

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1161 Session of
2009

INTRODUCED BY CIVERA, ADOLPH, BAKER, BELFANTI, BOBACK, BOYD,
BRENNAN, BUXTON, CONKLIN, CREIGHTON, DONATUCCI, EVERETT,
GEIST, GIBBONS, GINGRICH, GOODMAN, GROVE, HARHAI, HARPER,
HARRIS, HESS, HICKERNELL, HORNAMAN, KAUFFMAN, KILLION, KORTZ,
LONGIETTI, MAJOR, MARSICO, MELIO, MICOZZIE, MILLARD, MILLER,
MOUL, MURT, MUSTIO, O'NEILL, PETRI, PHILLIPS, PICKETT, RAPP,
READSHAW, REICHLEY, SIPTROTH, K. SMITH, VULAKOVICH, WATERS
AND WATSON, MARCH 31, 2009

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 31, 2009

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

17 WHEREAS, The General Assembly believes that it is appropriate

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

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

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

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

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

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

22 * * *

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

29 "Computer data." A representation of information, knowledge,
30 facts, concepts or instructions which is being prepared or has

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

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

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

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

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

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

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

28 "Electronic mail service provider." A person who is an
29 intermediary in sending or receiving electronic mail or who
30 provides to end-users of electronic mail services the ability to

1 send or receive electronic mail.

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

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

15 * * *

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

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

26 * * *

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

30 * * *

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

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

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

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

1 § 9795.2. Registration procedures and applicability.

2 (a) Registration.--

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

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

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

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

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

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

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

9 (2.1) Registration with a new law enforcement agency
10 shall occur no later than 48 hours after establishing
11 residence in another state.

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

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

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

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

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

25 * * *

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

27 § 9795.6. Limited Internet and World Wide Web access.

28 (a) General rule.--A person subject to the registration
29 requirements of this subchapter who utilized the Internet or
30 World Wide Web to commit, or to facilitate the commission of,

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

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

23 (1) A person subject to limited Internet and World Wide
24 Web access under subsection (a) shall be required to submit
25 to unannounced inspections and examination of all computers,
26 computer data, computer networks, computer software, computer
27 programs, computer systems, telecommunications devices,
28 telecommunications systems, electronic communications
29 systems, electronic mail, electronic mail transmissions
30 systems, electronic storage devices or arrangements, and all

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

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

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

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

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

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

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

9 § 9799.10. Training and assistance.

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

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

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