

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2267 Session of
2008

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READSHAW, SCAVELLO, SONNEY, STERN, SWANGER, J. TAYLOR, TRUE
AND YOUNGBLOOD, FEBRUARY 26, 2008

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 26, 2008

AN ACT

1 Amending Titles 23 (Domestic Relations) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, further providing for information relating to
4 prospective child-care personnel, for registration, for
5 registration procedures and applicability, for verification
6 of residence and for information made available on the
7 Internet.

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

10 Section 1. Section 6344(d)(1) and (2) of Title 23 of the
11 Pennsylvania Consolidated Statutes are amended to read:

12 § 6344. Information relating to prospective child-care
13 personnel.

14 * * *

15 (d) Prospective adoptive or foster parents.--With regard to
16 prospective adoptive or prospective foster parents, the
17 following shall apply:

18 (1) In the course of causing an investigation to be made

1 pursuant to section 2535(a) (relating to investigation), an
2 agency or person designated by the court to conduct the
3 investigation shall require prospective adoptive parents and
4 any individual over the age of 18 years residing in the home
5 to submit the information set forth in subsection (b)(1) and
6 (2) for review in accordance with this section. Effective on
7 and after July 1, 2009, no prospective adoptive parent may be
8 finally approved for placement of a child until a criminal
9 records check of national crime information databases
10 required by section 471 of the Social Security Act (49 Stat.
11 620, 42 U.S.C. § 671(a)) is conducted.

12 (2) In the course of approving a prospective foster
13 parent, a foster family care agency shall require prospective
14 foster parents and any individual over the age of 18 years
15 residing in the home to submit the information set forth in
16 subsection (b)(1) and (2) for review by the foster family
17 care agency in accordance with this section. On or before
18 July 1, 2009, the foster family care agency shall implement a
19 requirement that before a prospective foster parent may be
20 finally approved for placement of a child, a criminal records
21 check of national crime information databases required by
22 section 471 of the Social Security Act shall be conducted by
23 the foster family care agency. In addition, the foster family
24 care agency shall consider the following when assessing the
25 ability of applicants for approval as foster parents:

26 (i) The ability to provide care, nurturing and
27 supervision to children.

28 (ii) Mental and emotional well-being. If there is a
29 question regarding the mental or emotional stability of a
30 family member which might have a negative effect on a

1 foster child, the foster family care agency shall require
2 a psychological evaluation of that person before
3 approving the foster family home.

4 (iii) Supportive community ties with family, friends
5 and neighbors.

6 (iv) Existing family relationships, attitudes and
7 expectations regarding the applicant's own children and
8 parent/child relationships, especially as they might
9 affect a foster child.

10 (v) Ability of the applicant to accept a foster
11 child's relationship with his own parents.

12 (vi) The applicant's ability to care for children
13 with special needs.

14 (vii) Number and characteristics of foster children
15 best suited to the foster family.

16 (viii) Ability of the applicant to work in
17 partnership with a foster family care agency. This
18 subparagraph shall not be construed to preclude an
19 applicant from advocating on the part of a child.

20 * * *

21 Section 2. Section 9795.1(a) of Title 42 is amended and the
22 section is amended by adding a subsection to read:

23 § 9795.1. Registration.

24 (a) [Ten-year] Periods of registration.--The following
25 individuals shall be required to register with the Pennsylvania
26 State Police for a period [of ten years] as hereafter provided:

27 (1) Individuals convicted of any of the following
28 offenses:

29 18 Pa.C.S. § 2901 (relating to kidnapping) where the
30 victim is a minor, 25 years.

1 18 Pa.C.S. § 2910 (relating to luring a child into a
2 motor vehicle[] or structure), 15 years.

3 18 Pa.C.S. § 3124.2 (relating to institutional sexual
4 assault), 15 years, or where victim is a minor, 25 years.

5 18 Pa.C.S. § 3126 (relating to indecent assault)
6 where the offense is graded as a misdemeanor of the first
7 degree or higher, 15 years.

8 18 Pa.C.S. § 4302 (relating to incest) where the
9 victim is 12 years of age or older but under 18 years of
10 age, 15 years.

11 18 Pa.C.S. § 5902(b) (relating to prostitution and
12 related offenses) where the actor promotes the
13 prostitution of a minor, 25 years.

14 18 Pa.C.S. § 5903(a)(3), (4), (5) or (6) (relating to
15 obscene and other sexual materials and performances)
16 where the victim is a minor, 25 years.

17 18 Pa.C.S. § 6312 (relating to sexual abuse of
18 children), 25 years.

19 18 Pa.C.S. § 6318 (relating to unlawful contact with
20 minor), 15 years.

21 18 Pa.C.S. § 6320 (relating to sexual exploitation of
22 children), 25 years.

23 (2) Individuals convicted of an attempt to commit any of
24 the offenses under paragraph (1) or subsection (b)(2), 15
25 years.

26 (3) Individuals currently residing in this Commonwealth
27 who have been convicted of offenses similar to the crimes
28 cited in paragraphs (1) and (2) under the laws of the United
29 States or one of its territories or possessions, another
30 state, the District of Columbia, the Commonwealth of Puerto

1 Rico or a foreign nation, 15 years.

2 * * *

3 (d) Information to be included in registry.--The following
4 information shall be included in the registry for each person
5 required to register under this section:

6 (1) Full legal name and all known aliases and prior
7 legal names.

8 (2) Date of birth.

9 (3) A physical description, including sex, height,
10 weight, eye color, hair color and race.

11 (4) A current photograph.

12 (5) Any identifying marks, including scars, birthmarks
13 and tattoos.

14 (6) Social Security number.

15 (7) All telephone numbers, including land line and
16 mobile telephone numbers.

17 (8) All electronic mail addresses and Internet website
18 addresses.

19 (9) The street address, municipality, county and zip
20 code of all residences, including, where applicable, the name
21 of the prison or other place of confinement.

22 (10) The street address, municipality, county, zip code
23 and name of any institution or location at which the person
24 is enrolled as a student.

25 (11) The street address, municipality, county, zip code
26 and name of any place at which the person is employed or
27 serves as a volunteer.

28 (12) A photocopy of a valid driver's license or
29 identification card.

30 (13) The make, model, year, color, license plate number,

1 registration number and description of any vehicle owned by,
2 leased by or operated by the person.

3 (14) The criminal offense for which the person is
4 required to register.

5 (15) The criminal history of the person, including dates
6 of arrests and convictions and correctional and release data.

7 (16) Fingerprints, palm prints and DNA sample.

8 (17) Whether the victim was a minor at the time of the
9 offense.

10 (18) Whether the person is currently compliant with
11 registration requirements.

12 (19) Any other information required by Federal law.

13 Section 3. Sections 9795.2(a)(1) and (3) and (b)(4)(iii) and
14 (iv), 9796 and 9798.1 of Title 42 are amended to read:

15 § 9795.2. Registration procedures and applicability.

16 (a) Registration.--

17 (1) Offenders and sexually violent predators shall be
18 required to register with the Pennsylvania State Police
19 [upon] prior to release from incarceration, [upon] prior to
20 release on parole from a State or county correctional
21 institution or upon the commencement of a sentence of
22 intermediate punishment or probation. For purposes of
23 registration, offenders and sexually violent predators shall
24 provide the Pennsylvania State Police with [all current or
25 intended residences, all information concerning current or
26 intended employment and all information concerning current or
27 intended enrollment as a student.] all information required
28 under section 9795.1(d) (relating to registration).

29 * * *

30 (3) The [ten-year] registration period required in

1 section 9795.1(a) [(relating to registration)] shall be
2 tolled when an offender is recommitted for a parole violation
3 or sentenced to an additional term of imprisonment. In such
4 cases, the Department of Corrections or county correctional
5 facility shall notify the Pennsylvania State Police of the
6 admission of the offender.

7 * * *

8 (b) Individuals convicted or sentenced by a court or
9 adjudicated delinquent in jurisdictions outside this
10 Commonwealth or sentenced by court martial.--

11 (4) An individual who resides, is employed or is a
12 student in this Commonwealth and who has been convicted of or
13 sentenced by a court or court martial for a sexually
14 violent offense or a similar offense under the laws of the
15 United States or one of its territories or possessions,
16 another state, the District of Columbia, the Commonwealth of
17 Puerto Rico or a foreign nation, or who was required to
18 register under a sexual offender statute in the jurisdiction
19 where convicted, sentenced or court martial, shall register
20 at an approved registration site within 48 hours of the
21 individual's arrival in this Commonwealth. The provisions of
22 this subchapter shall apply to the individual as follows:

23 * * *

24 (iii) Except as provided in subparagraphs (i), (ii),
25 (iv) and (v), if the individual has been convicted or
26 sentenced by a court or court martial for an offense
27 listed in section 9795.1(a) or an equivalent offense, the
28 individual shall be, notwithstanding section 9792,
29 considered an offender and subject to registration
30 pursuant to this subchapter. The individual shall also be

1 subject to the provisions of this section and sections
2 9796 and 9798.1(c)(2). The individual shall be subject to
3 this subchapter for a period of [ten] 15 years or for a
4 period of time equal to the time for which the individual
5 was required to register in the other jurisdiction or
6 required to register by reason of court martial,
7 whichever is greater, less any credit due to the
8 individual as a result of prior compliance with
9 registration requirements.

10 (iv) Except as provided in subparagraph (i) and
11 notwithstanding subparagraph (v), if the individual is
12 subject to active notification in the other jurisdiction
13 or subject to active notification by reason of court
14 martial, the individual shall, notwithstanding section
15 9792, be considered an offender and subject to this
16 section and sections 9796, 9798 and 9798.1(c)(1). If the
17 individual was convicted of or sentenced in the other
18 jurisdiction or sentenced by court martial for an offense
19 listed in section 9795.1(b) or an equivalent offense, the
20 individual shall be subject to this subchapter for the
21 individual's lifetime. If the individual was convicted of
22 or sentenced in the other jurisdiction or sentenced by
23 court martial for an offense listed in section 9795.1(a)
24 or an equivalent offense, the individual shall be subject
25 to this subchapter for a period of [ten] 15 years or for
26 a period of time equal to the time for which the
27 individual was required to register in the other
28 jurisdiction or required to register by reason of court
29 martial, whichever is greater, less any credit due to the
30 individual as a result of prior compliance with

1 registration requirements. Otherwise, the individual
2 shall be subject to this subchapter for a period of time
3 equal to the time for which the individual was required
4 to register in the other jurisdiction or required to
5 register by reason of court martial, less any credit due
6 to the individual as a result of prior compliance with
7 registration requirements.

8 * * *

9 § 9796. Verification of residence.

10 (a) [Quarterly] Monthly verification by sexually violent
11 predators.--The Pennsylvania State Police shall verify the
12 residence and compliance with counseling as provided for in
13 section 9799.4 (relating to counseling of sexually violent
14 predators) of sexually violent predators every [90] 30 days
15 through the use of a nonforwardable verification form to the
16 last reported residence. [For the period of registration
17 required by section 9795.1 (relating to registration), a
18 sexually violent predator shall appear quarterly between January
19 5 and January 15, April 5 and April 15, July 5 and July 15 and
20 October 5 and October 15 of each calendar year at an approved
21 registration site to complete a verification form and to be
22 photographed.]

23 (a.1) Facilitation of [quarterly] monthly verification.--The
24 Pennsylvania State Police shall facilitate and administer the
25 verification process required by subsection (a) by:

26 (1) sending a notice by first class United States mail
27 to all registered sexually violent predators at their last
28 reported residence addresses. This notice shall be sent not
29 more than 30 days nor less than 15 days prior to each of the
30 [quarterly] monthly verification periods set forth in

subsection (a) and shall remind sexually violent predators of their [quarterly] monthly verification requirement and provide them with a list of approved registration sites; and

(2) providing verification and compliance forms as necessary to each approved registration site not less than ten days before each of the [quarterly] monthly verification periods.

(a.2) Quarterly appearance and verification by sexually violent predators.--Sexually violent predators shall appear in person once each quarter between January 5 and January 15, April 5 and April 15, July 5 and July 15 and October 5 and October 15 of each calendar year at an approved registration site to complete a verification form and to be photographed.

(b) [Annual] Semiannual verification by offenders.--[The Pennsylvania State Police shall verify the residence of offenders.] For the period of registration required by section 9795.1 (relating to registration), an offender shall appear [within ten days before each annual anniversary] twice each calendar year, at six-month intervals from the date of the offender's initial registration under section 9795.1 at an approved registration site to complete a verification form and to be photographed.

(b.1) Facilitation of [annual] semiannual verification.--The Pennsylvania State Police shall facilitate and administer the verification process required by subsection (b) by:

(1) sending a notice by first class United States mail to all registered offenders at their last reported residence addresses. This notice shall be sent not more than 30 days nor less than 15 days prior to each offender's annual anniversary date and shall remind the offender of the

1 [annual] semiannual verification requirement and provide the
2 offender with a list of approved registration sites; and

3 (2) providing verification and compliance forms as
4 necessary to each approved registration site.

5 (b.2) Quarterly verification of residence by offenders.--The
6 Pennsylvania State Police shall verify the residence of
7 offenders every 90 days through the use of a nonforwardable
8 verification form to the last reported residence.

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

20 (d) Failure to provide verification.--Where an offender or
21 sexually violent predator fails to provide verification of
22 residence within the ten-day period as set forth in this
23 section, the Pennsylvania State Police shall immediately notify
24 the municipal police department of the offender's or the
25 sexually violent predator's last verified residence. The local
26 municipal police shall locate the offender or sexually violent
27 predator and arrest him for violating this section. The
28 Pennsylvania State Police shall assume responsibility for
29 locating the offender or sexually violent predator and arresting
30 him in jurisdictions where no municipal police jurisdiction

1 exists. The Pennsylvania State Police shall assist any municipal
2 police department requesting assistance with locating and
3 arresting an offender or sexually violent predator who fails to
4 verify his residence.

5 (e) Penalty.--An individual subject to registration under
6 section 9795.1(a) or (b) who fails to verify his residence or to
7 be photographed as required by this section may be subject to
8 prosecution under 18 Pa.C.S. § 4915 (relating to failure to
9 comply with registration of sexual offenders requirements).

10 (f) Effect of notice.--Neither failure on the part of the
11 Pennsylvania State Police to send nor failure of a sexually
12 violent predator or offender to receive any notice or
13 information under subsection (a.1) or (b.1) shall relieve that
14 predator or offender from the requirements of this subchapter.
15 § 9798.1. Information made available on the Internet.

16 (a) Legislative findings.--It is hereby declared to be the
17 finding of the General Assembly that public safety will be
18 enhanced by making information about sexually violent predators,
19 lifetime registrants and other sex offenders available to the
20 public through the Internet. Knowledge of whether a person is a
21 sexually violent predator, lifetime registrant or other sex
22 offender could be a significant factor in protecting oneself and
23 one's family members, or those in care of a group or community
24 organization, from recidivist acts by sexually violent
25 predators, lifetime registrants and other sex offenders. The
26 technology afforded by the Internet would make this information
27 readily accessible to parents and private entities, enabling
28 them to undertake appropriate remedial precautions to prevent or
29 avoid placing potential victims at risk. Public access to
30 information about sexually violent predators, lifetime

1 registrants and other sex offenders is intended solely as a
2 means of public protection and shall not be construed as
3 punitive.

4 (b) Internet posting of sexually violent predators, lifetime
5 registrants and other offenders.--The Commissioner of the
6 Pennsylvania State Police shall, in the manner and form directed
7 by the Governor:

8 (1) Develop and maintain a system for making the
9 information described in subsection (c) publicly available by
10 electronic means so that the public may, without limitation,
11 obtain access to the information via an Internet website to
12 view an individual record or the records of all sexually
13 violent predators, lifetime registrants and other offenders
14 who are registered with the Pennsylvania State Police.

15 (2) Ensure that the Internet website contains warnings
16 that any person who uses the information contained therein to
17 threaten, intimidate or harass another or who otherwise
18 misuses that information may be criminally prosecuted.

19 (3) Ensure that the Internet website contains an
20 explanation of its limitations, including statements advising
21 that a positive identification of a sexually violent
22 predator, lifetime registrant or other offender whose record
23 has been made available may be confirmed only by
24 fingerprints; that some information contained on the Internet
25 website may be outdated or inaccurate; and that the Internet
26 website is not a comprehensive listing of every person who
27 has ever committed a sex offense in Pennsylvania.

28 (4) Strive to ensure that:

29 (i) the information contained on the Internet
30 website is accurate;

1 (ii) the data therein is revised and updated as
2 appropriate in a timely and efficient manner; and

3 (iii) instructions are included on how to seek
4 correction of information which a person contends is
5 erroneous.

6 (5) Provide on the Internet website general information
7 designed to inform and educate the public about sex offenders
8 and sexually violent predators and the operation of this
9 subchapter as well as pertinent and appropriate information
10 concerning crime prevention and personal safety, with
11 appropriate links to other relevant Internet websites
12 operated by the Commonwealth of Pennsylvania.

13 (6) Identify when the victim is a minor with a special
14 designation. The identity of a victim of a sex offense shall
15 not be published or posted on the Internet website.

16 (c) Information [permitted] to be disclosed regarding
17 individuals.--Notwithstanding 18 Pa.C.S. Ch. 91 (relating to
18 criminal history record information), the Internet website shall
19 contain the following information on each individual:

20 (1) For sexually violent predators, the following
21 information shall be posted on the Internet website:

22 (i) name and all known aliases;

23 (ii) year of birth;

24 (iii) the street address, municipality, county and
25 zip code of all residences, including, where applicable,
26 the name of the prison or other place of confinement;

27 (iv) the street address, municipality, county, zip
28 code and name of any institution or location at which the
29 person is enrolled as a student;

30 (v) the address, municipality, county and zip code

1 of any employment location;

2 (vi) a photograph of the offender, which shall be
3 updated [not less than annually;] in accordance with
4 section 9796(a.2) and (b) (relating to verification of
5 residence);

6 (vii) a physical description of the offender,
7 including sex, height, weight, eye color, hair color and
8 race;

9 (viii) any identifying marks, including scars,
10 birthmarks and tattoos;

11 (ix) the license plate number and description of any
12 vehicle owned, operated or registered to the offender;

13 (x) whether the offender is currently compliant with
14 registration requirements;

15 (xi) whether the victim is a minor;

16 (xii) a description of the offense or offenses which
17 triggered the application of this subchapter; [and]

18 (xiii) the date of the offense and conviction, if
19 available[.]; and

20 (ix) any other information required by Federal law.

21 (2) For all other lifetime registrants and offenders
22 subject to registration, the information set forth in
23 paragraph (1) shall also be posted on the Internet website in
24 accordance with subsection (d).

25 (d) Duration of Internet posting.--

26 (1) The information listed in subsection (c) about a
27 sexually violent predator shall be made available on the
28 Internet for the lifetime of the sexually violent predator.

29 (2) The information listed in subsection (c) about an
30 offender who is subject to lifetime registration shall be

1 made available on the Internet for the lifetime of the
2 offender unless the offender is granted relief under section
3 9795.5 (relating to exemption from certain notifications).

4 (3) The information listed in subsection (c) about any
5 other offender subject to registration shall be made
6 available on the Internet for the entire period during which
7 the offender is required to register, including any extension
8 of this period pursuant to section 9795.2(a)(3) (relating to
9 registration procedures and applicability).

10 Section 4. This act shall take effect immediately.