenders for~~
27 ~~ten years), shall be responsible for having written notice~~
28 ~~provided to any person residing at a residence adjacent to the~~
29 ~~registered address at which such an offender is residing. The~~
30 ~~written notice shall be given within 72 hours after receiving~~

~~1 the information regarding offender registration from the
2 Pennsylvania Board of Probation and Parole. When practicable,
3 the written notice shall be delivered in person. If there is no
4 local law enforcement agency, the Pennsylvania State Police
5 shall be responsible for having such written notice provided.
6 The notice shall include the released offender's name, the
7 address at which he is residing and the sexual offense for which
8 he was convicted. The notice shall not include the victim's name
9 or any other information that may reveal the victim's identity.
10 For purposes of this subsection, the term "adjacent" shall
11 include, but is not limited to, the residence addresses on
12 either side, immediately across the street and behind the
13 residence address of the offender, where applicable. In addition
14 to the notification of adjacent neighbors, the notifying law
15 enforcement agency may apply and use such other means of public
16 notification as they deem necessary.~~

~~17 (c) Schools and children and youth agencies. The chief law
18 enforcement officer of the police department having primary
19 jurisdiction in the municipality of residence of an offender,
20 excluding any offender registered under section 9793(b)(2)
21 (relating to registration of certain offenders for ten years),
22 shall be responsible for having written notice provided to the
23 superintendent of each school district, and to a similar officer
24 for private or parochial schools, in the municipality in which
25 that offender is residing, which enrolls children in any grades
26 kindergarten to 12, and to the director of the county's children
27 and youth agency. The written notice shall be given within seven
28 days after receiving the information regarding offender
29 registration from the Pennsylvania Board of Probation and
30 Parole. The notice shall contain the same information as~~

~~required in the notice under subsection (b).~~

~~(d) Universities and colleges. The chief law enforcement officer of the police department having primary jurisdiction in the municipality of residence of an offender, excluding any offender registered under section 9793(b)(2), shall be responsible for having written notice provided to the president or similar officer of each university or college, including a community college, the boundary of which is within 1,000 feet of the address at which the offender is residing. The written notice shall be given within seven days after receiving the information regarding offender registration from the Pennsylvania Board of Probation and Parole. The notice shall contain the same information as required in the notice under subsection (b).~~

~~(e) Other releases of information. The chief law enforcement officer of the police department having primary jurisdiction in the municipality of residence of an offender registered under section 9793(b)(2) may release relevant information that is necessary to protect the public concerning such an offender pursuant to guidelines promulgated by the Pennsylvania State Police. Any such written notice shall contain the same information as required in the notice under subsection (b).~~

§ 9797. VICTIM NOTIFICATION.

(A) DUTY TO INFORM VICTIM.--

(1) WHERE THE OFFENDER IS DETERMINED TO BE A SEXUALLY VIOLENT PREDATOR BY A COURT UNDER SECTION 9794(E) (RELATING TO DESIGNATION OF SEXUALLY VIOLENT PREDATORS), THE LOCAL MUNICIPAL POLICE DEPARTMENT, OR THE PENNSYLVANIA STATE POLICE WHERE NO MUNICIPAL POLICE JURISDICTION EXISTS, SHALL GIVE

1 WRITTEN NOTICE TO THE OFFENDER'S VICTIM WHEN THE OFFENDER
2 REGISTERS INITIALLY AND WHEN HE NOTIFIES THE PENNSYLVANIA
3 STATE POLICE OF A CHANGE OF ADDRESS. THIS NOTICE SHALL BE
4 GIVEN WITHIN 72 HOURS AFTER THE OFFENDER REGISTERS OR
5 NOTIFIES THE PENNSYLVANIA STATE POLICE OF A CHANGE OF
6 ADDRESS. THE NOTICE SHALL CONTAIN THE OFFENDER'S NAME AND THE
7 ADDRESS OR ADDRESSES WHERE HE RESIDES.

8 (2) A VICTIM MAY TERMINATE THE DUTY TO INFORM SET FORTH
9 IN PARAGRAPH (1) BY PROVIDING THE LOCAL MUNICIPAL POLICE
10 DEPARTMENT, OR THE PENNSYLVANIA STATE POLICE WHERE NO LOCAL
11 MUNICIPAL POLICE DEPARTMENT EXISTS, WITH A WRITTEN STATEMENT
12 RELEASING THAT AGENCY FROM THE DUTY TO COMPLY WITH THIS
13 SECTION AS IT PERTAINS TO THAT VICTIM.

14 (B) WHERE AN OFFENDER IS NOT DESIGNATED AS A SEXUALLY
15 VIOLENT PREDATOR.--WHERE THE OFFENDER IS NOT DETERMINED TO BE A
16 SEXUALLY VIOLENT PREDATOR BY A COURT UNDER SECTION 9794(E), THE
17 OFFENDER'S VICTIM SHALL BE NOTIFIED IN ACCORDANCE WITH SECTION
18 479.3 OF THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS
19 THE ADMINISTRATIVE CODE OF 1929.

20 § 9798. OTHER NOTIFICATION.

21 (A) BY MUNICIPALITY'S CHIEF LAW ENFORCEMENT OFFICER.--THE
22 CHIEF LAW ENFORCEMENT OFFICER OF THE POLICE DEPARTMENT OF THE
23 MUNICIPALITY WHERE A SEXUALLY VIOLENT PREDATOR LIVES SHALL BE
24 RESPONSIBLE FOR PROVIDING WRITTEN NOTICE AS REQUIRED UNDER THIS
25 SECTION.

26 (1) THE NOTICE SHALL CONTAIN:

27 (I) THE NAME OF THE CONVICTED SEXUALLY VIOLENT
28 PREDATOR.

29 (II) THE ADDRESS OR ADDRESSES AT WHICH HE RESIDES.

30 (III) THE OFFENSE FOR WHICH HE WAS CONVICTED.

(IV) A STATEMENT THAT HE HAS BEEN DESIGNATED BY COURT ORDER AS A SEXUALLY VIOLENT PREDATOR, WHICH DESIGNATION HAS OR HAS NOT BEEN TERMINATED AS OF A DATE CERTAIN.

(2) THE NOTICE SHALL NOT INCLUDE ANY INFORMATION THAT MIGHT REVEAL THE VICTIM'S NAME, IDENTITY AND RESIDENCE.

(B) TO WHOM WRITTEN NOTICE IS PROVIDED.--THE CHIEF LAW ENFORCEMENT OFFICER SHALL PROVIDE WRITTEN NOTICE, UNDER SUBSECTION (A), TO THE FOLLOWING PERSONS:

(1) NEIGHBORS OF THE SEXUALLY VIOLENT PREDATOR.

(2) THE DIRECTOR OF THE COUNTY CHILDREN AND YOUTH SERVICE AGENCY OF THE COUNTY WHERE THE SEXUALLY VIOLENT PREDATOR RESIDES.

(3) THE SUPERINTENDENT OF EACH SCHOOL DISTRICT AND THE EQUIVALENT OFFICIAL FOR PRIVATE AND PAROCHIAL SCHOOLS ENROLLING STUDENTS UP THROUGH GRADE 12 IN THE MUNICIPALITY.

(4) THE DIRECTOR OF EACH LICENSED DAY CARE CENTER AND LICENSED PRESCHOOL PROGRAM IN THE MUNICIPALITY.

(5) THE PRESIDENT OF EACH COLLEGE, UNIVERSITY AND COMMUNITY COLLEGE LOCATED WITHIN 1,000 FEET OF A SEXUALLY VIOLENT PREDATOR'S ADDRESS.

(C) URGENCY OF NOTIFICATION.--THE MUNICIPAL POLICE DEPARTMENT'S CHIEF LAW ENFORCEMENT OFFICER SHALL PROVIDE NOTICE WITHIN THE FOLLOWING TIME FRAMES:

(1) TO NEIGHBORS, NOTICE SHALL BE PROVIDED WITHIN 72 HOURS AFTER INFORMATION OF THE SEXUALLY VIOLENT PREDATOR'S RELEASE DATE AND ADDRESS HAS BEEN RECEIVED BY THE CHIEF LAW ENFORCEMENT OFFICER. NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (A) AND (B), VERBAL NOTIFICATION MAY BE USED IF WRITTEN NOTIFICATION WOULD DELAY MEETING THIS TIME

1 REQUIREMENT.

2 (2) TO THE PERSONS SPECIFIED IN SUBSECTION (B)(2), (3),
3 (4) AND (5), NOTICE SHALL BE PROVIDED WITHIN SEVEN DAYS AFTER
4 THE CHIEF LAW ENFORCEMENT OFFICER RECEIVES INFORMATION
5 REGARDING THE SEXUALLY VIOLENT PREDATOR'S RELEASE DATE AND
6 ADDRESS.

7 ~~(f) Immunity for good faith conduct.~~ <—

8 § 9799. IMMUNITY FOR GOOD FAITH CONDUCT. <—

9 The following entities shall be immune from liability for
10 good faith conduct under this section:

11 (1) The Pennsylvania State Police and local law
12 enforcement agencies and employees of law enforcement
13 agencies.

14 (2) DISTRICT ATTORNEYS AND THEIR AGENTS AND EMPLOYEES. <—

15 ~~(2)~~ (3) Superintendents, administrators, teachers and <—
16 employees of any public, private or parochial school.

17 ~~(3)~~ (4) Directors and employees of county children and <—
18 youth agencies.

19 ~~(4)~~ (5) Presidents or similar officers of universities <—
20 and colleges, including community colleges.

21 (6) THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE AND <—
22 ITS AGENTS AND EMPLOYEES.

23 (7) DIRECTORS OF LICENSED DAY CARE CENTERS AND DIRECTORS
24 OF LICENSED PRESCHOOL PROGRAMS.

25 § ~~9798~~ 9799.1. Duties of Pennsylvania State Police. <—

26 The Pennsylvania State Police shall:

27 (1) CREATE AND MAINTAIN A STATE REGISTRY OF OFFENDERS <—
28 PURSUANT TO SECTION 9793 (RELATING TO REGISTRATION OF CERTAIN
29 OFFENDERS FOR TEN YEARS).

30 ~~(1)~~ (2) In consultation with the Office of Attorney <—

General and the Pennsylvania Board of Probation and Parole,
promulgate guidelines necessary for the general
administration of this subchapter.

(3) WRITE REGULATIONS REGARDING NEIGHBOR NOTIFICATION OF
THE CURRENT ADDRESS OF SEXUALLY VIOLENT PREDATORS.

(4) NOTIFY, WITHIN 72 HOURS OF RECEIVING THE OFFENDER'S
REGISTRATION, THE CHIEF LAW ENFORCEMENT OFFICER OF THE POLICE
DEPARTMENT HAVING PRIMARY JURISDICTION OF THE MUNICIPALITY IN
WHICH AN OFFENDER RESIDES OF THE FACT THAT THE OFFENDER HAS
BEEN REGISTERED WITH THE PENNSYLVANIA STATE POLICE PURSUANT
TO SECTIONS 9795 (RELATING TO REGISTRATION OF OFFENDERS) AND
9796 (RELATING TO VERIFICATION OF RESIDENCE).

~~(2)~~ (5) In consultation with the Department of Education
and the Pennsylvania Board of Probation and Parole,
promulgate guidelines directing LICENSED DAY CARE CENTERS,
LICENSED PRESCHOOL PROGRAMS, schools, universities and
colleges including community colleges, on the proper use and
administration of information received under section 9797
(relating to notification).

(6) IMMEDIATELY TRANSFER THE INFORMATION RECEIVED FROM
THE PENNSYLVANIA BOARD OF PROBATION AND PAROLE UNDER SECTION
9799.2(2) AND (3) (RELATING TO DUTIES OF PENNSYLVANIA BOARD
OF PROBATION AND PAROLE) AND THE FINGERPRINTS OF THE SEXUALLY
VIOLENT PREDATOR TO THE FEDERAL BUREAU OF INVESTIGATION.

All guidelines AND REGULATIONS promulgated under this section
shall be published in the Pennsylvania Bulletin no later than
~~September 1, 1995~~ JANUARY 1, 1996.

§ ~~9799~~ 9799.2. Duties of Pennsylvania Board of Probation and
Parole.

The Pennsylvania Board of Probation and Parole shall:

1 (1) Create a notification form which will inform State
2 and county prison and probation and parole personnel how to
3 inform offenders required to register under this subchapter
4 of their duty under the law.

5 ~~(2) Notify the chief law enforcement officer of the~~ <—
6 ~~police department having primary jurisdiction in the~~
7 ~~municipality of residence of an offender that an offender who~~
8 ~~resides in that municipality has been registered with the~~
9 ~~Pennsylvania Board of Probation and Parole pursuant to~~
10 ~~sections 9795 (relating to registration of sexually violent~~
11 ~~predators) and 9796 (relating to verification of residence)~~
12 ~~within 72 hours of receiving the offender's registration.~~

13 ~~(3) Obtain the following information regarding sexually~~
14 ~~violent predators~~ (2) OBTAIN THE FOLLOWING INFORMATION <—
15 REGARDING OFFENDERS:

16 (i) Name, including any aliases.

17 (ii) Identifying factors.

18 (iii) Anticipated future residence.

19 (iv) Offense history.

20 (v) Documentation of any treatment received for the
21 mental abnormality or personality disorder.

22 ~~(4) (3) Immediately transmit the information in~~ <—
23 ~~paragraph (3) (2) to the Pennsylvania State Police for~~ <—
24 ~~immediate entry into the STATE REGISTRY OF SEXUAL OFFENDERS~~ <—
25 ~~AND THE Criminal History Record of the sexually violent~~ <—
26 ~~predator OFFENDER as provided in 18 Pa.C.S. Ch. 91 (relating~~ <—
27 ~~to criminal history record information). and provide the~~ <—
28 ~~information to the law enforcement agency with jurisdiction~~
29 ~~where the sexually violent predator expects to reside.~~

30 ~~(5) Immediately transmit the identifying information in~~

~~paragraph (3) and the fingerprints of the sexually violent predator to the Federal Bureau of Investigation.~~

~~§ 9799.1~~ 9799.3. Board.

(a) Composition.--The State Board to Assess Sexually Violent Predators shall be composed of three persons, one psychiatrist, one psychologist and one criminal justice expert, each of whom has a minimum of ten ~~years~~ YEARS OF experience and specialized training in the behavior and treatment of sex offenders.

(b) Appointment.--The Governor shall appoint the psychiatrist and psychologist board members. The Attorney General shall appoint the criminal justice expert. All appointments shall be made within 30 days of the effective date of this section.

(c) Term of office.--Members of the board shall serve four-year terms.

(d) Compensation.--The members of the board shall be compensated at a rate of \$125 per day and receive reimbursement for their actual and necessary expenses while performing the business of the board. The chairman shall receive \$500 additional compensation per annum.

(e) Staff.--Support staff for the board shall be provided by the Pennsylvania Board of Probation and Parole.

~~§ 9799.2~~ 9799.4. Sexually violent predators.

(a) Lifetime parole; counseling.--A NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A person designated as a sexually violent predator under this subchapter shall remain on lifetime parole when released from a State or county correctional facility unless the court determines the person is no longer a sexually violent predator under section ~~9794(e)~~ 9794(F) (relating to designation of sexually violent predators).

1 The sexually violent predator shall be required to attend at
2 least monthly counseling sessions in a program approved by the
3 board and be financially responsible for all fees assessed from
4 such counseling sessions. If the sexually violent predator can
5 prove to the satisfaction of the court that that person cannot
6 afford to pay for the counseling sessions, that person shall
7 still attend the counseling sessions and the parole office shall
8 pay the requisite fees.

9 (b) Mandatory sentence.--~~When~~ NOTWITHSTANDING ANY OTHER <—
10 PROVISION OF LAW TO THE CONTRARY, WHEN a person who has been
11 designated as a sexually violent predator is convicted of a
12 subsequent sexually violent offense, the mandatory sentence
13 shall be life imprisonment. SHOULD A PREVIOUS CONVICTION BE <—
14 VACATED AND AN ACQUITTAL OR FINAL DISCHARGE ENTERED SUBSEQUENT
15 TO IMPOSITION OF SENTENCE UNDER THIS SECTION, THE OFFENDER SHALL
16 HAVE THE RIGHT TO PETITION THE SENTENCING COURT FOR
17 RECONSIDERATION OF SENTENCE IF THIS SECTION WOULD NOT HAVE BEEN
18 APPLICABLE EXCEPT FOR THE CONVICTION WHICH WAS VACATED.

19 (C) AUTHORITY OF COURT IN SENTENCING.--THERE SHALL BE NO
20 AUTHORITY IN ANY COURT TO IMPOSE ON AN OFFENDER TO WHICH THIS
21 SECTION IS APPLICABLE ANY LESSER SENTENCE THAN PROVIDED FOR IN
22 SUBSECTION (B), TO PLACE SUCH OFFENDER ON PROBATION OR TO
23 SUSPEND SENTENCE. NOTHING IN THIS SECTION SHALL PREVENT THE
24 SENTENCING COURT FROM IMPOSING A SENTENCE GREATER THAN THAT
25 PROVIDED IN THIS SECTION. SENTENCING GUIDELINES PROMULGATED BY
26 THE PENNSYLVANIA COMMISSION ON SENTENCING SHALL NOT SUPERSEDE
27 THE MANDATORY SENTENCES PROVIDED IN THIS SECTION.

28 (D) APPEAL BY COMMONWEALTH.--IF A SENTENCING COURT REFUSES
29 TO APPLY THIS SECTION WHEN IT IS APPLICABLE, THE COMMONWEALTH
30 SHALL HAVE THE RIGHT TO APPELLATE REVIEW OF THE ACTION OF THE

1 SENTENCING COURT. THE APPELLATE COURT SHALL VACATE THE SENTENCE
2 AND REMAND THE CASE TO THE SENTENCING COURT FOR THE IMPOSITION
3 OF A SENTENCE IN ACCORDANCE WITH THIS SECTION IF IT FINDS THAT
4 THE SENTENCE WAS IMPOSED IN VIOLATION OF THIS SECTION.

5 § 9799.5. EXEMPTION FROM NOTIFICATION.

6 NOTHING IN THIS SUBCHAPTER SHALL BE CONSTRUED AS IMPOSING A
7 DUTY UPON A LICENSED REAL ESTATE AGENT OR BROKER OR ANY OF HIS
8 AGENTS TO DISCLOSE ANY INFORMATION THAT HE OR HIS AGENT HAS OR
9 MIGHT HAVE REGARDING AN OFFENDER REQUIRED TO REGISTER UNDER THIS
10 ACT.

11 Section 2. The provisions of this act are severable. If any
12 provision of this act or its application to any person or
13 circumstance is held invalid, the invalidity shall not affect
14 other provisions or applications of this act which can be given
15 effect without the invalid provision or application.

16 Section 3. The provisions of this act shall be applicable to <—
17 ~~offenders released from a State or county correctional~~
18 ~~institution on or after January 1, 1996.~~ AS FOLLOWS: <—

19 (1) FOR ALL OFFENDERS CONVICTED OF AN OFFENSE SET FORTH
20 IN THE ADDITION OF 42 PA.C.S. § 9793(B) BEFORE JULY 1, 1995,
21 WHO REMAIN UNDER THE JURISDICTION OF THE PENNSYLVANIA BOARD
22 OF PROBATION AND PAROLE OR THE DEPARTMENT OF CORRECTIONS, THE
23 ADDITION OF 42 PA.C.S. §§ 9794, 9795 AND 9798 SHALL NOT
24 APPLY.

25 (2) FOR ALL OFFENDERS CONVICTED OF AN OFFENSE SET FORTH
26 IN THE ADDITION OF 42 PA.C.S. § 9793(B) COMMITTED AFTER JULY
27 1, 1995, ALL PROVISIONS OF THIS ACT SHALL APPLY.

28 Section 4. This act shall take effect as follows:

29 (1) The addition of 42 Pa.C.S. §§ ~~9798, 9799 and 9799.1~~ <—
30 9799.1, 9799.2 AND 9799.3 shall take effect immediately. <—

1 (2) This section shall take effect immediately.

2 (3) The remainder of this act shall take effect in 180

3 days.