

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 926 Session of  
2007

INTRODUCED BY ADOLPH, BARRAR, MICOZZIE, CIVERA, BAKER, BOYD, CAPPELLI, CLYMER, CREIGHTON, DALLY, DePASQUALE, EVERETT, GEIST, GEORGE, GINGRICH, HARRIS, HESS, HICKERNELL, HORNAMAN, KENNEY, KIRKLAND, KORTZ, MAHONEY, MANN, MARSICO, McILHATTAN, O'NEILL, PETRI, PHILLIPS, RAPP, READSHAW, ROAE, RUBLEY, SABATINA, SCAVELLO, SCHRODER, SIPTROTH, SOLOBAY, SWANGER, VULAKOVICH, WALKO, WATSON, WOJNAROSKI AND YOUNGBLOOD, MARCH 29, 2007

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 29, 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 near schools; further providing for, in  
5 registration of sexual offenders, legislative findings and  
6 declaration of policy, for sentencing court information and  
7 for verification of residence; imposing limitations on  
8 residence for sexually violent predators; and further  
9 providing for duties of Pennsylvania State Police and  
10 Pennsylvania Board of Probation and Parole.

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

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

15 § 5518. Sexually violent predators residing near schools.

16 (a) Offense defined.--A person who is a sexually violent  
17 predator and establishes a residence in violation of 42 Pa.C.S.  
18 § 9796.1 (relating to limitations on residence for sexually  
19 violent predators) commits an offense under this section.

1 (b) Grading.--

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

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

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

12 (c) Arrests for violation.--

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

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

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

26 (i) The person shall be fingerprinted and  
27 photographed in the manner required by 42 Pa.C.S. Ch. 97  
28 Subch. H (relating to registration of sexual offenders).

29 (ii) The person shall provide the Pennsylvania State  
30 Police with all current or intended residences, all

1 information concerning current or intended employment,  
2 including all employment locations and all information  
3 concerning current or intended enrollment as a student.

4 (iii) Law enforcement officers shall make reasonable  
5 attempts to verify the information provided by the  
6 person.

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

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

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

18 Section 2. Sections 9791(a) and 9795.3 of Title 42 are  
19 amended by adding paragraphs to read:

20 § 9791. Legislative findings and declaration of policy.

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

23 \* \* \*

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

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

28 (9) In order to further the compelling State interest to  
29 protect children from sexually violent predators, it is  
30 necessary for the Commonwealth to limit contact between

1 children and sexually violent predators by prohibiting  
2 sexually violent predators from establishing a residence  
3 within walking distance of an elementary school.

4 \* \* \*

5 § 9795.3. Sentencing court information.

6 The sentencing court shall inform offenders and sexually  
7 violent predators at the time of sentencing of the provisions of  
8 this subchapter. The court shall:

9 \* \* \*

10 (7) Specifically inform the sexually violent predator  
11 concerning the limitations on residence imposed by section  
12 9796.1 (relating to limitations on residence for sexually  
13 violent predators).

14 (8) Require the sexually violent predator to read and  
15 sign a form stating that the limitations on residence for  
16 sexually violent predators under section 9796.1 have been  
17 explained. Where the sexually violent predator is incapable  
18 of reading, the court shall certify that the limitations on  
19 residence were explained to the sexually violent predator and  
20 the sexually violent predator indicated an understanding of  
21 the limitations on residence.

22 Section 3. Section 9796(a) and (c) of Title 42, amended  
23 November 24, 2004 (P.L.1243, No.152), are amended to read:

24 § 9796. Verification of residence.

25 (a) Quarterly verification by sexually violent predators.--  
26 The Pennsylvania State Police shall verify the residence [and],  
27 compliance with counseling as provided for in section 9799.4  
28 (relating to counseling of sexually violent predators) and  
29 compliance with limitations on residence imposed by section  
30 9796.1 (relating to limitations on residence for sexually

1 violent predators) of sexually violent predators every 90 days  
2 through the use of a nonforwardable verification form to the  
3 last reported residence. For the period of registration required  
4 by section 9795.1 (relating to registration), a sexually violent  
5 predator shall appear quarterly between January 5 and January  
6 15, April 5 and April 15, July 5 and July 15 and October 5 and  
7 October 15 of each calendar year at an approved registration  
8 site to complete a verification form and to be photographed.

9 \* \* \*

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

24 \* \* \*

25 Section 4. Title 42 is amended by adding a section to read:  
26 § 9796.1. Limitations on residence for sexually violent  
27 predators.

28 (a) Proximity to schools.--

29 (1) A sexually violent predator who committed any  
30 offense specified in § 9795.1 (relating to registration)

1 against a victim who was under 14 years of age at the time of  
2 the offense may not establish a residence within one and one-  
3 half miles, by the nearest public highway, of any public,  
4 private or parochial school that offers instruction on any  
5 level from kindergarten through elementary school.

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

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

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

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

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

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

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

1 of reading, the officer shall certify that the limitations on  
2 residence were explained to the sexually violent predator and  
3 the sexually violent predator indicated an understanding of  
4 the limitations on residence.

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  
10 imposed by this section. In the presence of the person  
11 collecting the information, the sexually violent predator  
12 shall read and sign a form stating that the limitations on  
13 residence imposed by this section have been explained. Where  
14 the sexually violent predator is incapable of reading, the  
15 person shall certify that the limitations on residence were  
16 explained to the sexually violent predator and the sexually  
17 violent predator indicated an understanding of the  
18 limitations on residence.

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

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

1 contact with children walking to and from an elementary school.

2 Section 5. Sections 9799.1 and 9799.2 of Title 42 are  
3 amended by adding paragraphs to read:

4 § 9799.1. Duties of Pennsylvania State Police.

5 The Pennsylvania State Police shall:

6 \* \* \*

7 (7) Develop the statements and forms to provide  
8 notification of limitations on residence for sexually violent  
9 predators under section 9796.1 (relating to limitations on  
10 residence for sexually violent predators).

11 § 9799.2. Duties of Pennsylvania Board of Probation and Parole.

12 The Pennsylvania Board of Probation and Parole shall:

13 \* \* \*

14 (5) Create a notification form which will inform State  
15 and county prison and probation and parole personnel how to  
16 inform sexually violent predators about the limitations on  
17 residence set forth under section 9796.1 (relating to  
18 limitations on residence for sexually violent predators).

19 Section 6. If any provision of this act or the application  
20 thereof to any person or circumstance is held invalid, the  
21 remainder of the act, and the application of such provision to  
22 other persons or circumstances, shall not be affected thereby.

23 Section 7. This act shall take effect in 60 days.