

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 756 Session of 2011

INTRODUCED BY BOSCOLA, BROWNE, FONTANA, WOZNIAK AND BREWSTER,
MARCH 7, 2011

REFERRED TO JUDICIARY, MARCH 7, 2011

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for
3 registration of domestic violence predators; establishing the
4 Domestic Violence Predator Assessment Board; and imposing
5 powers and duties on the Pennsylvania State Police and on the
6 Pennsylvania Board of Probation and Parole.

7 It is the intention of the General Assembly that this act be
8 known as Robin's Law.

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

11 Section 1. Title 42 of the Pennsylvania Consolidated
12 Statutes is amended by adding a chapter to read:

CHAPTER 96

REGISTRATION OF DOMESTIC VIOLENCE PREDATORS

Sec.

9601. Scope of chapter.

9602. Definitions.

9603. Registration of certain offenders for ten years.

9604. Designation of domestic violence predators.

9605. Other registration requirements.

1 9606. Verification of residence.
2 9607. Victim notification.
3 9608. Immunity for good faith conduct.
4 9609. Duties of Pennsylvania State Police.
5 9610. Duties of Pennsylvania Board of Probation and Parole.
6 9611. Board.
7 9612. Domestic violence predators.
8 9613. Exemption from notification.
9 § 9601. Scope of chapter.

10 This chapter relates to registration of domestic violence
11 criminal offenders.

12 § 9602. Definitions.

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

16 "Board." The Domestic Violence Predator Assessment Board
17 established in section 9611 (relating to board).

18 "Conviction." An adjudication of guilt by a court of
19 competent jurisdiction whether upon a verdict or plea of guilty
20 or plea of nolo contendere, notwithstanding a pending appeal or
21 habeas corpus proceeding arising from the adjudication.

22 "Domestic violence offense." An offense, under the laws of
23 this Commonwealth or any other jurisdiction:

24 (1) an element of which is the use or attempted use of
25 physical force;

26 (2) which is punishable by a term of imprisonment
27 exceeding two years; and

28 (3) which was committed by:

29 (i) the current or former spouse, parent or guardian
30 of the victim;

1 (ii) an individual with whom the victim shares a
2 child in common;

3 (iii) an individual who cohabits with or has
4 cohabited with the victim as a spouse, parent or
5 guardian; or

6 (iv) an individual similarly situated to a spouse,
7 parent or guardian of the victim.

8 The relationship specified in this paragraph need not be an
9 element of the offense to meet the requirements of this
10 definition.

11 The term includes an attempt, a solicitation or a conspiracy to
12 commit the offense.

13 "Domestic violence predator." An individual who:

14 (1) has been convicted of a domestic violence offense;
15 and

16 (2) is determined to be a domestic violence predator
17 under section 9604 (relating to designation of domestic
18 violence predators) due to a mental abnormality or
19 personality disorder which makes the individual likely to
20 engage in predatory domestic violence offenses.

21 "Mental abnormality." A congenital or acquired condition of
22 an individual which affects the emotional or volitional capacity
23 of the individual in a manner as to predispose the individual to
24 commit violent criminal offenses to a degree which makes the
25 individual a menace to the health and safety of other persons.

26 "Municipality." A city, borough, incorporated town or
27 township.

28 "Personality disorder." A personality disorder as defined in
29 the fourth edition of the Diagnostic and Statistical Manual of
30 Mental Disorders adopted by the American Psychiatric

1 Association.

2 "Predatory." Directed at an individual with whom a
3 relationship has been established or promoted for the primary
4 purpose of victimization.

5 § 9603. Registration of certain offenders for ten years.

6 (a) Requirement.--Except as set forth in subsection (b):

7 (1) An individual convicted of a domestic violence
8 offense shall register a current address with the
9 Pennsylvania State Police upon:

10 (i) release from incarceration;

11 (ii) parole from a State or county correctional
12 facility; or

13 (iii) commencement of a sentence of intermediate
14 punishment or probation.

15 (2) The period of registration shall be ten years.

16 (b) Exceptions.--

17 (1) Subsection (a) does not apply to an individual
18 incarcerated in a maximum or medium correctional facility of
19 the Department of Corrections, a private correctional
20 facility or a correctional facility of another jurisdiction.
21 This exception ends upon release.

22 (2) Subsection (a) does not apply to an individual
23 required to register under Subchapter H of Chapter 97
24 (relating to registration of sexual offenders).

25 (c) Registration information.--The Pennsylvania State Police
26 shall provide the information obtained under sections 9605
27 (relating to other registration requirements) and 9606 (relating
28 to verification of residence) and this section and the address
29 at which the offender will reside after release from
30 incarceration, parole or probation to the chief law enforcement

officer of the police department of the municipality in which
the offender will reside.

§ 9604. Designation of domestic violence predators.

(a) Order for assessment.--Before sentencing, the court
shall order a person convicted of a domestic violence offense to
be assessed by the board.

(b) Presumption.--There shall be a presumption that an
offender convicted of a domestic violence offense shall be
presumed by the board to be a domestic violence predator. The
presumption may be rebutted by clear and convincing evidence at
a hearing held under subsection (e).

(c) Assessment.--The board shall conduct an assessment of
the offender to determine if the offender is a domestic violence
predator. Such an assessment shall include, but not be limited
to, the following:

(1) Age of the offender.

(2) Offender's prior criminal record and domestic
violence offenses as well as any other offenses.

(3) Age of the victim.

(4) Whether the domestic violence offense involved
multiple victims.

(5) Use of illegal drugs by the offender.

(6) Whether the offender completed any prior sentence
and participated in a program for violent offenders.

(7) Mental illness or mental disability of the offender.

(8) The nature of the violent contact with the victim
and whether the contact was part of a demonstrated pattern of
abuse.

(9) Whether the domestic violence offense included a
display of unusual cruelty by the offender during commission

1 of the crime.

2 (10) Behavioral characteristics that contribute to the
3 offender's conduct.

4 (d) Submission of report by board.--The board shall submit a
5 written report containing its assessment to the court no later
6 than 30 days after the assessment was ordered.

7 (e) Court review of findings.--Upon receipt of the board's
8 report, the court shall determine if the offender is a domestic
9 violence predator. The determination shall be based on evidence
10 presented at a hearing held prior to sentencing and before the
11 trial judge. The offender and district attorney shall be given
12 notice of the hearing and an opportunity to be heard, the right
13 to call witnesses, including expert witnesses, and the right to
14 conduct cross-examination. The offender shall have the right to
15 counsel and to have an attorney appointed to represent him if he
16 cannot afford one.

17 (f) Subsequent review.--No sooner than one year prior to
18 release from a State or county correctional facility and in
19 five-year intervals thereafter, an offender designated a
20 domestic violence predator may petition a court having original
21 jurisdiction in the matter for reconsideration. The court may
22 request a new report by the board and enter an order terminating
23 the designation, in which case the court shall notify the
24 Pennsylvania State Police.

25 § 9605. Other registration requirements.

26 (a) Registration of domestic violence predators.--A domestic
27 violence predator shall be required to register all current
28 addresses with the Pennsylvania State Police upon release from
29 incarceration, upon parole from a State or county correctional
30 facility or upon commencing a sentence of intermediate

punishment. Registration shall continue unless a court
terminates designation under section 9604(f) (relating to
designation of domestic violence predators).

(b) Court information for all offenders.--At the time of
sentencing, the court shall inform offenders designated in
section 9603 (relating to registration of certain offenders for
ten years) and domestic violence predators designated in
subsection (a) of the provisions of this chapter. The court
shall:

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

(2) Specifically inform the offender of the duty to
inform the Pennsylvania State Police within ten days if the
offender changes residence.

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

(4) Order the fingerprints and photograph of the person
to be provided to the Pennsylvania State Police upon
sentencing.

(5) Require the offender to read and sign a form stating
that the duty to register under this chapter has been
explained. If the offender is unable to read, the court shall
certify that the duty to register was explained to the
offender and the offender indicated an understanding of the
duty.

(c) Correctional facilities and parole authorities.--When an
offender is about to be released from incarceration or paroled

1 from a State or county correctional facility, the prison
2 official of the State or county correctional facility, no later
3 than ten days prior to the release or parole of the offender,
4 shall again provide the offender with notice of the duty to
5 register with the Pennsylvania State Police under this chapter.

6 (d) Penalty.--An offender who fails to register as required
7 in this section commits a felony of the third degree.

8 § 9606. Verification of residence.

9 (a) Quarterly verification.--The Pennsylvania State Police
10 shall verify the residence of domestic violence predators every
11 90 days through use of a nonforwardable verification form to the
12 last reported address. The form shall be returned by the
13 offender within ten days.

14 (b) Annual verification.--The Pennsylvania State Police
15 shall verify the residence of offenders designated in section
16 9603 (relating to registration of certain offenders for ten
17 years), annually through the use of a residence verification
18 form. The form shall be returned by the offender within ten
19 days.

20 (c) Notification of address change.--A change of address of
21 an offender required to register under this chapter reported to
22 the Pennsylvania State Police shall be immediately reported by
23 the Pennsylvania State Police to the appropriate law enforcement
24 agency having jurisdiction over the offender's new place of
25 residence. The Pennsylvania State Police shall, if the offender
26 changes residence to another state, notify the law enforcement
27 agency having jurisdiction of the offender's new place of
28 residence.

29 (d) Failure to provide verification.--If an offender fails
30 to provide verification of residence within the required ten-day

1 period, the Pennsylvania State Police shall immediately notify
2 the local municipal police department of the offender's last
3 verified residence. The local municipal police shall locate the
4 offender and place the offender under arrest. The Pennsylvania
5 State Police shall assume responsibility for locating the
6 offender and making the arrest in jurisdictions where there is
7 no local municipal police force. The Pennsylvania State Police
8 shall assist any local municipal police department requesting
9 assistance with locating and arresting an offender who fails to
10 verify his residence.

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

14 § 9607. Victim notification.

15 (a) Duty to inform victim.--

16 (1) If an offender is determined to be a domestic
17 violence predator by a court order under section 9604(e)
18 (relating to designation of domestic violence predators), the
19 local municipal police department or, if there is no local
20 municipal police department, the Pennsylvania State Police
21 shall give written notice to the victim of the offender
22 within 72 hours after the offender registers initially or
23 notifies the Pennsylvania State Police of an address change.
24 The notice shall contain the offender's name and the address
25 or addresses where the offender resides.

26 (2) A victim may waive the right to be informed under
27 paragraph (1) by providing the local municipal police
28 department or, if there is no local municipal police
29 department, the Pennsylvania State Police with a written
30 request.

1 (b) Public information.--Information provided under
2 subsection (a) shall be available to the general public upon
3 request.

4 (c) Offenders not designated as domestic violence
5 predators.--If an offender is not determined to be a domestic
6 violence predator, the victim shall be notified under the act of
7 November 24, 1998 (P.L.882, No.111), known as the Crime Victims
8 Act.

9 § 9608. Immunity for good faith conduct.

10 The following entities shall not be held liable for damages
11 arising from a good faith discretionary release or dissemination
12 of or good faith failure to release or disseminate information
13 under this section:

14 (1) The Pennsylvania State Police and local law
15 enforcement agencies and their agents and employees.

16 (2) District attorneys and their agents and employees.

17 (3) Directors and employees of county children and youth
18 agencies.

19 (4) The Pennsylvania Board of Probation and Parole and
20 its agents and employees.

21 § 9609. Duties of Pennsylvania State Police.

22 (a) General rule.--The Pennsylvania State Police shall:

23 (1) Create and maintain a State registry of offenders
24 pursuant to section 9603 (relating to registration of certain
25 offenders for ten years) which will be available on the
26 Internet.

27 (2) In consultation with the Attorney General and the
28 Pennsylvania Board of Probation and Parole, promulgate
29 guidelines necessary for administration of this chapter.

30 (3) Within 72 hours of receiving a registration, notify

1 the chief law enforcement officer of the police department
2 having primary jurisdiction of the municipality in which an
3 offender resides that the offender is registered with the
4 Pennsylvania State Police under this chapter.

5 (4) Immediately forward to the Federal Bureau of
6 Investigation information received from the Pennsylvania
7 Board of Probation and Parole under this chapter and the
8 fingerprints of the domestic violence predator.

9 (b) Publication.--Regulations under this chapter shall be
10 published in the Pennsylvania Bulletin no later than one year
11 after the effective date of this section.

12 § 9610. Duties of Pennsylvania Board of Probation and Parole.

13 The Pennsylvania Board of Probation and Parole shall:

14 (1) Formulate a process to be followed by State and
15 county prison and probation and parole personnel when
16 informing offenders of their duties and responsibilities
17 under this chapter.

18 (2) Obtain the following information concerning each
19 offender to whom this chapter applies:

20 (i) Name, including any aliases.

21 (ii) Identifying factors.

22 (iii) Anticipated future residence.

23 (iv) Offense history.

24 (v) Documentation of treatment received for mental
25 abnormalities and personality disorders.

26 (3) Transmit the information in paragraph (2) to the
27 Pennsylvania State Police without delay for immediate entry
28 into the State registry of domestic violence offenders and
29 the criminal history record of the offender as provided in 18
30 Pa.C.S. Ch. 91 (relating to criminal history record

1 information).

2 § 9611. Board.

3 (a) Establishment.--The Domestic Violence Predator
4 Assessment Board is hereby established and shall be composed of
5 three persons, including a psychiatrist, a psychologist and a
6 criminal justice expert, each of whom shall have a minimum of
7 ten years of experience and specialized training in the behavior
8 and treatment of violent offenders.

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

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

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

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

23 § 9612. Domestic violence predators.

24 (a) Lifetime parole; counseling.--Notwithstanding any other
25 provision of law, a person designated as a domestic violence
26 predator under this chapter shall remain on lifetime parole when
27 released from a State or county correctional facility unless the
28 court terminates the designation under section 9604(f) (relating
29 to designation of domestic violence predators). The offender
30 shall be required to attend at least monthly counseling sessions

1 in a program approved by the board and be financially
2 responsible for all fees assessed from such counseling sessions.
3 If the offender can establish to the satisfaction of the court
4 inability to pay for counseling sessions, the offender shall
5 attend the sessions and the parole office shall pay the
6 requisite fees.

7 (b) Lifetime registration.--

8 (1) Notwithstanding any other provision of law, an
9 offender designated as a domestic violence predator under
10 this chapter shall register for life if the offender:

11 (i) is convicted of a subsequent domestic violence
12 offense requiring registration; or

13 (ii) enters this Commonwealth after the effective
14 date of this chapter and has a conviction in another
15 jurisdiction that would have required registration if
16 committed in Pennsylvania.

17 (2) If a conviction is vacated and an acquittal or final
18 discharge is entered after it has been determined that this
19 section applies, the offender shall have the right to
20 petition the sentencing court for reconsideration if this
21 section would not have applied except for the conviction
22 which was vacated.

23 (c) Authority of court in sentencing.--There shall be no
24 authority in any court to impose on an offender to which this
25 section is applicable any lesser sentence than provided for in
26 subsection (b), to place such offender on probation or to
27 suspend sentence. Nothing in this section shall prevent the
28 sentencing court from imposing a sentence greater than that
29 provided in this section. Sentencing guidelines promulgated by
30 the Pennsylvania Commission on Sentencing shall not supersede

1 the mandatory sentence provided in this section.

2 (d) Appeal by Commonwealth.--If a sentencing court refuses
3 to apply this section when applicable, the Commonwealth shall
4 have a right to appellate review. The appellate court shall
5 vacate the sentence and remand the case to the sentencing court
6 for the imposition of a sentence in accordance with this section
7 if it finds that the sentence was imposed in violation of this
8 section.

9 § 9613. Exemption from notification.

10 Nothing in this chapter shall be construed to impose a duty
11 on a person licensed under the act of February 19, 1980 (P.L.15,
12 No.9), known as the Real Estate Licensing and Registration Act,
13 or an employee of the person, to disclose information regarding
14 an offender required to register under this chapter.

15 Section 2. This act shall take effect in six months.