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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 1136** Session of  
2007

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INTRODUCED BY GREENLEAF, ORIE, FONTANA, WASHINGTON, TARTAGLIONE,  
MUSTO, COSTA, KITCHEN, RAFFERTY, WAUGH AND RHOADES,  
OCTOBER 19, 2007

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REFERRED TO JUDICIARY, OCTOBER 19, 2007

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, in registration of sexual  
3 offenders, further providing for legislative findings and  
4 declaration of policy, for registration procedures and  
5 applicability, for sentencing court information, and for  
6 exemption from certain notifications; and providing for  
7 residency requirements and for district attorney  
8 notification.

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

11 Section 1. Section 9791(b) of Title 42 of the Pennsylvania  
12 Consolidated Statutes is amended to read:

13 § 9791. Legislative findings and declaration of policy.

14 \* \* \*

15 (b) Declaration of policy.--It is hereby declared to be the  
16 intention of the General Assembly to protect the safety and  
17 general welfare of the people of this Commonwealth by providing  
18 for registration and community notification regarding sexually  
19 violent predators who are about to be released from custody and  
20 will live in or near their neighborhood. It is further declared

1 to be the intention of the General Assembly to reduce recidivism  
2 by keeping potential victims safe and apart from sexually  
3 violent predators by imposing residency restrictions. It is  
4 further declared to be the policy of this Commonwealth to  
5 require the exchange of relevant information about sexually  
6 violent predators among public agencies and officials and to  
7 authorize the release of necessary and relevant information  
8 about sexually violent predators to members of the general  
9 public as a means of assuring public protection and shall not be  
10 construed as punitive.

11 Section 2. Section 9795.2 of Title 42 is amended by adding a  
12 subsection to read:

13 § 9795.2. Registration procedures and applicability.

14 \* \* \*

15 (a.1) (1) Notwithstanding the provisions of subsection (a),  
16 when an offender or sexually violent predator is sentenced to  
17 a State or county correctional institution, at the time of  
18 intake the institution shall provide the Pennsylvania State  
19 Police with the information necessary for the purpose of  
20 registering the offender or sexually violent predator.

21 (2) In addition to the requirements of paragraph (1), a  
22 State or county correctional institution shall provide the  
23 Pennsylvania State Police with the information necessary for  
24 the purpose of registering an offender or sexually violent  
25 predator who is in the State or county correctional  
26 institution on the effective date of this subsection and who  
27 has not previously been registered.

28 (3) The State or county correctional institution shall  
29 notify the Pennsylvania State Police each time the offender  
30 or sexually violent predator is transferred to another

1 institution.

2 (4) This subsection shall have no effect on when the  
3 ten-year registration period begins to run.

4 (5) The purpose of this subsection is to assist the  
5 Pennsylvania State Police in monitoring the location of all  
6 offenders and sexually violent predators subject to this  
7 subchapter and to make sure that information about all  
8 offenders subject to this subchapter is made available on the  
9 Internet under section 9798.1 (relating to information made  
10 available on the Internet). The information shall specify  
11 that the offender or sexually violent predator is an inmate  
12 at a State or county correctional institution.

13 \* \* \*

14 Section 3. Section 9795.3 of Title 42 is amended by adding a  
15 paragraph to read:

16 § 9795.3. Sentencing court information.

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

20 \* \* \*

21 (7) In the case of a sexually violent predator,  
22 specifically inform the sexually violent predator of the  
23 residency restrictions under section 9795.6 (relating to  
24 residency restrictions).

25 Section 4. Section 9795.5(b)(1), (3) and (4) and (e) of  
26 Title 42 are amended to read:

27 § 9795.5. Exemption from certain notifications.

28 \* \* \*

29 (b) Sexually violent predators.--

30 (1) An individual required to register under section

1 9795.1 who is a sexually violent predator may petition the  
2 sentencing court for release from the application of  
3 [section] sections 9795.6 (relating to residency  
4 restrictions) and 9798 (relating to other notification)  
5 provided no less than 20 years have passed since the  
6 individual has been convicted in this or any other  
7 jurisdiction of any offense punishable by imprisonment for  
8 more than one year, or the individual's release from custody  
9 following the individual's most recent conviction for any  
10 such offense, whichever is later.

11 \* \* \*

12 (3) Within 120 days of the filing of a petition under  
13 paragraph (1), the sentencing court shall hold a hearing to  
14 determine whether to exempt the petitioner from application  
15 of [section] sections 9795.6 and 9798. The petitioner and the  
16 district attorney shall be given notice of the hearing and an  
17 opportunity to be heard, the right to call witnesses, the  
18 right to call expert witnesses and the right to cross-examine  
19 witnesses. The petitioner shall have the right to counsel and  
20 to have a lawyer appointed to represent him if he cannot  
21 afford one.

22 (4) The sentencing court shall exempt the petitioner  
23 from application of [section] sections 9795.6 and 9798 only  
24 upon clear and convincing evidence that releasing the  
25 petitioner from application of [section] sections 9795.6 and  
26 9798 is not likely to pose a threat to the safety of any  
27 other person.

28 \* \* \*

29 (e) Subsequent conviction for failing to comply.--If an  
30 individual is exempt from the application of [either] section

1 9795.6, 9798 or 9798.1 under this section and the individual is  
2 subsequently convicted of an offense under 18 Pa.C.S. § 4915  
3 (relating to failure to comply with registration of sexual  
4 offenders requirements), any relief granted under this section  
5 shall be void, and the individual shall automatically and  
6 immediately again be subject to all applicable provisions of  
7 this subchapter, as previously determined by this subchapter.

8 Section 5. Title 42 is amended by adding sections to read:  
9 § 9795.6. Residency restrictions.

10 (a) General rule.--In order to reduce recidivism rates by  
11 keeping potential victims safe and apart from sexually violent  
12 predators, the following residency restrictions shall apply:

13 (1) An individual required to register under section  
14 9795.1 (relating to registration) who is a sexually violent  
15 predator shall not establish a residence or occupy  
16 residential premises within 1,000 feet of the residence of  
17 the sexually violent predator's victim.

18 (2) (i) In the case of an individual required to  
19 register under section 9795.1 who is a sexually violent  
20 predator and whose victim is a child under 18 years of  
21 age, the sexually violent predator shall not establish a  
22 residence or occupy residential premises within 1,000  
23 feet of any elementary or secondary school, licensed  
24 child day-care center or children's playground.

25 (ii) As part of its assessment under section 9795.4  
26 (relating to assessments), the board may recommend to the  
27 court further restrictions on where the sexually violent  
28 predator may reside based on the offender's mental  
29 abnormality or personality disorder and the circumstances  
30 of the offense. The court may include the further

1           restrictions in its order.

2           (3) In the case of an individual required to register  
3           under section 9795.1 who is a sexually violent predator and  
4           whose victim is 18 years of age or older, as part of its  
5           assessment under section 9795.4, the board may recommend to  
6           the court restrictions on where the sexually violent predator  
7           may reside based on the offender's mental abnormality or  
8           personality disorder and the circumstances of the offense.  
9           The court may include those restrictions in its order.

10          (b) Exception.--Subsection (a) shall not apply if the  
11          sexually violent predator is a minor and resides with a parent  
12          or legal guardian.

13          (c) Penalty.--An individual who establishes a residence or  
14          occupies residential premises in an area prohibited under  
15          subsection (a) and for which an exception is not provided under  
16          subsection (b) commits a misdemeanor of the first degree.

17          (d) Notification.--Prior to the release of a sexually  
18          violent predator, the Department of Corrections or the county  
19          correctional institution shall provide written notice of the  
20          residency restrictions that apply to the sexually violent  
21          predator under this section.

22          (e) Application.--If, on the effective date of this section,  
23          an individual required to register under section 9795.1 who is a  
24          sexually violent predator is in violation of this section, the  
25          sexually violent predator shall have 30 days from the effective  
26          date of this section to establish a residence or occupy  
27          residential premises that is not in violation of this section.

28          (f) Definition.--As used in this section, "children's  
29          playground" shall mean an improved area designed, equipped and  
30          set aside for children's play. The term shall not include a home

1 playground.

2 § 9797.1. District attorney notification.

3 (a) Parole.--In addition to the requirements of section 22  
4 of the act of August 6, 1941 (P.L.861, No.323), referred to as  
5 the Pennsylvania Board of Probation and Parole Law, at least ten  
6 days before paroling an individual required to register under  
7 section 9795.1 (relating to registration) who is a sexually  
8 violent predator, the Pennsylvania Board of Probation and Parole  
9 shall give written notice of such contemplated parole to the  
10 district attorney of the county in which the sexually violent  
11 predator plans to reside and, in cases of hearings or  
12 applications for parole, at least ten days' written notice of  
13 the time and place fixed for the hearing shall be given by the  
14 Pennsylvania Board of Probation and Parole to the district  
15 attorney of the county in which the sexually violent predator  
16 plans to reside.

17 (b) Release.--No later than ten days prior to the release of  
18 an individual required to register under section 9795.1 who is a  
19 sexually violent predator, the Department of Corrections or the  
20 county correctional institution shall notify the district  
21 attorney of the county in which the sexually violent predator  
22 plans to reside that the sexually violent predator will be  
23 released.

24 Section 6. This act shall take effect immediately.