

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

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

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

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

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

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

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

§ 9791. Legislative findings and declaration of policy.

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

* * *

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

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

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

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

* * *

§ 9795.3. Sentencing court information.

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

* * *

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

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

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

§ 9796. Verification of residence.

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