
STATE OF MICHIGAN
IN THE SUPREME COURT
APPEAL FROM THE MICHIGAN COURT OF APPEALS

KIRSTEN FRANK KELLY, P.J., and CYNTHIA DIANE STEPHENS and MICHAEL J. RIORDAN, JJ.

THE PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

-VS.-

Supreme Court
Docket No. 148981

PAUL J. BETTS, JR.,

Defendant-Appellant.

Michigan Court of Appeals No. 319642
14th Judicial Circuit Court No. 12-062665-FH

PLAINTIFF-APPELLEE'S APPENDIX

D.J. HILSON

Muskegon County Prosecuting Attorney
Attorney for Plaintiff-Appellee

By: **CHARLES F. JUSTIAN (P35428)**
Chief Appellate Attorney

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Hall of Justice, Fifth Floor
990 Terrace Street
Muskegon, Michigan 49442
(231) 724-6435

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INCIDENT/INVESTIGATION REPORT

I N C I D E N T D A T A	Agency Name Norton Shores Police Department				INCIDENT/INVESTIGATION REPORT								Case# 2012-06902						
	ORI MI 6162500												Date / Time Reported 10/03/2012 13:00 Wed						
	Location of Incident 255 Seminole Rd, Norton Shores MI 49441-				Premise Type Restaurant				Zone/Tract				Last Known Secure 10/01/2012 08:00 Mon						
													At Found 10/01/2012 08:00 Mon						
	#1	Crime Incident(s) (Com) Sex Offense - (other) 36004				Weapon / Tools				Activity									
						Entry				Exit				Security					
#2	Crime Incident ()				Weapon / Tools				Activity										
					Entry				Exit				Security						
#3	Crime Incident ()				Weapon / Tools				Activity										
					Entry				Exit				Security						
MO																			
V I C T I M	# of Victims 1		Type: SOCIETY/PUBLIC						Injury:										
	V1		Victim/Business Name (Last, First, Middle) State Of Michigan						Victim of Crime # 1,		DOB Age		Race	Sex	Relationship To Offender	Resident Status	Military Branch/Status		
	Home Address												Home Phone						
	Employer Name/Address										Business Phone				Mobile Phone				
	VYR	Make	Model	Style	Color	Lic/Lis	VIN												
	CODES: V- Victim (Denote V2, V3) O = Owner (if other than victim) R = Reporting Person (if other than victim)																		
O T H E R I N V O L V E D	Type:		Injury:																
	Code	Name (Last, First, Middle)						Victim of Crime #		DOB Age		Race	Sex	Relationship To Offender	Resident Status	Military Branch/Status			
	Home Address												Home Phone						
	Employer Name/Address										Business Phone				Mobile Phone				
	Type:		Injury:																
	Code	Name (Last, First, Middle)						Victim of Crime #		DOB Age		Race	Sex	Relationship To Offender	Resident Status	Military Branch/Status			
Home Address												Home Phone							
Employer Name/Address										Business Phone				Mobile Phone					
P R O P E R T Y	1 = None 2 = Burned 3 = Counterfeit / Forged 4 = Damaged / Vandalized 5 = Recovered 6 = Seized 7 = Stolen 8 = Unknown ("OJ" = Recovered for Other Jurisdiction)																		
	VI #	Code	Status FmnTo	Value	OJ	QTY	Property Description					Make/Model				Serial Number			
Officer/ID# NANNA, A. J. (NSPD AJN1)																			
Invest ID# NANNA, A. J. (NSPD AJN1)										Supervisor (0)									
Status	Complainant Signature					Case Status Arrest					Case Disposition:					Page 1			
					10/04/2012														

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Incident Report Additional Name List

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Norton Shores Police Department

OCA: 2012-06902

Additional Name List

Page 2

NameCode/#	Name (Last, First, Middle)	Victim of Crime #	DOB	Age	Race	Sex
1) WI 1	SCHNEAR, DAVID		12/04/1971	40	W	M
	Address 13113 Cranwood Park, Garfield Heights, OH 44125-		H:			
	Empl/Addr		B:			
			Mobile #: 216-570-9566			

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INCIDENT/INVESTIGATION REPORT

By: NSPDJN1,

003b

12/04/2012 09:34

Norton Shores Police Department

Page 3

Case# 2012-06902

Status Codes 1 = None 2 = Burned 3 = Counterfeit / Forged 4 = Damaged / Vandalized 5 = Recovered 6 = Seized 7 = Stolen 8 = Unknown

D R U G S	IBR	Status	Quantity	Type Measure	Suspected Type	Up to 3 types of activity

Assisting Officers

Suspect Hate / Bias Motivated:

Page 3

NARRATIVE

Sex offender registration violation [10/03/2012 14:00, NSPDDAS1, 95, NSPD]

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REPORTING OFFICER NARRATIVE

004b

Norton Shores Police Department

Victim <i>Society</i>	Offense <i>SEX OFFENSE - (OTHER)</i>	OCA <i>2012-06902</i> Date / Time Reported <i>Wed 10/03/2012 13:00</i>
--------------------------	---	---

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

On 10-01-12 I was advised by an anonymous source that there was some concern about a sex offender frequenting both Verdonnis restaurant and The Coffee House. The party making the complaint advised they were concerned the subject, identified as Paul J. Betts Jr, was not on the Michigan SOR and they saw that he was on the registry Indiana. The complaint advised that he had made some inappropriate comments to some employees at both locations. The party making the complaint did not want their name involved.

I checked Michigan SOR and saw that Paul was not registered in Michigan and was currently registered in India. I contacted Det. Jason Morgan of the Tippecanoe County SD in Indiana. He advised he was familiar with Paul ; he would check his listed address for me. He called me back a short time later and advised that Paul does not live there anymore and the new renters advised that he moved out over 2 months ago.

I then met with employees at both Verdonnis and The Coffee House. I was advised by several employees that they were familiar with Paul and that he has made some comments that they considered inappropriate. None of the comments were to children or illegal but had raised concern for the employees. One alleged comment Paul made was when he asked a male employee at Verdonnis if "there were any waitresses working that had daddy issues because he likes young girls".

I began attempting to locate Paul based on the description of his vehicle, a 2002 Ford pickup white in color with a red topper and a canoe on top. On 10-03-12 I located the truck parked in the south lot of Verdonnis. The truck had MI plate CGL1850 on it which came back registered to Paul at 453 Martin Luther King Blvd. Detroit MI 48201. I then went inside Verdonnis and located Paul sitting at the bar alone. I advised him that I was a detective for Norton Shores Police and needed to talk with him. He immediately said he was meeting with Attorney Joe Fisher in regards to this today and pulled out a folder to show me a Indiana court decision. I advised him I hadn't even told him what it was about yet. I asked him if the truck outside was his and he stated it was. I advised him that I knew he had been using the internet service at The Coffee House and he said he had. I asked him what his e-mail address was and he stated it was giantkillerpb@hotmail.com and wrote it down on a piece of paper for me. I asked him where he is staying and he stated between here and Indiana. I asked where he stayed last night and he said in Muskegon. I asked where and he said an apartment on Larch in Muskegon. He then gave me the address of 766 W. Larch apt 2. He then admitted that he has not been living in Indiana for two months and has had the apartment here for two months. He stated he came up here to fix up a sailboat but it wasn't ready. He stated he was going to meet with Joe Fisher today at 1:30 to find out what he could do so he would not be in violation. I asked him about the comment asking "if there were any waitresses working that had daddy issues because he likes young girls". He stated anything a sex offender says gets taken wrong and it was probably a joke. He then said he didn't remember that exact statement.

I advised Paul that at this point he was going to be placed under arrest for failing to register his address, his vehicle and his e-mail address. Officer Wasilewski and Officer Visser arrived and took him into custody and transported him to the Muskegon County Jail where he was lodged on the three violations. Prosecutor forms filled out and CCH attached.

Det. Anthony J. Nanna 47361

Incident Report Suspect List

Norton Shores Police Department

OCA: 2012-06902

1	Name (Last, First, Middle) BETTS, PAUL J					Also Known As					Home Address 766 W LARCH AV MUSKEGON, MI 49441 765-269-6678																																				
	Business Address NOT EMPLOYED 231- -																																														
	DOB. 08/27/1948	Age 64	Race W	Sex M	Eth	Hgt 505	Wgt 150	Hair GRY	Eye BRO	Skin	Driver's License / State. B320676352668 MI																																				
	Scars, Marks, Tattoos, or other distinguishing features																																														
<table border="1"> <tr> <td colspan="2">Reported Suspect Detail</td> <td colspan="2">Suspect Age</td> <td>Race</td> <td>Sex</td> <td>Eth</td> <td>Height</td> <td>Weight</td> <td colspan="2">SSN 370-52-2971</td> </tr> <tr> <td>Weapon, Type</td> <td>Feature</td> <td colspan="2">Make</td> <td colspan="2">Model</td> <td>Color</td> <td>Caliber</td> <td colspan="2">Dir of Travel</td> <td>Mode of Travel</td> </tr> <tr> <td colspan="2">VehYr/Make/Model</td> <td>Drs</td> <td colspan="2">Style</td> <td>Color</td> <td colspan="2">Lic/St</td> <td colspan="3">VIN</td> </tr> </table>															Reported Suspect Detail		Suspect Age		Race	Sex	Eth	Height	Weight	SSN 370-52-2971		Weapon, Type	Feature	Make		Model		Color	Caliber	Dir of Travel		Mode of Travel	VehYr/Make/Model		Drs	Style		Color	Lic/St		VIN		
Reported Suspect Detail		Suspect Age		Race	Sex	Eth	Height	Weight	SSN 370-52-2971																																						
Weapon, Type	Feature	Make		Model		Color	Caliber	Dir of Travel		Mode of Travel																																					
VehYr/Make/Model		Drs	Style		Color	Lic/St		VIN																																							
Notes										Physical Char																																					

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Norton Shores Police Department Incident Report No. 2012-06902
CASE SUPPLEMENTAL REPORT

006b
Printed: 12/04/2012 09:34

Norton Shores Police Department

OCA: 201206902

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Case Status: *ARREST*

Case Mng Status: *CLOSED BY ARREST*

Occured: *10/01/2012*

Offense: *SEX OFFENSE - (OTHER)*

Investigator: *VISSER, B. R. (NSPDBRV1)*

Date / Time: *10/03/2012 14:43:34, Wednesday*

Supervisor: *RHYNDRESS, M. J. (NSPDMJRI)*

Supervisor Review Date / Time: *10/03/2012 15:39:06, Wednesday*

Contact:

Reference: *Supplement*

Det. Nanna requested that Ofc. Wasilewski and I respond to Verdonis restaurant regarding him making contact with a registered sex offender, PAUL J. BETTS.

Det. Nanna spoke to PAUL as we stood by. After speaking with him NANNA determined that PAUL would be arrested on 3 accounts of failing to update as a sex offender.

We let PAUL place his possessions in his truck and with his permission I moved the truck into a parking spot.

Paul was then handcuffed and searched and transported to the county jail.

Visser

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Norton Shores Police Department Incident Report No. 2012-06902
CASE SUPPLEMENTAL REPORT
NOT SUPERVISOR APPROVED

007b
Printed: 12/04/2012 09:34

Norton Shores Police Department

OCA: 201206902

THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY

Case Status: *ARREST*

Case Mng Status: *CLOSED BY ARREST*

Occured: 10/01/2012

Offense: *SEX OFFENSE - (OTHER)*

Investigator: *NANNA, A. J. (NSPDAJN1)*

Date / Time: 12/04/2012 09:31:49, Tuesday

Supervisor: (0)

Supervisor Review Date / Time: *NOT REVIEWED*

Contact:

Reference: *Supplement*

I talked with the property owner of the Larch location, David. He advised that he did rent the apartment to Paul w/ was working for him. He advised that he fired Paul after he was sexually harassing his female employees. He stat they do have a lease for the apartment and he sent me a copy of the lease. It is attached to the report.

Det. Anthony J. Nanna 47361

[12/04/2012 09:33, NSPDAJN1, 674, NSPD]

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STATE OF MICHIGAN
DEPARTMENT OF STATE POLICE
LANSING

RICK SNYDER
GOVERNOR

COL. KRISTE KIBBEY ETUE
DIRECTOR

October 16, 2012

Muskegon County Prosecutor's Office
Attn: Ms. Michelle Wood
990 Terrace, 5th Floor
Muskegon, Michigan 49442

Dear Ms. Wood:

RE: BETTS, PAUL J. JR

DOB: 8/27/1948

I hereby certify, as custodian of the Michigan Sex Offender Registration records, the attached document contains one true copy of the "Sex Offender Registration" and one true copy of the "Explanation of Duties to Register as a Sex Offender." These certified copies are issued pursuant to MCL 28.201.

Sincerely,

Autumn Schrauben
Department Technician
Criminal Justice Information Center
Sex Offender Registry and Enforcement Unit

AS/sc

Subscribed and sworn before me, this 16th day of October, 2012.

Christy L. Erickson
Notary Public
Barry County State of Michigan
Acting in the County of Ingham

(Signature)

My Commission expires June 1, 2016.



State of Michigan
SEX OFFENDER REGISTRATION
Certified Record

009b

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This certified record was printed on 10/16/2012 for official court use only.

OFFENDER INFORMATION:

Name: **BETTS, PAUL J Junior**
 Race: **White**
 Height: **504**
 Hair: **Brown**
 Finger Prints: **Yes**
 Tier Level: **TIER 3**
 DNA Available: **Y**
 MDOC #: **235351**
 SID #: **1651381T**
 Driver's License #: **B320676352668**
 Scars, Marks, Tattoos:

DOB: **08/27/1948**
 Sex: **Male**
 Weight: **150**
 Eyes: **Brown**
 Palm Prints: **No**
 Phone #: **(H) 231-724-6083**
 DNA Location: **CONTACT LAB**
 FBI #: **125717X1**
 Social Security #: **320522971**
 PID #:

SORN #: S8500924**OFFENSE INFORMATION:**

Conviction Type: **Michigan Adult**
 Conviction Date: **01/26/1994**
 Conviction Statute: **750.520C (CRIMINAL SEXUAL
 CONDUCT 2ND DEGREE
 (MULTIPLE VARIABLES))**

REGISTRATION REQUIREMENTS:

Registration Duration: **Lifetime**
 Registration End Date: **Lifetime**
 Fee Payment Made: **\$50**

Registration Begin Date: **11/10/1995**
 Verification Frequency: **QUARTERLY**
 Forms Signed: **2004 Notification
 2002 Campus Notification
 1999 Notification**

ADDRESS INFORMATION:

Begin Date	End Date	Address	Phone	Agency ORI	Alert Date	Alert ORI
10/03/2012		MUSKEGON COUNTY JAIL 25 W WALTON MUSKEGON MI 49440	(H)231-724-6083	MI6116100		
02/27/2012	10/03/2012	2210 CENTRAL ST LAFAYETTE IN 47905		MI3300600		
05/17/2011	02/27/2012	32700 BARRINGTON RD MADISON HEIGHTS MI 48071	(H)313 978-3021	MI8202900		
08/27/2008	05/17/2011	16741 KENTFIELD ST DETROIT MI 48219	(H)313 662-4834	MI8202900		
01/09/2007	08/27/2008	15565 POMONA REDFORD MI 48239		MI8269300		
10/13/2006	01/09/2007	75625 1/2 26TH ST LAWTON MI 49065		MI8018000		
06/18/2003	10/13/2006	5043 GUN LAKE RD HASTINGS MI 49058		MI8005100		
04/16/2002	06/18/2003	65817 56TH ST LAWRENCE MI 49064		MI8005100		
11/13/2000	04/16/2002	41738 46TH ST PAW PAW MI 49079		MI8018000		
07/31/2000	11/13/2000	1338 W G AVE KALAMAZOO MI 49004		MI3950000		

Certified Copy of Defendant's SORA record
State of Michigan
SEX OFFENDER REGISTRATION
Certified Record

010b

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ADDRESS INFORMATION:

Begin Date	End Date	Address	Phone	Agency ORI	Alert Date	Alert ORI
04/03/2000	07/31/2000	1002 S PARK 3 KALAMAZOO MI 49001		MI3949900		
12/16/1999	04/03/2000	204 OAKHURST KALAMAZOO MI 49001		MI3949900		
12/01/1999	12/16/1999	400 W LAKETON MUSKEGON MI 49441		MI6116103		
10/07/1999	12/01/1999	2727 E BEECHER ADRIAN MI 49221		MI460045C		
07/30/1999	10/07/1999	141 FIRST ST COLDWATER MI 49036		MI340055C		
11/11/1995	07/30/1999	1002 S PARK 3 KALAMAZOO MI 49001		MI380145C		

VERIFICATION INFORMATION:

Verification Period	Verification Date	Agency ORI	Alert Date
JAN 2012	03/28/2012	MI8234900	
OCT 2011	03/28/2012	MI8234900	
JUL 2011	03/28/2012	MI8234900	
APR 2011	04/16/2011	MI8202900	
JAN 2011	05/17/2011	MI8202900	
OCT 2010	05/17/2011	MI8202900	
JUL 2010	05/17/2011	MI8202900	
APR 2010	05/17/2011	MI8202900	
JAN 2010	05/17/2011	MI8202900	
OCT 2009	10/15/2009	MI8202900	
JUL 2009	10/16/2009	MI8202900	
APR 2009	04/21/2009	MI8202900	
JAN 2009	01/13/2009	MI8202900	
OCT 2008	10/14/2008	MI8202900	
JUL 2008	10/14/2008	MI8202900	
APR 2008	10/14/2008	MI8202900	
JAN 2008	10/14/2008	MI8202900	
	04/16/2007	MI8269300	

CAMPUS INFORMATION:

VEHICLE INFORMATION:

EMPLOYMENT INFORMATION:

ALIAS INFORMATION:

Alias Type	Alias	Agency ORI	Date Modified
Alias Name	BETTS, PAUL J JR	CHR AUTO	09/09/2009
Alias Name	BETTS, PAUL	CHR AUTO	09/09/2009

CERTIFIED

EXPLANATION OF DUTIES TO REGISTER AS A SEX OFFENDER
(M.C.L.A. 28.721, MI P.A. 295 of 1994, Amended 1996, 1999, 2002)

Pursuant to Michigan Public Act 295 of 1994 as amended in 1996, 1999, and 2002, and in accordance with the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 United States Code 14071), Pam Lychner Sexual Offender Tracking and Identification Act of 1996 (42 United States Code 14072), and the Campus Sex Crimes Prevention Act (42 United States Code 14071), you are hereby notified of your responsibilities to register as a convicted sex offender.

Effective September 1, 1999, you shall comply with the following duties and responsibilities as they apply to your particular circumstance:

- Upon conviction but prior to sentencing, you shall be registered as a convicted sex offender. You shall sign the registration form (DD-4) and notification form (DD-4A), and return it to the presenting official. Failure to sign the form(s) is a misdemeanor.
- For a first offense, registration will be for 25 years or a minimum of 10 years after being released from prison, whichever is longer. Registration will be for LIFE for a second or subsequent conviction of a registerable offense or for a first conviction of one of the following crimes on or after September 1, 1999: 750.520b: Criminal Sexual Conduct 1st Degree; 750.520c: Criminal Sexual Conduct 2nd Degree (victim under 13 years of age); 750.349: Kidnapping; 750.350: Kidnapping a Child under the age of 14 years; 750.145c(2)(3): Child Sexually Abusive Commercial Activity, or the attempt of any of the above listed offenses.
- Within 10 days of changing your residence, you must report in person to your local law enforcement agency, sheriff's department or State Police post and provide your new address. Failure to report a change of address is a felony.
- Within 14 days of moving into this state, if you are registered or required to be registered as a sex offender in another state, you must register as a sex offender at your local law enforcement agency, sheriff's department, or State Police post. If you are a student or employee who is domiciled or temporarily residing in this state for a period of 14 or more consecutive days or 30 or more days in a calendar year, you are required to register.
- Ten days prior to changing your residence to another state, you must report in person to the nearest State Police post and provide the city and state to which you are moving, along with the complete address, if known. Upon moving, you shall comply with the registration requirements of that state.
- Effective January 1, 2000, all registered sex offenders shall verify their address by reporting in person to their local law enforcement agency, sheriff's department, or State Police post and provide proof of residency. If you are convicted of a misdemeanor listed offense, you shall verify in person, between January 1 and January 15 of each year. If you are convicted of a felony listed offense, you shall verify your address during the first 15 days of January, April, July, and October of each year. Failure to verify your address is a misdemeanor.
- Effective January 1, 2000, all registered sex offenders shall maintain either a valid Michigan operator or chauffeur license or a Michigan personal identification card with your digitized photograph. The address on this card shall match your current address on the sex offender registry. This card may be used as proof of residence. Other proof of residency may be required such as a voter registration card or utility bill.
- Effective January 1, 2003, all registered sex offenders who attend, are employed, or volunteer at an institute of higher learning must report in person the name and location of the campus as well as their status either as a student or employee to their local law enforcement agency, sheriff's department or State Police post. An institute of higher learning includes all public or private community colleges, colleges, universities, public or private trade schools, vocational schools, and occupational schools. This includes all full and part-time students, full and part-time employees, contractual providers, employees of a contractual providers, and volunteers regardless of financial compensation, or receipt of any governmental or educational benefit. Any change in status must be reported within 10 days. Failure to report status at an institute of higher learning is a felony.
- Failure to register, failure to verify residence address at the specified times, failure to report a change of residence address, or failure to report your institute of higher learning status, as described above, in accordance with the act, shall result in criminal prosecution.
- Failure to sign the notification, verification, and registration forms in accordance with the above procedures shall result in criminal prosecution.
- I acknowledge that the above requirements as set forth by statute have been explained to me.

X. Paul Betts
SIGNATURE OF OFFENDER

SIGNATURE OF PARENT OR GUARDIAN (JUVENILE OFFENDERS ONLY)

TO BE COMPLETED BY NOTIFYING OFFICIAL (DO NOT LEAVE SECTIONS BLANK)

PRINTED NAME OF OFFENDER PAUL BETTS DATE OF BIRTH 8-27-48
SS# 370-52-2971 SID# 1651381T FBI# 12571781 DOC/Prison# _____

I certify that I specifically informed the offender of his/her duties as set forth above and he/she indicated to me an understanding of those duties.

Michelle A. Adams
SIGNATURE OF NOTIFYING OFFICIAL

Michelle Adams - Dispatcher
PRINTED NAME/RANK OR POSITION OF NOTIFYING OFFICIAL

NOTIFYING AGENCY MSP Paw Paw Post

DATE 1-2-03

White original - MSP SOR

Yellow copy - Offender

Pink copy - Registering Agency

Mail the original to: Michigan State Police, Criminal Justice Information Center, Sex Offender Registration, 7150 Harris Drive, Lansing, MI 48913.

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1994 Mich. Legis. Serv. P.A. 295 (S.B. 397) (WEST)

MICHIGAN 1994 LEGISLATIVE SERVICE

Eighty-Seventh Legislature, Regular Session

Additions are indicated by <<+ Text +>>; Deletions by
<<- *** ->>. Changes in tables are made but not highlighted.
Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 295

S.B. No. 397

CRIMINAL PROCEDURE—SEX OFFENDERS REGISTRATION ACT

AN ACT to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe penalties and sanctions.

The People of the State of Michigan enact:

<< MI ST 28.721 >>

M.C.L.A. § 28.721

Sec. 1. This act shall be known and may be cited as the “sex offenders registration act”.

<< MI ST 28.722 >>

M.C.L.A. § 28.722

Sec. 2. As used in this act:

(a) “Convicted” means 1 of the following:

(i) Having a judgment of conviction or a probation order entered in a court having jurisdiction over criminal offenses, including a conviction subsequently set aside pursuant to Act No. 213 of the Public Acts of 1965, being sections 780.621 to 780.624 of the Michigan Compiled Laws.

(ii) Being assigned to youthful trainee status pursuant to sections 11 to 15 of chapter II of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 762.11 to 762.15 of the Michigan Compiled Laws.

(iii) Having a disposition entered pursuant to section 18 of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.18 of the Michigan Compiled Laws, that is open to the general public pursuant to section 28 of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.28 of the Michigan Compiled Laws.

(b) “Department” means the department of state police.

(c) “Local law enforcement agency” means the police department of a municipality.

(d) “Listed offense” means any of the following:

(i) A violation of section 145a, 145b, or 145c of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.145a, 750.145b, and 750.145c of the Michigan Compiled Laws.

(ii) A third or subsequent violation of any combination of the following:

(A) Section 167(1)(f) of Act No. 328 of the Public Acts of 1931, being section 750.167 of the Michigan Compiled Laws.

(B) Section 335a of Act No. 328 of the Public Acts of 1931, being section 750.335a of the Michigan Compiled Laws.

(C) A local ordinance substantially corresponding to a section described in sub-subparagraph (A) or (B).

(iii) A violation of section 455 of Act No. 328 of the Public Acts of 1931, being section 750.455 of the Michigan Compiled Laws.

(iv) A violation of section 520b, 520c, 520d, 520e, or 520g of Act No. 328 of the Public Acts of 1931, being sections 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g of the Michigan Compiled Laws.

(v) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (iv).

(vi) An offense substantially similar to an offense described in subparagraphs (i) to (v) under a law of the United States, any state, or any country.

(e) "Municipality" means a city, village, or township of this state.

(f) "Unit" means the department's investigative resources unit.

<< MI ST 28.723 >>

M.C.L.A. § 28.723

Sec. 3. The following individuals who are domiciled or temporarily reside in this state for 14 days or more are required to be registered under this act:

(a) An individual who is convicted of a listed offense after October 1, 1995.

(b) An individual convicted of a listed offense on or before October 1, 1995 who on October 1, 1995 is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, or under the jurisdiction of the juvenile division of the probate court or the department of social services for that offense or who is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, or placed under the jurisdiction of the juvenile division of the probate court or the department of social services after October 1, 1995 for that offense.

(c) An individual convicted of an offense described in section 2(d)(v) ¹ on or before October 1, 1995 who on October 1, 1995 is on probation or parole that has been transferred to this state for that offense or whose probation or parole is transferred to this state after October 1, 1995 for that offense.

¹ Section 28.722(d)(v).

<< MI ST 28.724 >>

M.C.L.A. § 28.724

Sec. 4. (1) Registration of an individual under this act shall proceed as provided in this section.

(2) For an individual convicted of a listed offense on or before October 1, 1995 who on or before October 1, 1995 is sentenced for that offense, has a disposition entered for that offense, or is assigned to youthful trainee status for that offense, the following shall register the individual by December 31, 1995:

(a) If the individual is on probation for the listed offense, the individual's probation officer.

(b) If the individual is committed to jail for the listed offense, the sheriff or his or her designee.

(c) If the individual is under the jurisdiction of the department of corrections for the listed offense, the department of corrections.

(d) If the individual is on parole for the listed offense, the individual's parole officer.

(e) If the individual is within the jurisdiction of the juvenile division of the probate court or the department of social services pursuant to an order of disposition for the listed offense, the juvenile division of the probate court or the department of social services.

(3) For an individual convicted of a listed offense on or before October 1, 1995:

(a) If the individual is sentenced for that offense after October 1, 1995 or assigned to youthful trainee status after October 1, 1995, the probation officer shall register the individual before sentencing or assignment.

(b) If the individual's probation or parole is transferred to this state after October 1, 1995, the probation or parole officer shall register the individual within 14 days after the transfer.

(c) If the individual is placed within the jurisdiction of the juvenile division of the probate court or the department of social services pursuant to an order of disposition entered after October 1, 1995, the juvenile division of the probate court shall register the individual before the order of disposition is entered.

(4) For an individual convicted of a listed offense in this state after October 1, 1995, the individual shall register before sentencing, entry of the order of disposition, or assignment to youthful trainee status. The probation officer or the juvenile division of the probate court shall give the individual the registration form after the individual is convicted, shall explain the duty to register, and shall accept the completed registration for processing pursuant to section 6.¹

(5) For an individual convicted of a listed offense in another state or country after October 1, 1995, the individual shall register with the local law enforcement agency, or the state police or the sheriff's department within 14 days after becoming domiciled or temporarily residing in this state.

¹ Section 28.726.

<< MI ST 28.725 >>

M.C.L.A. § 28.725

Sec. 5. (1) Within 10 days after any of the following occur, an individual required to be registered under this act shall notify the local law enforcement agency in which his or her new address is located, or the state police or the sheriff's department of the individual's new address:

- (a) The individual changes his or her address.
- (b) The individual is paroled.
- (c) Final release of the individual from the jurisdiction of the department of corrections.

(2) Within 10 days after either of the following occurs, the department of corrections shall notify the local law enforcement agency for the area to which the individual is transferred, or the state police or the sheriff's department of the transferred address of an individual required to be registered under this act:

- (a) The individual is transferred to a community residential program.
- (b) The individual is transferred into a minimum custody correctional facility of any kind, including a correctional camp or work camp.

(3) Except as provided in subsection (4), an individual shall comply with this section for 25 years after the date of initially registering.

(4) An individual shall comply with this section for life if the individual is convicted of a second or subsequent listed offense after October 1, 1995 regardless of when the first listed offense was committed.

<< MI ST 28.726 >>

M.C.L.A. § 28.726

Sec. 6. (1) The officer, court, or agency registering an individual or receiving or accepting a registration under section 4¹ or receiving notice under section 5(1)² shall provide the individual with a copy of the registration or notification at the time of registration or notice.

(2) The officer, court, or agency registering an individual or receiving or accepting a registration under section 4 or notified of an address change under section 5(1) shall forward the registration or notification to the department within 7 days after registration or notification.

(3) If an individual registers at a Michigan state police post, the department shall forward a copy of the registration within 7 days to the local law enforcement agency in the municipality in which the individual's address is located or to the sheriff's department if the municipality does not have a local law enforcement agency.

¹ Section 28.724.

² Section 28.725(1).

<< MI ST 28.727 >>

M.C.L.A. § 28.727

Sec. 7. (1) A registration under this act shall be made on a form provided by the department and shall contain all of the following:

- (a) The individual's name, social security number, and address or expected address.
- (b) A brief summary of the individual's convictions for listed offenses, including where the offense occurred and the original charge if the conviction was for a lesser offense.
- (c) A complete physical description of the individual.
- (d) The individual's blood type and whether a DNA identification profile of the individual is available.
- (2) A registration shall have a recent photograph of the individual.
- (3) A form used for registration under this act shall contain a written statement that explains the duty of the individual being registered to provide notice of a change of address under section 5 ¹ and the procedures for providing that notice.
- (4) The individual shall sign the registration or notice.
- (5) The officer, court, or an employee of the agency registering the individual or receiving or accepting a registration under section 4 ² shall also sign the registration.
- (6) An individual shall not knowingly provide false or misleading information concerning a registration or notice.
- (7) The department shall prescribe the form for a notification required under section 5.

¹ Section 28.725.

² Section 28.724.

<< MI ST 28.728 >>

M.C.L.A. § 28.728

Sec. 8. The department shall maintain a computerized data base of registrations and notices required under this act.

<< MI ST 28.729 >>

M.C.L.A. § 28.729

Sec. 9. (1) An individual required to be registered under this act who willfully violates this act is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

- (2) The court shall revoke the probation of an individual placed on probation who willfully violates this act.
- (3) The court shall revoke the youthful trainee status of an individual assigned to youthful trainee status who willfully violates this act.
- (4) The parole board shall rescind the parole of an individual released on parole who willfully violates this act.

<< MI ST 28.730 >>

M.C.L.A. § 28.730

Sec. 10. (1) Except as provided in this act, a registration is confidential and shall not be open to inspection except for law enforcement purposes. The registration and all included materials are exempt from disclosure pursuant to section 13 of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.243 of the Michigan Compiled Laws.

(2) Except as provided in this act, an individual other than the registrant who knows of a registration under this act and who divulges, uses, or publishes information concerning the registration in violation of this act is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(3) An individual whose registration is revealed in violation of this act has a civil cause of action against the responsible party for treble damages.

<< MI ST 28.731 >>

M.C.L.A. § 28.731

Sec. 11. This act shall take effect October 1, 1995.

<< MI ST 28.732 >>

M.C.L.A. § 28.732

Sec. 12. This act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

- (a) Senate Bill No. 193.
- (b) Senate Bill No. 194.
- (c) Senate Bill No. 400.
- (d) House Bill No. 4601.

Approved July 13, 1994.

Filed July 14, 1994.

MI LEGIS 295 (1994)

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1995 Mich. Legis. Serv. P.A. 10 (S.B. 41) (WEST)

MICHIGAN 1995 LEGISLATIVE SERVICE

Eighty-Eighth Legislature, Regular Session

Additions are indicated by <<+ Text +>>; Deletions by
<<- *** ->>. Changes in tables are made but not highlighted.
Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 10

S.B. No. 41

CRIMINAL PROCEDURE—SEX OFFENDERS REGISTRATION
ACT—INDIVIDUALS REQUIRED TO REGISTER

AN ACT to amend section 3 of Act No. 295 of the Public Acts of 1994, entitled “An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe penalties and sanctions,” being section 28.723 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 3 of Act No. 295 of the Public Acts of 1994, being section 28.723 of the Michigan Compiled Laws, is amended to read as follows:

<< MI ST 28.723 >>

M.C.L.A. § 28.723

Sec. 3. The following individuals who are domiciled or temporarily reside in this state for 14 days or more are required to be registered under this act:

- (a) An individual who is convicted of a listed offense after October 1, 1995.
- (b) An individual convicted of a listed offense on or before October 1, 1995 who on October 1, 1995 is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, or under the jurisdiction of the juvenile division of the probate court or the department of social services for that offense or who is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, or placed under the jurisdiction of the juvenile division of the probate court or the department of social services after October 1, 1995 for that offense.
- (c) An individual convicted of an offense described in section <<+ 2(d)(vi)+>>¹ on or before October 1, 1995 who on October 1, 1995 is on probation or parole that has been transferred to this state for that offense or whose probation or parole is transferred to this state after October 1, 1995 for that offense.

¹ Section 28.722(d)(vi).

<< Note: MI ST 28.723 >>

M.C.L.A. § 28.723 Note

Section 2. This amendatory act shall take effect October 1, 1995.

This act is ordered to take immediate effect.

Approved March 24, 1995.

Filed March 24, 1995.

MI LEGIS 10 (1995)

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1996 Mich. Legis. Serv. P.A. 494 (S.B. 959) (WEST)

MICHIGAN 1996 LEGISLATIVE SERVICE

Eighty-Eighth Legislature, Regular Session

Additions are indicated by <<+ Text +>>; Deletions by
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Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 494

S.B. No. 959

POLICE—SEX OFFENDERS REGISTRATION—COMPUTERIZED DATABASE

AN ACT to amend sections 6, 7, 8, and 10 of Act No. 295 of the Public Acts of 1994, entitled “An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe penalties and sanctions,” being sections 28.726, 28.727, 28.728, and 28.730 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 6, 7, 8, and 10 of Act No. 295 of the Public Acts of 1994, being sections 28.726, 28.727, 28.728, and 28.730 of the Michigan Compiled Laws, are amended to read as follows:

<< MI ST 28.726 >>

M.C.L.A. § 28.726

Sec. 6. (1) The officer, court, or agency registering an individual or receiving or accepting a registration under section 4 ¹ or receiving notice under section 5(1) ² shall provide the individual with a copy of the registration or notification at the time of registration or notice.

(2) The officer, court, or agency registering an individual or receiving or accepting a registration under section 4 or notified of an address change under section 5(1) shall forward the registration or notification to the department <<+by the law enforcement information network+>> within <<+3 business+>> days after registration or notification.

<<- * * *->>

¹ Section 28.724.

² Section 28.725.

<< MI ST 28.727 >>

M.C.L.A. § 28.727

Sec. 7. (1) A registration under this act shall be made on a form provided by the department and <<+shall be forwarded to the department in the format the department prescribes. A registration+>> shall contain all of the following:

(a) The individual's name, social security number, <<+date of birth,+>> and address or expected address. <<+An individual registered under this act before the effective date of the 1996 amendatory act that amended this section shall provide the department with his or her date of birth upon the department's request.+>>

(b) A brief summary of the individual's convictions for listed offenses, including where the offense occurred and the original charge if the conviction was for a lesser offense.

(c) A complete physical description of the individual.

<<+(2) A registration may contain the following:+>>

<<+(a)+>> The individual's blood type and whether a DNA identification profile of the individual is available.

<<+(b)+>> A recent photograph of the individual.

(3) <<+The+>> form used for registration under this act shall contain a written statement that explains the duty of the individual being registered to provide notice of a change of address under section 5 ¹ and the procedures for providing that notice.

(4) The individual <<+may+>> sign the registration or notice.

(5) The officer, court, or an employee of the agency registering the individual or receiving or accepting a registration under section 4 ² shall <<-* * *->> sign the registration <<+form+>>.

(6) An individual shall not knowingly provide false or misleading information concerning a registration or notice.

(7) The department shall prescribe the form for a notification required under section 5 <<+and the format for forwarding the notification to the department+>>.

¹ Section 28.725.

² Section 28.724.

<< MI ST 28.728 >>

M.C.L.A. § 28.728

Sec. 8. <<+(1)+>> The department shall maintain a computerized data base of registrations and notices required under this act.

<<+(2) The department shall maintain a computerized data base separate from that described in subsection (1) to implement section 10(2) and (3). ¹ The data base shall consist of a compilation of individuals registered under this act, but shall not include any individual registered solely because he or she had 1 or more dispositions for a listed offense entered under section 18 of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.18 of the Michigan Compiled Laws, in a case that was not designated as a case in which the individual was to be tried in the same manner as an adult under section 2d of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2d of the Michigan Compiled Laws. The compilation of individuals shall be indexed numerically by zip code area. Within each zip code area, the compilation shall contain the name and aliases, address, physical description, and birth date of each individual registered under this act who is included in the compilation and who resides in that zip code area and any listed offense of which the individual has been convicted. The department shall update the compilation with new registrations, deletions from registrations, and address changes at the same time those changes are made to the data base described in subsection (1). The department shall make the compilation available to each department post, local law enforcement agency, and sheriff's department by the law enforcement information network. Upon request by a department post, local law enforcement agency, or sheriff's department, the department shall provide to that post, agency, or sheriff's department the information from the compilation in printed form for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction. As an alternative, the department may make the compilation or information from the compilation available to a department post, local law enforcement agency, or sheriff's department by electronic, computerized, or other means accessible to the post, agency, or sheriff's department.+>>

<<+(3) If a court determines that the public availability under section 10 of any information concerning individuals registered under this act, including names and aliases, addresses, physical descriptions, or dates of birth, violates the

constitution of the United States or this state, the department shall revise the compilation in subsection (2) so that it does not contain that information.+>>

¹ Section 28.730.

<< MI ST 28.730 >>

M.C.L.A. § 28.730

Sec. 10. (1) Except as provided in this act, a registration is confidential and shall not be open to inspection except for law enforcement purposes. The registration and all included materials <<+and information+>> are exempt from disclosure pursuant to section 13 of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.243 of the Michigan Compiled Laws.

<<+(2) A department post, local law enforcement agency, or sheriff's department shall make information from the compilation described in section 8(2) ¹ for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction available for public inspection during regular business hours. A department post, local law enforcement agency, or sheriff's department is not required to make a copy of the information for a member of the public.+>>

<<+(3) The department may make information from the compilation described in section 8(2) available to the public through electronic, computerized, or other accessible means.+>>

<<+(4)+>> Except as provided in this act, an individual other than the registrant who knows of a registration under this act and who divulges, uses, or publishes information concerning the registration in violation of this act is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

<<+(5)+>> An individual whose registration is revealed in violation of this act has a civil cause of action against the responsible party for treble damages.

<<+(6) Subsections (4) and (5) do not apply to the compilation described in section 8(2) or information from that compilation that is provided or made available under section 8(2) or under subsection (2) or (3).+>>

¹ Section 28.728.

<< Note: MI ST 28.726 >>

M.C.L.A. § 28.726 Note

Section 2. This amendatory act shall take effect April 1, 1997.

Approved January 7, 1997.

Filed January 9, 1997.

MI LEGIS 494 (1996)

1999 Mich. Legis. Serv. P.A. 85 (S.B. 566) (WEST)

MICHIGAN 1999 LEGISLATIVE SERVICE

Ninetieth Legislature, Regular Session

Additions are indicated by <<+ Text +>>; Deletions by
<<- *** ->>. Changes in tables are made but not highlighted.

Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 85

S.B. No. 566

STATE POLICE—REGISTERED INDIVIDUALS—PROCEDURAL REGULATIONS

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe penalties and sanctions,” by amending sections 2, 3, 4, 5, 7, 8, 9, and 10 (MCL 28.722, 28.723, 28.724, 28.725, 28.727, 28.728, 28.729, and 28.730), section 3 as amended by 1995 PA 10 and sections 7, 8, and 10 as amended by 1996 PA 494, and by adding sections 5a, 8a, and 8b.

The People of the State of Michigan enact:

<< MI ST 28.722 >>

M.C.L.A. § 28.722

Sec. 2. As used in this act:

(a) “Convicted” means 1 of the following:

(i) Having a judgment of conviction or a probation order entered in <<+ any+>> court having jurisdiction over criminal offenses, <<+including but not limited to, a tribal court or a military court, and+>> including a conviction subsequently set aside <<+under 1965 PA 213, MCL 780.621 to 780.624+>>.

(ii) Being assigned to youthful trainee status <<+under+>> sections 11 to 15 of chapter II of the code of criminal procedure, <<+1927 PA 175, MCL 762.12 to 762.15+>>.

(iii) Having <<+an order of+>> disposition entered <<+under+>> section 18 of chapter XIIA of <<+1939 PA 288, MCL 712A.18+>>, that is open to the general public under section 28 of chapter XIIA of <<+1939 PA 288, MCL 712A.28+>>.

<<+(iv) Having an order of disposition or other adjudication in a juvenile matter in another state or country.+>>

(b) “Department” means the department of state police.

(c) “Local law enforcement agency” means the police department of a municipality.

(d) “Listed offense” means any of the following:

(i) A violation of section 145a, 145b, or 145c of the Michigan penal code, <<+1931 PA 328, MCL 750.145a, 750.145b, and 750.145c+>>.

<<+(ii) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.+>>

<<+(iii)+>> A third or subsequent violation of any combination of the following:

(A) Section 167(1)(f) of <<+the Michigan penal code, 1931 PA 328, MCL 750.167+>>.

(B) Section 335a of <<+the Michigan penal code, 1931 PA 328, MCL 750.335a+>>.

(C) A local ordinance <<+of a municipality+>> substantially corresponding to a section described in sub-subparagraph (A) or (B).

<<+(iv) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.+>>

<<+(v) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an individual less than 18 years of age.+>>

<<+(vi) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.+>>

<<+(vii) A violation of section 448 of the Michigan penal code, 1931 PA 328, MCL 750.448, if a victim is an individual less than 18 years of age.+>>

<<+(viii)+>> A violation of section 455 of <<+the Michigan penal code, 1931 PA 328, MCL 750.455+>>.

<<+(ix)+>> A violation of section 520b, 520c, 520d, 520e, or 520g of <<+ the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g+>>.

<<+(x) Any other violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age.+>>

<<+(xi) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.+>>

<<+(xii)+>> An attempt or conspiracy to commit an offense described in subparagraphs (i) to <<+(xi)+>>.

<<+(xiii)+>> An offense substantially similar to an offense described in subparagraphs (i) to <<+(xii)+>> under a law of the United States, any state, or any country <<+or under tribal or military law+>>.

(e) "Municipality" means a city, village, or township of this state.

<<+(f) "Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. This section shall not be construed to affect existing judicial interpretation of the term residence.+>>

<<+(g) "Student" means an individual enrolled on a full- or part-time basis in a public or private educational institution, including but not limited to a secondary school, trade school, professional institution, or institution of higher education.+>>

<< MI ST 28.723 >>

M.C.L.A. § 28.723

Sec. 3. <<+(1) Subject to subsection (2), the+>> following individuals who are domiciled or temporarily reside in this state for 14 <<-* * *->>or more <<+consecutive days, who work with or without compensation or are students in this state for 14 or more consecutive days, or who are domiciled, reside, or work with or without compensation or are students in this state for 30 or more total days in a calendar year+>> are required to be registered under this act:

(a) An individual who is convicted of a listed offense after October 1, 1995.

(b) An individual convicted of a listed offense on or before October 1, 1995 <<+if+>> on October 1, 1995 <<+he or she+>> is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, or under the jurisdiction of the juvenile division of the probate court or the department of social services for that offense or <<-* * *->> is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, <<-* * *->>placed under the jurisdiction of the juvenile division of the probate court or <<+family division of circuit court, or committed to+>> the department of social services <<+or family independence agency+>> after October 1, 1995 for that offense.

(c) An individual convicted of an offense described in section <<+ 2(d)(xiii)+>> on or before October 1, 1995 <<+if+>> on October 1, 1995 <<+he or she+>> is on probation or parole that has been transferred to this state for that offense or <<+his or her+>> probation or parole is transferred to this state after October 1, 1995 for that offense.

<<+(d) An individual from another state who is required to register or otherwise be identified as a sex or child offender or predator under a comparable statute of that state.+>>

<<+(2) An individual convicted of an offense added on September 1, 1999 to the definition of listed offense is not required to be registered solely because of that listed offense unless 1 of the following applies:+>>

<<+(a) The individual is convicted of that listed offense on or after September 1, 1999.+>>

<<+(b) On September 1, 1999, the individual is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, under the jurisdiction of the family division of circuit court, or committed to the family independence agency for that offense or the individual is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, placed under the jurisdiction of the family division of circuit court, or committed to the family independence agency on or after September 1, 1999 for that offense.+>>

<<+(c) On September 1, 1999, the individual is on probation or parole for that offense which has been transferred to this state or the individual's probation or parole for that offense is transferred to this state after September 1, 1999.+>>

<<+(d) On September 1, 1999, in another state or country the individual is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections or a similar type of state agency, under the jurisdiction of a court that handles matters similar to those handled by the family division of circuit court in this state, or committed to an agency with the same authority as the family independence agency for that offense.+>>

<< MI ST 28.724 >>

M.C.L.A. § 28.724

Sec. 4. (1) Registration of an individual under this act shall proceed as provided in this section.

(2) For an individual convicted of a listed offense on or before October 1, 1995 who on or before October 1, 1995 is sentenced for that offense, has a disposition entered for that offense, or is assigned to youthful trainee status for that offense, the following shall register the individual by December 31, 1995:

(a) If the individual is on probation for the listed offense, the individual's probation officer.

(b) If the individual is committed to jail for the listed offense, the sheriff or his or her designee.

(c) If the individual is under the jurisdiction of the department of corrections for the listed offense, the department of corrections.

(d) If the individual is on parole for the listed offense, the individual's parole officer.

(e) If the individual is within the jurisdiction of the juvenile division of the probate court or the department of social services <<+under+>> an order of disposition for the listed offense, the juvenile division of the probate court or the department of social services.

(3) <<+Except as provided in subsection (4), for+>> an individual convicted of a listed offense on or before October 1, 1995:

(a) If the individual is sentenced for that offense after October 1, 1995 or assigned to youthful trainee status after October 1, 1995, the probation officer shall register the individual before sentencing or assignment.

(b) If the individual's probation or parole is transferred to this state after October 1, 1995, the probation or parole officer shall register the individual within 14 days after the transfer.

(c) If the individual is placed within the jurisdiction of the juvenile division of the probate court or <<+family division of circuit court or committed to+>> the department of social services <<+or family independence agency under+>> an order of disposition entered after October 1, 1995, the juvenile division of the probate court <<+or family division of circuit court+>> shall register the individual before the order of disposition is entered.

<<+(4) For an individual convicted on or before September 1, 1999 of an offense that was added on September 1, 1999 to the definition of listed offense, the following shall register the individual:+>>

<<+(a) If the individual is on probation or parole on September 1, 1999 for the listed offense, the individual's probation or parole officer not later than September 12, 1999.+>>

<<+(b) If the individual is committed to jail on September 1, 1999 for the listed offense, the sheriff or his or her designee not later than September 12, 1999.+>>

<<+(c) If the individual is under the jurisdiction of the department of corrections on September 1, 1999 for the listed offense, the department of corrections not later than November 30, 1999.+>>

<<+(d) If the individual is within the jurisdiction of the family division of circuit court or committed to the family independence agency or county juvenile agency on September 1, 1999 under an order of disposition for the listed offense, the family division of circuit court, the family independence agency, or the county juvenile agency not later than November 30, 1999.+>>

<<+(e) If the individual is sentenced or assigned to youthful trainee status for that offense after September 1, 1999, the probation officer shall register the individual before sentencing or assignment.+>>

<<+(f) If the individual's probation or parole for the listed offense is transferred to this state after September 1, 1999, the probation or parole officer shall register the individual within 14 days after the transfer.+>>

<<+(g) If the individual is placed within the jurisdiction of the family division of circuit court or committed to the family independence agency for the listed offense after September 1, 1999, the family division of circuit court shall register the individual before the order of disposition is entered.+>>

(5) <<+Subject to section 3(1) and (2), an+>> individual convicted of a listed offense in this state after October 1, 1995<<- * * *->> shall register before sentencing, entry of the order of disposition, or assignment to youthful trainee status. The probation officer or the <<+family+>> division of <<+circuit+>> court shall give the individual the registration form after the individual is convicted, <<- * * *->>explain the duty to register, <<+verify his or her address, and provide notice of address changes,+>> and <<- * * *->>accept the completed registration for processing <<+under +>> section 6. <<+The court shall not impose sentence, enter the order of disposition, or assign the individual to youthful trainee status until it determines that the individual's registration was forwarded to the department as required under section 6.+>>

<<+(6) All of the following+>> shall register with the local law enforcement agency, <<- * * *->>sheriff's department, <<+or the department+>> within 14 days after becoming domiciled or temporarily residing, <<+working, or being a student+>> in this state <<+for the periods specified in section 3(1):+>>

<<+(a) Subject to section 3(1), an individual convicted in another state or country after October 1, 1995 of a listed offense as defined before September 1, 1999.+>>

<<+(b) Subject to section 3(2), an individual convicted in another state or country of an offense added on September 1, 1999 to the definition of listed offenses.+>>

<<+(c) An individual required to be registered as a sex offender in another state or country regardless of when the conviction was entered.+>>

<< MI ST 28.725 >>

M.C.L.A. § 28.725

Sec. 5. (1) Within 10 days after any of the following occur, an individual required to be registered under this act shall notify the local law enforcement agency <<+or sheriff's department having jurisdiction where+>> his or her new <<+residence or domicile+>> is located<<- * * *->> or the <<- * * *->>department of the individual's new <<+residence or domicile+>>:

(a) The individual changes his or her <<+residence, domicile, or place of work or education+>>.

(b) The individual is paroled.

(c) Final release of the individual from the jurisdiction of the department of corrections.

(2) Within 10 days after either of the following occurs, the department of corrections shall notify the local law enforcement agency <<+or sheriff's department having jurisdiction over+>> the area to which the individual is transferred<<- * * *->> or the <<- * * *->>department of the transferred <<+residence or domicile+>> of an individual required to be registered under this act:

(a) The individual is transferred to a community residential program.

(b) The individual is transferred into a minimum custody correctional facility of any kind, including a correctional camp or work camp.

<<+(3) An individual required to be registered under this act shall notify the department on a form prescribed by the department not later than 10 days before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and

compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.+>>

<<+(4) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the department and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases.+>>

<<+(5) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in section 5a.+>>

<<+(6)+>> Except as provided in subsection <<+(7)+>>, an individual shall comply with this section for 25 years after the date of initially registering <<+or, if the individual is in a state correctional facility, for 10 years after release from the state correctional facility, whichever is longer+>>.

<<+(7)+>> An individual shall comply with this section for life if the individual is convicted of <<+any of the following or a substantially similar offense under a law of the United States, any state, or any country or under tribal or military law:+>>

<<+(a) A violation of section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.+>>

<<+(b) A violation of section 520c(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520c.+>>

<<+(c) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if the victim is less than 18 years of age.+>>

<<+(d) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.+>>

<<+(e) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.+>>

<<+(f) An attempt or conspiracy to commit an offense described in subdivisions (a) to (e).+>>

<<+(g) Except as provided in this subdivision+>>, a second or subsequent listed offense after October 1, 1995 regardless of when <<+any earlier+>> listed offense was committed. <<+An individual is not required to comply with this section for life if his or her first or second listed offense is for a conviction on or before September 1, 1999 for an offense that was added on September 1, 1999 to the definition of listed offense, unless he or she is convicted of a subsequent listed offense after September 1, 1999.+>>

<< MI ST 28.725a >>

M.C.L.A. § 28.725a

Sec. 5a. (1) Not later than September 1, 1999, the department shall mail a notice to each individual registered under this act who is not in a state correctional facility explaining the individual's duties under this section and this act as amended and the procedure for registration, notification, and verification.

(2) Upon the release of an individual registered under this act who is in a state correctional facility, the department of corrections shall provide written notice to that individual explaining his or her duties under this section and this act as amended and the procedure for registration, notification, and verification. The individual shall sign and date the notice. The department of corrections shall maintain a copy of the signed and dated notice in the individual's file. The department of corrections shall forward the original notice to the department within 30 days, regardless of whether the individual signs it.

(3) Not later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides. The individual shall present proof of domicile or residence and update any information that changed since registration. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released.

(4) Following initial verification under subsection (3), or registration under this act after January 15, 2000, an individual required to be registered under this act who is not incarcerated shall report in person to the local law enforcement agency

or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides for verification of domicile or residence as follows:

(a) If the person is registered only for 1 or more misdemeanor listed offenses, not earlier than January 1 or later than January 15 of each year after the initial verification or registration. As used in this subdivision, "misdemeanor listed offense" means a listed offense that is any of the following:

(i) A violation of section 145a, 145c(4), 167(1)(f), or 448 of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.145c, 750.167, and 750.448.

(ii) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, other than a violation committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(iii) A violation of a local ordinance of a municipality substantially corresponding to a section described in subparagraph (i) or (ii).

(iv) A violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age if the violation is not specifically designated a felony and is punishable by imprisonment for 1 year or less.

(v) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (iv).

(vi) An offense substantially similar to an offense described in subparagraphs (i) to (v) under a law of the United States, any state, or any country or under tribal or military law.

(b) If the person is registered for 1 or more felony listed offenses, not earlier than the first day or later than the fifteenth day of each April, July, October, and January following initial verification or registration. As used in this subdivision, "felony listed offense" means a listed offense that is any of the following:

(i) A violation of section 145b, 145c(2) or (3), 349, 350, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145b, 750.145c, 750.349, 750.350, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(ii) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(iii) A violation of a law of this state that by its nature constitutes a sexual offense against an individual who is less than 18 years of age if the violation is specifically designated a felony or is punishable by imprisonment for more than 1 year.

(iv) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (iii).

(v) An offense substantially similar to an offense described in subparagraphs (i) to (iv) under a law of the United States, any state, or any country or under tribal or military law.

(5) When an individual reports under subsection (3) or (4), an officer or authorized employee of the law enforcement agency, sheriff's department, or department post shall verify the individual's residence or domicile. The officer or authorized employee shall sign and date a verification form. The officer shall give a copy of the signed form showing the date of verification to the individual. The officer or employee shall forward verification information to the department by the law enforcement information network in the manner the department prescribes. The department shall revise the data bases maintained under section 8 as necessary and shall indicate verification in the compilation under section 8(2).

(6) An individual required to be registered under this act shall maintain either a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, with the individual's current address. The license or card may be used as proof of domicile or residence under this section. In addition, the officer or authorized employee may require the individual to produce another document bearing his or her name and address, including but not limited to voter registration or a utility or other bill. The department may specify other satisfactory proof of domicile or residence.

(7) Not earlier than January 1, 2000 or later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to a secretary of state office and have his or her digitized photograph taken. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released. The individual is not required to report under this subsection if he or she had a digitized photograph taken for an operator's or chauffeur's license or official state personal identification card before

January 1, 2000, or within 2 years before he or she is released. The photograph shall be used on the individual's operator's or chauffeur's license or official state personal identification card. The individual shall have a new photograph taken when he or she renews the license or identification card as provided by law. The secretary of state shall make the digitized photograph available to the department for a registration under this act.

(8) If an individual does not report under subsection (3) or (4), the department shall notify the local law enforcement agency. An appearance ticket may be issued for the individual's failure to report as provided in sections 9a to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9a to 764.9g.

(9) The department shall prescribe the form for the notices and verification procedures required under this section.

<< MI ST 28.727 >>

M.C.L.A. § 28.727

Sec. 7. (1) A registration under this act shall be made on a form provided by the department and shall be forwarded to the department in the format the department prescribes. A registration shall contain all of the following:

(a) The individual's name, social security number, date of birth, and address or expected address. <<+An individual who is in a witness protection and relocation program is only required to use the name and identifying information reflecting his or her new identity in a registration under this act. The registration and compilation databases shall not contain any information identifying the individual's prior identity or locale. The department shall request each individual to provide his or her date of birth if it is not included in the registration, and that individual shall comply with the request within 10 days.+>>

(b) A brief summary of the individual's convictions for listed offenses <<+ regardless of when the conviction occurred +>>, including where the offense occurred and the original charge if the conviction was for a lesser offense.

(c) A complete physical description of the individual.

<<+(d) The photograph required under section 5a.+>>

<<+(e) The individual's fingerprints if not already on file with the department. An individual required to be registered on September 1, 1999 shall have his or her fingerprints taken not later than September 12, 1999 if not already on file with the department. The department shall forward a copy of the individual's fingerprints to the federal bureau of investigation if not already on file with that bureau.+>>

(2) A registration may contain the <<-* * *->>individual's blood type and whether a DNA identification profile of the individual is available.

<<-* * *->>

(3) The form used for registration <<+or verification+>> under this act shall contain a written statement that explains the duty of the individual being registered to provide notice of a change of address under section 5, <<-* * *->>the procedures for providing that notice, <<+and the verification procedures under section 5a+>>.

(4) The individual <<+shall+>> sign <<+a+>> registration, <<-* * *->>notice, <<+and verification. However, the registration, notice, or verification shall be forwarded to the department regardless of whether the individual signs it.+>>

(5) The officer, court, or an employee of the agency registering the individual or receiving or accepting a registration under section 4 shall sign the registration form.

(6) An individual shall not knowingly provide false or misleading information concerning a registration, <<-* * *->>notice, <<+or verification+>>.

(7) The department shall prescribe the form for a notification required under section 5 and the format for forwarding the notification to the department.

<<+(8) The department shall promptly provide registration, notice, and verification information to the federal bureau of investigation and to local law enforcement agencies and agencies of other states requiring the information, as provided by law.+>>

<< MI ST 28.728 >>

M.C.L.A. § 28.728

Sec. 8. (1) The department shall maintain a computerized data base of registrations and notices required under this act.

(2) The department shall maintain a computerized data base separate from that described in subsection (1) to implement section 10(2) and (3). The data base shall consist of a compilation of individuals registered under this act, but <<+except as provided in this subsection+>>, shall not include any individual registered solely because he or she had 1 or more dispositions for a listed offense entered under section 18 of chapter XIIA of <<+the probate code of 1939, 1939 PA 288, MCL 712A.18+>>, in a case that was not designated as a case in which the individual was to be tried in the same manner as an adult under section 2d of chapter XIIA of <<+the probate code of 1939, 1939 PA 288, MCL 712A.2d. The exclusion for juvenile dispositions does not apply to a disposition for a violation of section 520b or 520c of the Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, after the individual becomes 18 years of age+>>. The compilation of individuals shall be indexed numerically by zip code area. Within each zip code area, the compilation shall contain the name and aliases, address, physical description, and birth date of each individual registered under this act who is included in the compilation and who resides in that zip code area and any listed offense of which the individual has been convicted. The department shall update the compilation with new registrations, deletions from registrations, and address changes at the same time those changes are made to the data base described in subsection (1). The department shall make the compilation available to each department post, local law enforcement agency, and sheriff's department by the law enforcement information network. Upon request by a department post, local law enforcement agency, or sheriff's department, the department shall provide to that post, agency, or sheriff's department the information from the compilation in printed form for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction. <<+The+>> department <<+shall+>> make the compilation or information from the compilation available to a department post, local law enforcement agency, <<-* ** ->>sheriff's department, <<+and the public+>> by electronic, computerized, or other <<+similar+>> means accessible to the post, agency, or sheriff's department. <<+The electronic, computerized, or other similar means shall provide for both a search by name and by zip code.+>>

(3) If a court determines that the public availability under section 10 of any information concerning individuals registered under this act, including names and aliases, addresses, physical descriptions, or dates of birth, violates the constitution of the United States or this state, the department shall revise the compilation in subsection (2) so that it does not contain that information.

<< MI ST 28.728a >>

M.C.L.A. § 28.728a

Sec. 8a. For the electronic, computerized, or other similar means under section 8, the department shall conduct a study to determine the feasibility of providing for a search by alias and of providing mapping technology to show an address. The study shall consider the costs, programming issues, and other similar issues. The department shall forward the study to the legislature not later than September 1, 2000.

<< MI ST 28.728b >>

M.C.L.A. § 28.728b

Sec. 8b. The department shall conduct a study of the feasibility of compiling a list of individuals convicted of a listed offense before September 1, 1999 who are living and not required to be registered under this act and the feasibility of including the list, known addresses, and summary information in the compilation. The study shall include the records available for the information, costs, employee hours required, programming issues, time frame, and other similar issues. The department shall forward the study to the legislature not later than September 1, 2000.

<< MI ST 28.729 >>

M.C.L.A. § 28.729

Sec. 9. (1) <<+Except as provided in subsections (2) and (3), an+>> individual required to be registered under this act who willfully violates this act is guilty of a felony punishable <<+as follows:+>>

<<+(a) If the individual has no prior convictions for a violation of this act, other than a failure to comply with section 5a,+>> by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

<<+(b) If the individual has 1 prior conviction for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 7 years or a fine of not more than \$5,000.00, or both.+>>

<<+(c) If the individual has 2 or more prior convictions for violations of this act, other than a failure to comply with section 5a, by imprisonment for not more than 10 years or a fine of not more than \$10,000.00, or both.+>>

<<+(2) An individual who fails to comply with section 5a is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.+>>

<<+(3) An individual who willfully fails to sign a registration, notice, or verification as provided in section 7(4) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.+>>

<<+(4)+>> The court shall revoke the probation of an individual placed on probation who willfully violates this act.

<<+(5)+>> The court shall revoke the youthful trainee status of an individual assigned to youthful trainee status who willfully violates this act.

<<+(6)+>> The parole board shall rescind the parole of an individual released on parole who willfully violates this act.

<<+(7) An individual's failure to register as required by this act or a violation of section 5(1), (3), or (4) may be prosecuted in the judicial district of any of the following:+>>

<<+(a) The individual's last registered address or residence.+>>

<<+(b) The individual's actual address or residence.+>>

<<+(c) Where the individual was arrested for the violation.+>>

<< MI ST 28.730 >>

M.C.L.A. § 28.730

Sec. 10. (1) Except as provided in this act, a registration is confidential and shall not be open to inspection except for law enforcement purposes. The registration and all included materials and information are exempt from disclosure <<+under+>> section 13 of the freedom of information act, <<+ 1976 PA 442, MCL 15.243+>>.

(2) A department post, local law enforcement agency, or sheriff's department shall make information from the compilation described in section 8(2) for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction available for public inspection during regular business hours. A department post, local law enforcement agency, or sheriff's department is not required to make a copy of the information for a member of the public.

(3) The department may make information from the compilation described in section 8(2) available to the public through electronic, computerized, or other accessible means.

(4) Except as provided in this act, an individual other than the registrant who knows of a registration under this act and who divulges, uses, or publishes <<+nonpublic+>> information concerning the registration in violation of this act is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(5) An individual whose registration is revealed in violation of this act has a civil cause of action against the responsible party for treble damages.

(6) Subsections (4) and (5) do not apply to the compilation described in section 8(2) or information from that compilation that is provided or made available under section 8(2) or under subsection (2) or (3).

<< Note: MI ST 28.722 >>

M.C.L.A. § 28.722 Note

Enacting section 1. This amendatory act takes effect September 1, 1999.

This act is ordered to take immediate effect.

Approved June 28, 1999.

Filed June 28, 1999.

MI LEGIS 85 (1999)

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2002 Mich. Legis. Serv. P.A. 542 (S.B. 1275) (WEST)

MICHIGAN 2002 LEGISLATIVE SERVICE

Ninety-First Legislature, Regular Session

Additions are indicated by **Text**; deletions by

*** . Changes in tables are made but not highlighted.

Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 542

S.B. No. 1275

STATE POLICE—SEXUAL OFFENDERS—REGISTRATION

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe penalties and sanctions,” by amending sections 2, 5, 5a, 7, 8, 9, and 10 (MCL 28.722, 28.725, 28.725a, 28.727, 28.728, 28.729, and 28.730), sections 2, 5, 7, 8, 9, and 10 as amended and section 5a as added by 1999 PA 85, and by adding sections 1a and 4a.

The People of the State of Michigan enact:

<< MI ST 28.721a >>

M.C.L.A. § 28.721a

Sec. 1a. The legislature declares that the sex offenders registration act was enacted pursuant to the legislature's exercise of the police power of the state with the intent to better assist law enforcement officers and the people of this state in preventing and protecting against the commission of future criminal sexual acts by convicted sex offenders. The legislature has determined that a person who has been convicted of committing an offense covered by this act poses a potential serious menace and danger to the health, safety, morals, and welfare of the people, and particularly the children, of this state. The registration requirements of this act are intended to provide law enforcement and the people of this state with an appropriate, comprehensive, and effective means to monitor those persons who pose such a potential danger.

<< MI ST 28.722 >>

M.C.L.A. § 28.722

Sec. 2. As used in this act:

(a) “Convicted” means 1 of the following:

(i) Having a judgment of conviction or a probation order entered in any court having jurisdiction over criminal offenses, including but not limited to, a tribal court or a military court, and including a conviction subsequently set aside under 1965 PA 213, MCL 780.621 to 780.624.

(ii) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15.

(iii) Having an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28.

- (iv) Having an order of disposition or other adjudication in a juvenile matter in another state or country.
- (b) “Department” means the department of state police.
- (c) “Institution of higher education” means 1 or more of the following:
 - (i) A public or private community college, college, or university.
 - (ii) A public or private trade, vocational, or occupational school.
- (d) “Local law enforcement agency” means the police department of a municipality.
- (e) “Listed offense” means any of the following:
 - (i) A violation of section 145a, 145b, or 145c of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.145b, and 750.145c.
 - (ii) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.
 - (iii) A third or subsequent violation of any combination of the following:
 - (A) Section 167(1)(f) of the Michigan penal code, 1931 PA 328, MCL 750.167.
 - (B) Section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a.
 - (C) A local ordinance of a municipality substantially corresponding to a section described in sub-subparagraph (A) or (B).
 - (iv) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.
 - (v) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an individual less than 18 years of age.
 - (vi) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.
 - (vii) A violation of section 448 of the Michigan penal code, 1931 PA 328, MCL 750.448, if a victim is an individual less than 18 years of age.
 - (viii) A violation of section 455 of the Michigan penal code, 1931 PA 328, MCL 750.455.
 - (ix) A violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.
 - (x) Any other violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age.
 - (xi) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.
 - (xii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (xi).
 - (xiii) An offense substantially similar to an offense described in subparagraphs (i) to (xii) under a law of the United States, any state, or any country or under tribal or military law.
- (f) “Municipality” means a city, village, or township of this state.
- (g) “Residence”, as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. This section shall not be construed to affect existing judicial interpretation of the term residence.
- (h) “Student” means an individual enrolled on a full- or part-time basis in a public or private educational institution, including but not limited to a secondary school, trade school, professional institution, or institution of higher education.

<< MI ST 28.724a >>

M.C.L.A. § 28.724a

Sec. 4a. (1) An individual required to be registered under this act who is not a resident of this state shall report his or her status in person to the local law enforcement agency or sheriff's department having jurisdiction over a campus of an institution of higher education, or to the department post nearest to that campus, if any of the following occur:

(a) Regardless of whether he or she is financially compensated or receives any governmental or educational benefit, the individual is or becomes a full- or part-time employee, contractual provider, or volunteer with that institution of higher education and his or her position will require that he or she be present on that campus for 14 or more consecutive days or 30 or more total days in a calendar year.

(b) The individual is or becomes an employee of a contractual provider described in subdivision (a) and his or her position will require that he or she be present on that campus for 14 or more consecutive days or 30 or more total days in a calendar year.

(c) The status described in subdivision (a) or (b) is discontinued.

(d) The individual changes the campus on which he or she is an employee, a contractual provider, an employee of a contractual provider, or a volunteer as described in subdivision (a) or (b).

(e) The individual is or enrolls as a student with that institution of higher education or the individual discontinues that enrollment.

(f) As part of his or her course of studies at an institution of higher education in this state, the individual is present at any other location in this state, another state, a territory or possession of the United States, or another country for 14 or more consecutive days or 30 or more total days in a calendar year, or the individual discontinues his or her studies at that location.

(2) An individual required to be registered under this act who is a resident of this state shall report his or her status in person to the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post nearest to the individual's new residence or domicile, if any of the events described under subsection (1) occur.

(3) The report required under subsections (1) and (2) shall be made as follows:

(a) For an individual registered under this act before the effective date of the amendatory act that added this section and who is required to make his or her first report under subsections (1) and (2), not later than January 15, 2003.

(b) For an individual who is an employee, a contractual provider, an employee of a contractual provider, or a volunteer on that campus on the effective date of the amendatory act that added this section, or who is a student on that campus on the effective date of the amendatory act that added this section, who is subsequently required to register under this act, on the date he or she is required to register under this act.

(c) Except as provided under subdivisions (a) and (b), within 10 days after the individual becomes an employee, a contractual provider, an employee of a contractual provider, or a volunteer on that campus, or discontinues that status, or changes location, or within 10 days after he or she enrolls or discontinues his or her enrollment as a student on that campus including study in this state or another state, a territory or possession of the United States, or another country.

(4) The additional registration reports required under this section shall be made in the time periods described in section 5a(4)(a) and (b) for reports under that section.

(5) The local law enforcement agency, sheriff's department, or department post to which an individual reports under this section shall require the individual to present written documentation of employment status, contractual relationship, volunteer status, or student status. Written documentation under this subsection may include, but need not be limited to, any of the following:

(a) A W-2 form, pay stub, or written statement by an employer.

(b) A contract.

(c) A student identification card or student transcript.

<< MI ST 28.725 >>

M.C.L.A. § 28.725

Sec. 5. (1) Within 10 days after any of the following occur, an individual required to be registered under this act shall notify the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post of the individual's new residence or domicile:

(a) The individual changes his or her residence, domicile, or place of work or education, including any change required to be reported under section 4a.

- (b) The individual is paroled.
- (c) Final release of the individual from the jurisdiction of the department of corrections.
- (2) Within 10 days after either of the following occurs, the department of corrections shall notify the local law enforcement agency or sheriff's department having jurisdiction over the area to which the individual is transferred or the department post of the transferred residence or domicile of an individual required to be registered under this act:
 - (a) The individual is transferred to a community residential program.
 - (b) The individual is transferred into a minimum custody correctional facility of any kind, including a correctional camp or work camp.
- (3) An individual required to be registered under this act shall notify the department on a form prescribed by the department not later than 10 days before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.
- (4) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the department and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases.
- (5) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a.
- (6) Except as provided in subsection (7), an individual shall comply with this section for 25 years after the date of initially registering or, if the individual is in a state correctional facility, for 10 years after release from the state correctional facility, whichever is longer.
- (7) An individual shall comply with this section for life if the individual is convicted of any of the following or a substantially similar offense under a law of the United States, any state, or any country or under tribal or military law:
 - (a) A violation of section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.
 - (b) A violation of section 520c(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520c.
 - (c) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if the victim is less than 18 years of age.
 - (d) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.
 - (e) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.
 - (f) An attempt or conspiracy to commit an offense described in subdivisions (a) to (e).
 - (g) Except as provided in this subdivision, a second or subsequent listed offense after October 1, 1995 regardless of when any earlier listed offense was committed. An individual is not required to comply with this section for life if his or her first or second listed offense is for a conviction on or before September 1, 1999 for an offense that was added on September 1, 1999 to the definition of listed offense, unless he or she is convicted of a subsequent listed offense after September 1, 1999.

<< MI ST 28.725a >>

M.C.L.A. § 28.725a

Sec. 5a. (1) Not later than September 1, 1999, the department shall mail a notice to each individual registered under this act who is not in a state correctional facility explaining the individual's duties under this section and this act as amended and the procedure for registration, notification, and verification.

(2) Upon the release of an individual registered under this act who is in a state correctional facility, the department of corrections shall provide written notice to that individual explaining his or her duties under this section and this act as amended and the procedure for registration, notification, and verification. The individual shall sign and date the notice. The department of corrections shall maintain a copy of the signed and dated notice in the individual's file. The department of corrections shall forward the original notice to the department within 30 days, regardless of whether the individual signs it.

(3) Not later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides. The individual shall present proof of domicile or residence and update any information that changed since registration, including information that is required to be reported under section 4a. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released.

(4) Following initial verification under subsection (3), or registration under this act after January 15, 2000, an individual required to be registered under this act who is not incarcerated shall report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides for verification of domicile or residence as follows:

(a) If the person is registered only for 1 or more misdemeanor listed offenses, not earlier than January 1 or later than January 15 of each year after the initial verification or registration. As used in this subdivision, "misdemeanor listed offense" means a listed offense that is any of the following:

(i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, committed before June 1, 2002.

(ii) A violation of section *** 145c(4), 167(1)(f), or 448 of the Michigan penal code, 1931 PA 328, MCL *** 750.145c, 750.167, and 750.448.

(iii) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, other than a violation committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(iv) A violation of a local ordinance of a municipality substantially corresponding to a section described in subparagraph (i), (ii), or (iii).

(v) A violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age if the violation is not specifically designated a felony and is punishable by imprisonment for 1 year or less.

(vi) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (v).

(vii) An offense substantially similar to an offense described in subparagraphs (i) to (vi) under a law of the United States, any state, or any country or under tribal or military law.

(b) If the person is registered for 1 or more felony listed offenses, not earlier than the first day or later than the fifteenth day of each April, July, October, and January following initial verification or registration. As used in this subdivision, "felony listed offense" means a listed offense that is any of the following:

(i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, committed on or after June 1, 2002.

(ii) A violation of section 145b, 145c(2) or (3), 349, 350, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145b, 750.145c, 750.349, 750.350, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(iii) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(iv) A violation of a law of this state that by its nature constitutes a sexual offense against an individual who is less than 18 years of age if the violation is specifically designated a felony or is punishable by imprisonment for more than 1 year.

(v) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (iv).

(vi) An offense substantially similar to an offense described in subparagraphs (i) to (v) under a law of the United States, any state, or any country or under tribal or military law.

(5) When an individual reports under subsection (3) or (4), an officer or authorized employee of the local law enforcement agency, sheriff's department, or department post shall verify the individual's residence or domicile and any information required to be reported under section 4a. The officer or authorized employee shall sign and date a verification form. The officer shall give a copy of the signed form showing the date of verification to the individual. The officer or employee shall forward verification information to the department by the law enforcement information network in the

manner the department prescribes. The department shall revise the data bases maintained under section 8 as necessary and shall indicate verification in the compilation under section 8(2).

(6) An individual required to be registered under this act shall maintain either a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, with the individual's current address. The license or card may be used as proof of domicile or residence under this section. In addition, the officer or authorized employee may require the individual to produce another document bearing his or her name and address, including but not limited to voter registration or a utility or other bill. The department may specify other satisfactory proof of domicile or residence.

(7) Not earlier than January 1, 2000 or later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to a secretary of state office and have his or her digitized photograph taken. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released. The individual is not required to report under this subsection if he or she had a digitized photograph taken for an operator's or chauffeur's license or official state personal identification card before January 1, 2000, or within 2 years before he or she is released. The photograph shall be used on the individual's operator's or chauffeur's license or official state personal identification card. The individual shall have a new photograph taken when he or she renews the license or identification card as provided by law. The secretary of state shall make the digitized photograph available to the department for a registration under this act.

(8) If an individual does not report under subsection (3) or (4) or section 4a, the department shall notify the local law enforcement agency, sheriff's department, or department post. An appearance ticket may be issued for the individual's failure to report as provided in sections 9a to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9a to 764.9g.

(9) The department shall prescribe the form for the notices and verification procedures required under this section.

<< MI ST 28.727 >>

M.C.L.A. § 28.727

Sec. 7. (1) A registration under this act shall be made on a form provided by the department and shall be forwarded to the department in the format the department prescribes. A registration shall contain all of the following:

(a) The individual's name, social security number, date of birth, and address or expected address. An individual who is in a witness protection and relocation program is only required to use the name and identifying information reflecting his or her new identity in a registration under this act. The registration and compilation databases shall not contain any information identifying the individual's prior identity or locale. The department shall request each individual to provide his or her date of birth if it is not included in the registration, and that individual shall comply with the request within 10 days.

(b) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.

(c) A complete physical description of the individual.

(d) The photograph required under section 5a.

(e) The individual's fingerprints if not already on file with the department. An individual required to be registered on September 1, 1999 shall have his or her fingerprints taken not later than September 12, 1999 if not already on file with the department. The department shall forward a copy of the individual's fingerprints to the federal bureau of investigation if not already on file with that bureau.

(f) Information that is required to be reported under section 4a.

(2) A registration may contain the individual's blood type and whether a DNA identification profile of the individual is available.

(3) The form used for registration or verification under this act shall contain a written statement that explains the duty of the individual being registered to provide notice of a change of address under section 5, the procedures for providing that notice, and the verification procedures under section 5a.

(4) The individual shall sign a registration, notice, and verification. However, the registration, notice, or verification shall be forwarded to the department regardless of whether the individual signs it.

(5) The officer, court, or an employee of the agency registering the individual or receiving or accepting a registration under section 4 shall sign the registration form.

(6) An individual shall not knowingly provide false or misleading information concerning a registration, notice, or verification.

(7) The department shall prescribe the form for a notification required under section 5 and the format for forwarding the notification to the department.

(8) The department shall promptly provide registration, notice, and verification information to the federal bureau of investigation and to local law enforcement agencies, sheriff's departments, department posts, and agencies of other states requiring the information, as provided by law.

<< MI ST 28.728 >>

M.C.L.A. § 28.728

Sec. 8. (1) The department shall maintain a computerized data base of registrations and notices required under this act.

(2) The department shall maintain a computerized data base separate from that described in subsection (1) to implement section 10(2) and (3). The data base shall consist of a compilation of individuals registered under this act, but except as provided in this subsection, shall not include any individual registered solely because he or she had 1 or more dispositions for a listed offense entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, in a case that was not designated as a case in which the individual was to be tried in the same manner as an adult under section 2d of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d. The exclusion for juvenile dispositions does not apply to a disposition for a violation of section 520b or 520c of the Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, after the individual becomes 18 years of age.

(3) The compilation of individuals shall be indexed numerically by zip code area. Within each zip code area, the compilation shall contain all of the following information:

(a) The name and aliases, address, physical description, and birth date of each individual registered under this act who is included in the compilation and who resides in that zip code area and any listed offense of which the individual has been convicted.

(b) The name and campus location of each institution of higher education to which the individual is required to report under section 4a.

(4) The department shall update the compilation with new registrations, deletions from registrations, and address changes at the same time those changes are made to the data base described in subsection (1). The department shall make the compilation available to each department post, local law enforcement agency, and sheriff's department by the law enforcement information network. Upon request by a department post, local law enforcement agency, or sheriff's department, the department shall provide to that post, agency, or sheriff's department the information from the compilation in printed form for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction. The department shall provide the ability to conduct a computerized search of the compilation based upon the name and campus location of an institution of higher education described in subsection (3)(b).

(5) The department shall make the compilation or information from the compilation available to a department post, local law enforcement agency, sheriff's department, and the public by electronic, computerized, or other similar means accessible to the post, agency, or sheriff's department. The electronic, computerized, or other similar means shall provide for both a search by name and by zip code.

(6) If a court determines that the public availability under section 10 of any information concerning individuals registered under this act, including names and aliases, addresses, physical descriptions, or dates of birth, violates the constitution of the United States or this state, the department shall revise the compilation in subsection (2) so that it does not contain that information.

<< MI ST 28.729 >>

M.C.L.A. § 28.729

Sec. 9. (1) Except as provided in subsections (2) and (3), an individual required to be registered under this act who willfully violates this act is guilty of a felony punishable as follows:

(a) If the individual has no prior convictions for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(b) If the individual has 1 prior conviction for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 7 years or a fine of not more than \$5,000.00, or both.

(c) If the individual has 2 or more prior convictions for violations of this act, other than a failure to comply with section 5a, by imprisonment for not more than 10 years or a fine of not more than \$10,000.00, or both.

(2) An individual who fails to comply with section 5a is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(3) An individual who willfully fails to sign a registration, notice, or verification as provided in section 7(4) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(4) The court shall revoke the probation of an individual placed on probation who willfully violates this act.

(5) The court shall revoke the youthful trainee status of an individual assigned to youthful trainee status who willfully violates this act.

(6) The parole board shall rescind the parole of an individual released on parole who willfully violates this act.

(7) An individual's failure to register as required by this act or a violation of section 5(1), (3), or (4) may be prosecuted in the judicial district of any of the following:

(a) The individual's last registered address or residence.

(b) The individual's actual address or residence.

(c) Where the individual was arrested for the violation.

<< MI ST 28.730 >>

M.C.L.A. § 28.730

Sec. 10. (1) Except as provided in this act, a registration or report under section 4a is confidential and information from that registration or report shall not be open to inspection except for law enforcement purposes. The registration or report and all included materials and information are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(2) A department post, local law enforcement agency, or sheriff's department shall make information from the compilation described in section 8(2) for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction available for public inspection during regular business hours. A department post, local law enforcement agency, or sheriff's department is not required to make a copy of the information for a member of the public.

(3) The department may make information from the compilation described in section 8(2) available to the public through electronic, computerized, or other accessible means.

(4) Except as provided in this act, an individual other than the registrant who knows of a registration or report under this act and who divulges, uses, or publishes nonpublic information concerning the registration or report in violation of this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(5) An individual whose registration or report is revealed in violation of this act has a civil cause of action against the responsible party for treble damages.

(6) Subsections (4) and (5) do not apply to the compilation described in section 8(2) or information from that compilation that is provided or made available under section 8(2) or under subsection (2) or (3).

<< Note: MI ST 28.721a >>

M.C.L.A. § 28.721a Note

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.

Approved July 25, 2002.

Filed July 26, 2002.

Effective date: October 1, 2002.

MI LEGIS 542 (2002)

End of Document

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2004 Mich. Legis. Serv. P.A. 237 (S.B. 1167) (WEST)

MICHIGAN 2004 LEGISLATIVE SERVICE

Ninety-Second Legislature, Regular Session

Additions are indicated by **Text**; deletions by

*** . Changes in tables are made but not highlighted.

Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 237

S.B. No. 1167

STATE POLICE—REGISTERING CRIMINALS—FEES

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe penalties and sanctions,” by amending the title and sections 4, 4a, 5a, 7, and 9 (MCL 28.724, 28.724a, 28.725a, 28.727, and 28.729), section 4 as amended by 1999 PA 85 and section 4a as added and sections 5a, 7, and 9 as amended by 2002 PA 542, and by adding sections 5b and 5c.

The People of the State of Michigan enact:

<< MI ST t. pr. 28.721 >>

M.C.L.A. Prec. § 28.721

TITLE

An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe **fees**, penalties, and sanctions.

<< MI ST 28.724 >>

M.C.L.A. § 28.724

Sec. 4. (1) Registration of an individual under this act shall proceed as provided in this section.

(2) For an individual convicted of a listed offense on or before October 1, 1995 who on or before October 1, 1995 is sentenced for that offense, has a disposition entered for that offense, or is assigned to youthful trainee status for that offense, the following shall register the individual by December 31, 1995:

- (a) If the individual is on probation for the listed offense, the individual's probation officer.
- (b) If the individual is committed to jail for the listed offense, the sheriff or his or her designee.
- (c) If the individual is under the jurisdiction of the department of corrections for the listed offense, the department of corrections.
- (d) If the individual is on parole for the listed offense, the individual's parole officer.
- (e) If the individual is within the jurisdiction of the juvenile division of the probate court or the department of social services under an order of disposition for the listed offense, the juvenile division of the probate court or the department of social services.

(3) Except as provided in subsection (4), for an individual convicted of a listed offense on or before October 1, 1995:

(a) If the individual is sentenced for that offense after October 1, 1995 or assigned to youthful trainee status after October 1, 1995, the probation officer shall register the individual before sentencing or assignment.

(b) If the individual's probation or parole is transferred to this state after October 1, 1995, the probation or parole officer shall register the individual within 14 days after the transfer.

(c) If the individual is placed within the jurisdiction of the juvenile division of the probate court or family division of circuit court or committed to the department of social services or family independence agency under an order of disposition entered after October 1, 1995, the juvenile division of the probate court or family division of circuit court shall register the individual before the order of disposition is entered.

(4) For an individual convicted on or before September 1, 1999 of an offense that was added on September 1, 1999 to the definition of listed offense, the following shall register the individual:

(a) If the individual is on probation or parole on September 1, 1999 for the listed offense, the individual's probation or parole officer not later than September 12, 1999.

(b) If the individual is committed to jail on September 1, 1999 for the listed offense, the sheriff or his or her designee not later than September 12, 1999.

(c) If the individual is under the jurisdiction of the department of corrections on September 1, 1999 for the listed offense, the department of corrections not later than November 30, 1999.

(d) If the individual is within the jurisdiction of the family division of circuit court or committed to the family independence agency or county juvenile agency on September 1, 1999 under an order of disposition for the listed offense, the family division of circuit court, the family independence agency, or the county juvenile agency not later than November 30, 1999.

(e) If the individual is sentenced or assigned to youthful trainee status for that offense after September 1, 1999, the probation officer shall register the individual before sentencing or assignment.

(f) If the individual's probation or parole for the listed offense is transferred to this state after September 1, 1999, the probation or parole officer shall register the individual within 14 days after the transfer.

(g) If the individual is placed within the jurisdiction of the family division of circuit court or committed to the family independence agency for the listed offense after September 1, 1999, the family division of circuit court shall register the individual before the order of disposition is entered.

(5) Subject to section 3(1) and (2), an individual convicted of a listed offense in this state after October 1, 1995 shall register before sentencing, entry of the order of disposition, or assignment to youthful trainee status. The probation officer or the family division of circuit court shall give the individual the registration form after the individual is convicted, explain the duty to register and to pay a registration fee, to verify his or her address, and to provide notice of address changes, and accept the completed registration for processing under section 6. The court shall not impose sentence, enter the order of disposition, or assign the individual to youthful trainee status until it determines that the individual's registration was forwarded to the department as required under section 6.

(6) All of the following shall register with the local law enforcement agency, sheriff's department, or the department within 14 days after becoming domiciled or temporarily residing, working, or being a student in this state for the periods specified in section 3(1):

(a) Subject to section 3(1), an individual convicted in another state or country after October 1, 1995 of a listed offense as defined before September 1, 1999.

(b) Subject to section 3(2), an individual convicted in another state or country of an offense added on September 1, 1999 to the definition of listed offenses.

(c) An individual required to be registered as a sex offender in another state or country regardless of when the conviction was entered.

<< MI ST 28.724a >>

M.C.L.A. § 28.724a

Sec. 4a. (1) An individual required to be registered under this act who is not a resident of this state shall report his or her status in person to the local law enforcement agency or sheriff's department having jurisdiction over a campus of an institution of higher education, or to the department post nearest to that campus, if any of the following occur:

(a) Regardless of whether he or she is financially compensated or receives any governmental or educational benefit, the individual is or becomes a full- or part-time employee, contractual provider, or volunteer with that institution of higher education and his or her position will require that he or she be present on that campus for 14 or more consecutive days or 30 or more total days in a calendar year.

(b) The individual is or becomes an employee of a contractual provider described in subdivision (a) and his or her position will require that he or she be present on that campus for 14 or more consecutive days or 30 or more total days in a calendar year.

(c) The status described in subdivision (a) or (b) is discontinued.

(d) The individual changes the campus on which he or she is an employee, a contractual provider, an employee of a contractual provider, or a volunteer as described in subdivision (a) or (b).

(e) The individual is or enrolls as a student with that institution of higher education or the individual discontinues that enrollment.

(f) As part of his or her course of studies at an institution of higher education in this state, the individual is present at any other location in this state, another state, a territory or possession of the United States, or another country for 14 or more consecutive days or 30 or more total days in a calendar year, or the individual discontinues his or her studies at that location.

(2) An individual required to be registered under this act who is a resident of this state shall report his or her status in person to the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post nearest to the individual's new residence or domicile, if any of the events described under subsection (1) occur.

(3) The report required under subsections (1) and (2) shall be made as follows:

(a) For an individual registered under this act before ~~***~~ **October 1, 2002** who is required to make his or her first report under subsections (1) and (2), not later than January 15, 2003.

(b) For an individual who is an employee, a contractual provider, an employee of a contractual provider, or a volunteer on that campus on ~~***~~ **October 1, 2002**, or who is a student on that campus on ~~***~~ **October 1, 2002**, who is subsequently required to register under this act, on the date he or she is required to register under this act.

(c) Except as provided under subdivisions (a) and (b), within 10 days after the individual becomes an employee, a contractual provider, an employee of a contractual provider, or a volunteer on that campus, or discontinues that status, or changes location, or within 10 days after he or she enrolls or discontinues his or her enrollment as a student on that campus including study in this state or another state, a territory or possession of the United States, or another country.

(4) The additional registration reports required under this section shall be made in the time periods described in section 5a(4)(a) and (b) for reports under that section.

(5) The local law enforcement agency, sheriff's department, or department post to which an individual reports under this section shall require the individual to **pay the registration fee required under section 5a or section 7(1) and to present written documentation of employment status, contractual relationship, volunteer status, or student status.** Written documentation under this subsection may include, but need not be limited to, any of the following:

(a) A W-2 form, pay stub, or written statement by an employer.

(b) A contract.

(c) A student identification card or student transcript.

<< MI ST 28.725a >>

M.C.L.A. § 28.725a

Sec. 5a. (1) Not later than ~~***~~ **December 1, 2004**, the department shall mail a notice to each individual registered under this act who is not in a state correctional facility explaining the individual's duties under this section and this act

as amended and the procedure for registration, notification, and verification and paying the registration fee prescribed under subsection (6) or section 7(1).

(2) Upon the release of an individual registered under this act who is in a state correctional facility, the department of corrections shall provide written notice to that individual explaining his or her duties under this section and this act as amended and the procedure for registration, notification, *** verification, and payment of the registration fee prescribed under subsection (6) or section 7(1). The individual shall sign and date the notice. The department of corrections shall maintain a copy of the signed and dated notice in the individual's file. The department of corrections shall forward the original notice to the department within 30 days, regardless of whether the individual signs it.

(3) Not later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides. The individual shall present proof of domicile or residence and update any information that changed since registration, including information that is required to be reported under section 4a. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released.

(4) Following initial verification under subsection (3), or registration under this act after January 15, 2000, an individual required to be registered under this act who is not incarcerated shall report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides for verification of domicile or residence as follows:

(a) If the person is registered only for 1 or more misdemeanor listed offenses, not earlier than January 1 or later than January 15 of each year after the initial verification or registration. As used in this subdivision, "misdemeanor listed offense" means a listed offense that is any of the following:

(i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, committed before June 1, 2002.

(ii) A violation of section 145c(4), 167(1)(f), or 448 of the Michigan penal code, 1931 PA 328, MCL 750.145c, 750.167, and 750.448.

(iii) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, other than a violation committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(iv) A violation of a local ordinance of a municipality substantially corresponding to a section described in subparagraph (i), (ii), or (iii).

(v) A violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age if the violation is not specifically designated a felony and is punishable by imprisonment for 1 year or less.

(vi) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (v).

(vii) An offense substantially similar to an offense described in subparagraphs (i) to (vi) under a law of the United States, any state, or any country or under tribal or military law.

(b) If the person is registered for 1 or more felony listed offenses, not earlier than the first day or later than the fifteenth day of each April, July, October, and January following initial verification or registration. As used in this subdivision, "felony listed offense" means a listed offense that is any of the following:

(i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, committed on or after June 1, 2002.

(ii) A violation of section 145b, 145c(2) or (3), 349, 350, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145b, 750.145c, 750.349, 750.350, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(iii) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(iv) A violation of a law of this state that by its nature constitutes a sexual offense against an individual who is less than 18 years of age if the violation is specifically designated a felony or is punishable by imprisonment for more than 1 year.

(v) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (iv).

(vi) An offense substantially similar to an offense described in subparagraphs (i) to (v) under a law of the United States, any state, or any country or under tribal or military law.

(5) When an individual reports under subsection (3) or (4), an officer or authorized employee of the local law enforcement agency, sheriff's department, or department post shall verify the individual's residence or domicile and any information required to be reported under section 4a. The officer or authorized employee shall sign and date a verification form. The officer shall give a copy of the signed form showing the date of verification to the individual. The officer or employee shall forward verification information to the department by the law enforcement information network in the manner the department prescribes. The department shall revise the data bases maintained under section 8 as necessary and shall indicate verification in the compilation under section 8(2).

(6) Except as otherwise provided in section 5b, an individual who reports as prescribed under subsection (3) or (4) and who has not already paid the fee prescribed under section 7(1) shall pay a \$35.00 registration fee. An individual shall only be required to pay a fee once under this subsection.

(7) An individual required to be registered under this act shall maintain either a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, with the individual's current address. The license or card may be used as proof of domicile or residence under this section. In addition, the officer or authorized employee may require the individual to produce another document bearing his or her name and address, including but not limited to voter registration or a utility or other bill. The department may specify other satisfactory proof of domicile or residence.

(8) Not earlier than January 1, 2000 or later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to a secretary of state office and have his or her digitized photograph taken. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released. The individual is not required to report under this subsection if he or she had a digitized photograph taken for an operator's or chauffeur's license or official state personal identification card before January 1, 2000, or within 2 years before he or she is released. The photograph shall be used on the individual's operator's or chauffeur's license or official state personal identification card. The individual shall have a new photograph taken when he or she renews the license or identification card as provided by law. The secretary of state shall make the digitized photograph available to the department for a registration under this act.

(9) If an individual does not report under subsection (3) or (4) or section 4a, the department shall notify the local law enforcement agency, sheriff's department, or department post. An appearance ticket may be issued for the individual's failure to report as provided in sections 9a to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9a to 764.9g.

(10) The department shall prescribe the form for the notices and verification procedures required under this section.

<< MI ST 28.725b >>

M.C.L.A. § 28.725b

Sec. 5b. (1) Of the money collected by a court, local law enforcement agency, sheriff's department, or department post from each registration fee prescribed under this act, \$25.00 shall be forwarded to the department, which shall deposit the money in the sex offenders registration fund created under subsection (2), and \$10.00 shall be retained by the court, local law enforcement agency, sheriff's department, or department post.

(2) The sex offenders registration fund is created as a separate fund in the department of treasury. The state treasurer shall credit the money received from the payment of the registration fee prescribed under this act to the sex offenders registration fund. Money credited to the fund shall only be used by the department for training concerning, and the maintenance and automation of, the databases, compilation, and information required under section 8. Money in the sex offenders registration fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(3) If an individual required to pay a registration fee under this act is indigent, the registration fee shall be temporarily waived. The burden is on the individual claiming indigence to prove the fact of indigence to the satisfaction of the local law enforcement agency, sheriff's department, or department post where the individual is reporting.

(4) Payment of the registration fee prescribed under this act shall be made in the form and by means prescribed by the department. Upon payment of the registration fee prescribed under this act, the officer or employee shall forward verification of the payment to the department by the law enforcement information network in the manner the department prescribes. The department shall revise the databases maintained under section 8 as necessary and shall indicate verification of payment in the compilation under section 8(2).

<< MI ST 28.725c >>

M.C.L.A. § 28.725c

Sec. 5c. The department of corrections shall not collect any fee prescribed under this act.

<< MI ST 28.727 >>

M.C.L.A. § 28.727

Sec. 7. (1) A registration under this act shall be made on a form provided by the department and shall be forwarded to the department in the format the department prescribes, along with a \$35.00 registration fee for each original registration, except as otherwise provided in section 5b. A registration shall contain all of the following:

(a) The individual's name, social security number, date of birth, and address or expected address. An individual who is in a witness protection and relocation program is only required to use the name and identifying information reflecting his or her new identity in a registration under this act. The registration and compilation databases shall not contain any information identifying the individual's prior identity or locale. The department shall request each individual to provide his or her date of birth if it is not included in the registration, and that individual shall comply with the request within 10 days.

(b) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.

(c) A complete physical description of the individual.

(d) The photograph required under section 5a.

(e) The individual's fingerprints if not already on file with the department. An individual required to be registered on September 1, 1999 shall have his or her fingerprints taken not later than September 12, 1999 if not already on file with the department. The department shall forward a copy of the individual's fingerprints to the federal bureau of investigation if not already on file with that bureau.

(f) Information that is required to be reported under section 4a.

(2) A registration may contain the individual's blood type and whether a DNA identification profile of the individual is available.

(3) The form used for registration or verification under this act shall contain a written statement that explains the duty of the individual being registered to provide notice of a change of address under section 5, the procedures for providing that notice, and the verification procedures under section 5a.

(4) The individual shall sign a registration, notice, and verification. However, the registration, notice, or verification shall be forwarded to the department regardless of whether the individual signs it or pays the registration fee required under subsection (1).

(5) The officer, court, or an employee of the agency registering the individual or receiving or accepting a registration under section 4 shall sign the registration form.

(6) An individual shall not knowingly provide false or misleading information concerning a registration, notice, or verification.

(7) The department shall prescribe the form for a notification required under section 5 and the format for forwarding the notification to the department.

(8) The department shall promptly provide registration, notice, and verification information to the federal bureau of investigation and to local law enforcement agencies, sheriff's departments, department posts, and agencies of other states requiring the information, as provided by law.

<< MI ST 28.729 >>

M.C.L.A. § 28.729

Sec. 9. (1) Except as provided in subsections (2), ~~***~~ (3), and (4), an individual required to be registered under this act who willfully violates this act is guilty of a felony punishable as follows:

(a) If the individual has no prior convictions for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(b) If the individual has 1 prior conviction for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 7 years or a fine of not more than \$5,000.00, or both.

(c) If the individual has 2 or more prior convictions for violations of this act, other than a failure to comply with section 5a, by imprisonment for not more than 10 years or a fine of not more than \$10,000.00, or both.

(2) An individual who fails to comply with section 5a, other than payment of the fee required under section 5a(6) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(3) An individual who willfully fails to sign a registration, notice, or verification as provided in section 7(4) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(4) An individual who willfully refuses or fails to pay the registration fee prescribed in section 5a(6) or section 7(1) within 90 days of the date the individual reports under section 4a or 5a is guilty of a misdemeanor punishable by imprisonment for not more than 90 days.

(5) The court shall revoke the probation of an individual placed on probation who willfully violates this act.

(6) The court shall revoke the youthful trainee status of an individual assigned to youthful trainee status who willfully violates this act.

(7) The parole board shall rescind the parole of an individual released on parole who willfully violates this act.

(8) An individual's failure to register as required by this act or a violation of section 5(1), (3), or (4) may be prosecuted in the judicial district of any of the following:

(a) The individual's last registered address or residence.

(b) The individual's actual address or residence.

(c) Where the individual was arrested for the violation.

<< Note: MI ST 28.724 >>

M.C.L.A. § 28.724 Note

Enacting section 1. This amendatory act takes effect October 16, 2004.

<< Note: MI ST 28.724 >>

M.C.L.A. § 28.724 Note

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

(a) House Bill No. 4920.

(b) House Bill No. 5195.

(c) House Bill No. 5240.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed July 21, 2004.

Effective date: October 16, 2004.

MI LEGIS 237 (2004)

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2004 Mich. Legis. Serv. P.A. 238 (H.B. 5195) (WEST)

MICHIGAN 2004 LEGISLATIVE SERVICE

Ninety-Second Legislature, Regular Session

Additions are indicated by **Text**; deletions by

*** . Changes in tables are made but not highlighted.

Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 238

H.B. No. 5195

STATE POLICE—CRIMINAL REGISTRATION—PHOTOGRAPHY AND PICTURES

AN ACT to amend 1994 PA 295, entitled "An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe penalties and sanctions," by amending section 8 (MCL 28.728), as amended by 2002 PA 542.

The People of the State of Michigan enact:

<< MI ST 28.728 >>

M.C.L.A. § 28.728

Sec. 8. (1) The department shall maintain a computerized data base of registrations and notices required under this act.

(2) The department shall maintain a computerized data base separate from that described in subsection (1) to implement section 10(2) and (3). The data base shall consist of a compilation of individuals registered under this act, but except as provided in this subsection, shall not include any individual registered solely because he or she had 1 or more dispositions for a listed offense entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, in a case that was not designated as a case in which the individual was to be tried in the same manner as an adult under section 2d of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d. The exclusion for juvenile dispositions does not apply to a disposition for a violation of section 520b or 520c of the Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, after the individual becomes 18 years of age.

(3) The compilation of individuals shall be indexed numerically by zip code area. Within each zip code area, the compilation shall contain all of the following information:

(a) The name and aliases, address, physical description, and birth date of each individual registered under this act who is included in the compilation and who resides in that zip code area and any listed offense of which the individual has been convicted.

(b) The name and campus location of each institution of higher education to which the individual is required to report under section 4a.

(c) The photograph of each individual registered under this act. The department shall obtain the photographs submitted under section 5a from the secretary of state for purposes of implementing this subdivision.

(4) The department shall update the compilation with new registrations, deletions from registrations, and address changes at the same time those changes are made to the data base described in subsection (1). The department shall make the compilation available to each department post, local law enforcement agency, and sheriff's department by the law enforcement information network. Upon request by a department post, local law enforcement agency, or sheriff's department, the department shall provide to that post, agency, or sheriff's department the information from

the compilation in printed form for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction. The department shall provide the ability to conduct a computerized search of the compilation based upon the name and campus location of an institution of higher education described in subsection (3)(b).

(5) The department shall make the compilation or information from the compilation available to a department post, local law enforcement agency, sheriff's department, and the public by electronic, computerized, or other similar means accessible to the post, agency, or sheriff's department. The electronic, computerized, or other similar means shall provide for both a search by name and by zip code.

(6) If a court determines that the public availability under section 10 of any information concerning individuals registered under this act, including names and aliases, addresses, physical descriptions, or dates of birth, violates the constitution of the United States or this state, the department shall revise the compilation in subsection (2) so that it does not contain that information.

<< Note: MI ST 28.728 >>

M.C.L.A. § 28.728 Note

Enacting section 1. This amendatory act takes effect May 1, 2005.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed July 21, 2004.

Effective date: May 1, 2005.

MI LEGIS 238 (2004)

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2004 Mich. Legis. Serv. P.A. 240 (H.B. 4920) (WEST)

MICHIGAN 2004 LEGISLATIVE SERVICE

Ninety-Second Legislature, Regular Session

Additions are indicated by **Text**; deletions by

*** . Changes in tables are made but not highlighted.

Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 240

H.B. No. 4920

STATE POLICE—CRIMINAL REGISTRATION—YOUTHFUL OFFENDERS

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe penalties and sanctions,” by amending sections 2, 4, 5, 5a, 8, and 10 (MCL 28.722, 28.724, 28.725, 28.725a, 28.728, and 28.730), sections 2, 5, 5a, 8, and 10 as amended by 2002 PA 542 and section 4 as amended by 1999 PA 85, and by adding sections 8c and 8d; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

<< MI ST 28.722 >>

M.C.L.A. § 28.722

Sec. 2. As used in this act:

(a) “Convicted” means 1 of the following:

(i) Having a judgment of conviction or a probation order entered in any court having jurisdiction over criminal offenses, including, but not limited to, a tribal court or a military court, and including a conviction subsequently set aside under 1965 PA 213, MCL 780.621 to 780.624.

(ii) Either of the following:

(A) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, before October 1, 2004.

(B) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, on or after October 1, 2004 if the individual's status of youthful trainee is revoked and an adjudication of guilt is entered.

(iii) Having an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28.

(iv) Having an order of disposition or other adjudication in a juvenile matter in another state or country.

(b) “Department” means the department of state police.

(c) “Institution of higher education” means 1 or more of the following:

(i) A public or private community college, college, or university.

(ii) A public or private trade, vocational, or occupational school.

(d) “Local law enforcement agency” means the police department of a municipality.

(e) “Listed offense” means any of the following:

- (i) A violation of section 145a, 145b, or 145c of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.145b, and 750.145c.
- (ii) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.
- (iii) A third or subsequent violation of any combination of the following:
 - (A) Section 167(1)(f) of the Michigan penal code, 1931 PA 328, MCL 750.167.
 - (B) Section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a.
 - (C) A local ordinance of a municipality substantially corresponding to a section described in sub-subparagraph (A) or (B).
- (iv) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.
- (v) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an individual less than 18 years of age.
- (vi) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.
- (vii) A violation of section 448 of the Michigan penal code, 1931 PA 328, MCL 750.448, if a victim is an individual less than 18 years of age.
- (viii) A violation of section 455 of the Michigan penal code, 1931 PA 328, MCL 750.455.
- (ix) A violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.
- (x) Any other violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age.
- (xi) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.
- (xii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (xi).
- (xiii) An offense substantially similar to an offense described in subparagraphs (i) to (xii) under a law of the United States, any state, or any country or under tribal or military law.
- (f) "Municipality" means a city, village, or township of this state.
- (g) "Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. This section shall not be construed to affect existing judicial interpretation of the term residence.
- (h) "Student" means an individual enrolled on a full- or part-time basis in a public or private educational institution, including, but not limited to, a secondary school, trade school, professional institution, or institution of higher education.

<< MI ST 28.724 >>

M.C.L.A. § 28.724

- Sec. 4. (1) Registration of an individual under this act shall proceed as provided in this section.
- (2) For an individual convicted of a listed offense on or before October 1, 1995 who on or before October 1, 1995 is sentenced for that offense, has a disposition entered for that offense, or is assigned to youthful trainee status for that offense, the following shall register the individual by December 31, 1995:
- (a) If the individual is on probation for the listed offense, the individual's probation officer.
 - (b) If the individual is committed to jail for the listed offense, the sheriff or his or her designee.
 - (c) If the individual is under the jurisdiction of the department of corrections for the listed offense, the department of corrections.
 - (d) If the individual is on parole for the listed offense, the individual's parole officer.

(e) If the individual is within the jurisdiction of the juvenile division of the probate court or the department of social services under an order of disposition for the listed offense, the juvenile division of the probate court or the department of social services.

(3) Except as provided in subsection (4), for an individual convicted of a listed offense on or before October 1, 1995:

(a) If the individual is sentenced for that offense after October 1, 1995 or assigned to youthful trainee status after October 1, 1995, the probation officer shall register the individual before sentencing or assignment.

(b) If the individual's probation or parole is transferred to this state after October 1, 1995, the probation or parole officer shall register the individual within 14 days after the transfer.

(c) If the individual is placed within the jurisdiction of the juvenile division of the probate court or family division of circuit court or committed to the department of social services or family independence agency under an order of disposition entered after October 1, 1995, the juvenile division of the probate court or family division of circuit court shall register the individual before the order of disposition is entered.

(4) For an individual convicted on or before September 1, 1999 of an offense that was added on September 1, 1999 to the definition of listed offense, the following shall register the individual:

(a) If the individual is on probation or parole on September 1, 1999 for the listed offense, the individual's probation or parole officer not later than September 12, 1999.

(b) If the individual is committed to jail on September 1, 1999 for the listed offense, the sheriff or his or her designee not later than September 12, 1999.

(c) If the individual is under the jurisdiction of the department of corrections on September 1, 1999 for the listed offense, the department of corrections not later than November 30, 1999.

(d) If the individual is within the jurisdiction of the family division of circuit court or committed to the family independence agency or county juvenile agency on September 1, 1999 under an order of disposition for the listed offense, the family division of circuit court, the family independence agency, or the county juvenile agency not later than November 30, 1999.

(e) If the individual is sentenced or assigned to youthful trainee status for that offense after September 1, 1999, the probation officer shall register the individual before sentencing or assignment.

(f) If the individual's probation or parole for the listed offense is transferred to this state after September 1, 1999, the probation or parole officer shall register the individual within 14 days after the transfer.

(g) If the individual is placed within the jurisdiction of the family division of circuit court or committed to the family independence agency for the listed offense after September 1, 1999, the family division of circuit court shall register the individual before the order of disposition is entered.

(5) Subject to section ~~***~~ 3, an individual convicted of a listed offense in this state after October 1, 1995 shall register before sentencing, entry of the order of disposition, or assignment to youthful trainee status. The probation officer or the family division of circuit court shall give the individual the registration form after the individual is convicted, explain the duty to register and to pay a registration fee, to verify his or her address, and to provide notice of address changes, and accept the completed registration for processing under section 6. The court shall not impose sentence, enter the order of disposition, or, before October 1, 2004, assign the individual to youthful trainee status, until it determines that the individual's registration was forwarded to the department as required under section 6.

(6) All of the following shall register with the local law enforcement agency, sheriff's department, or the department within 14 days after becoming domiciled or temporarily residing, working, or being a student in this state for the periods specified in section 3(1):

(a) Subject to section 3(1), an individual convicted in another state or country after October 1, 1995 of a listed offense as defined before September 1, 1999.

(b) Subject to section 3(2), an individual convicted in another state or country of an offense added on September 1, 1999 to the definition of listed offenses.

(c) An individual required to be registered as a sex offender in another state or country regardless of when the conviction was entered.

<< MI ST 28.725 >>

M.C.L.A. § 28.725

Sec. 5. (1) Within 10 days after any of the following occur, an individual required to be registered under this act shall notify the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post of the individual's new residence or domicile:

(a) The individual changes his or her residence, domicile, or place of work or education, including any change required to be reported under section 4a.

(b) The individual is paroled.

(c) Final release of the individual from the jurisdiction of the department of corrections.

(2) Within 10 days after either of the following occurs, the department of corrections shall notify the local law enforcement agency or sheriff's department having jurisdiction over the area to which the individual is transferred or the department post of the transferred residence or domicile of an individual required to be registered under this act:

(a) The individual is transferred to a community residential program.

(b) The individual is transferred into a minimum custody correctional facility of any kind, including a correctional camp or work camp.

(3) An individual required to be registered under this act shall notify the department on a form prescribed by the department not later than 10 days before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.

(4) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the department and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases.

(5) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a.

(6) Except as provided in *** subsections (7) and (8), an individual shall comply with this section for 25 years after the date of initially registering or, if the individual is in a state correctional facility, for 10 years after release from the state correctional facility, whichever is longer.

(7) *** Except as provided in subsection (8), an individual shall comply with this section for life if the individual is convicted of any of the following or a substantially similar offense under a law of the United States, any state, or any country or under tribal or military law:

(a) A violation of section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.

(b) A violation of section 520c(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520c.

(c) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if the victim is less than 18 years of age.

(d) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.

(e) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(f) An attempt or conspiracy to commit an offense described in subdivisions (a) to (e).

(g) Except as provided in this subdivision, a second or subsequent listed offense after October 1, 1995 regardless of when any earlier listed offense was committed. An individual is not required to comply with this section for life if his or her first or second listed offense is for a conviction on or before September 1, 1999 for an offense that was added on September 1, 1999 to the definition of listed offense, unless he or she is convicted of a subsequent listed offense after September 1, 1999.

(8) An individual who is ordered to register as provided in section 8d shall register subject to that section.

<< MI ST 28.725a >>

M.C.L.A. § 28.725a

Sec. 5a. (1) Not later than *** December 1, 2004, the department shall mail a notice to each individual registered under this act who is not in a state correctional facility explaining the individual's duties under this section and this act as amended and the procedure for registration, notification, and verification and paying the registration fee prescribed under subsection (7) or section 7(1).

(2) Upon the release of an individual registered under this act who is in a state correctional facility, the department of corrections shall provide written notice to that individual explaining his or her duties under this section and this act as amended and the procedure for registration, notification, and verification and payment of the registration fee prescribed under subsection (7) or section 7(1). The individual shall sign and date the notice. The department of corrections shall maintain a copy of the signed and dated notice in the individual's file. The department of corrections shall forward the original notice to the department within 30 days, regardless of whether the individual signs it.

(3) Not later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides. The individual shall present proof of domicile or residence and update any information that changed since registration, including information that is required to be reported under section 4a. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released.

(4) *** Except as provided in subsection (5), following initial verification under subsection (3), or registration under this act after January 15, 2000, an individual required to be registered under this act who is not incarcerated shall report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides for verification of domicile or residence as follows:

(a) If the person is registered only for 1 or more misdemeanor listed offenses, not earlier than January 1 or later than January 15 of each year after the initial verification or registration. As used in this subdivision, "misdemeanor listed offense" means a listed offense that is any of the following:

(i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, committed before June 1, 2002.

(ii) A violation of section 145c(4), 167(1)(f), or 448 of the Michigan penal code, 1931 PA 328, MCL 750.145c, 750.167, and 750.448.

(iii) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, other than a violation committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(iv) A violation of a local ordinance of a municipality substantially corresponding to a section described in subparagraph (i), (ii), or (iii).

(v) A violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age if the violation is not specifically designated a felony and is punishable by imprisonment for 1 year or less.

(vi) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (v).

(vii) An offense substantially similar to an offense described in subparagraphs (i) to (vi) under a law of the United States, any state, or any country or under tribal or military law.

(b) If the person is registered for 1 or more felony listed offenses, not earlier than the first day or later than the fifteenth day of each April, July, October, and January following initial verification or registration. As used in this subdivision, "felony listed offense" means a listed offense that is any of the following:

(i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, committed on or after June 1, 2002.

(ii) A violation of section 145b, 145c(2) or (3), 349, 350, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145b, 750.145c, 750.349, 750.350, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(iii) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(iv) A violation of a law of this state that by its nature constitutes a sexual offense against an individual who is less than 18 years of age if the violation is specifically designated a felony or is punishable by imprisonment for more than 1 year.

(v) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (iv).

(vi) An offense substantially similar to an offense described in subparagraphs (i) to (v) under a law of the United States, any state, or any country or under tribal or military law.

(5) The continued reporting requirements of this section following initial registration do not apply to an individual convicted as a juvenile of committing an offense described in section 8c(15)(a) or (b) committed by the individual when he or she was less than 17 years of age, except that the individual shall report a change in his or her residence within this state or to another state as provided in this section within 10 days after the change of residence is made. If the individual fails to file a petition under section 8c before he or she becomes 18 years of age, or if his or her petition is denied by the court, the individual shall report as otherwise required under this section.

(6) When an individual reports under subsection (3) or (4), an officer or authorized employee of the local law enforcement agency, sheriff's department, or department post shall verify the individual's residence or domicile and any information required to be reported under section 4a. The officer or authorized employee shall sign and date a verification form. The officer shall give a copy of the signed form showing the date of verification to the individual. The officer or employee shall forward verification information to the department by the law enforcement information network in the manner the department prescribes. The department shall revise the databases maintained under section 8 as necessary and shall indicate verification in the compilation under section 8(2).

(7) Except as otherwise provided in section 5b, beginning October 16, 2004, an individual who reports as prescribed under subsection (3) or (4) and who has not already paid the fee prescribed under section 7(1) shall pay a \$35.00 registration fee. An individual shall only be required to pay a fee once under this subsection.

(8) An individual required to be registered under this act shall maintain either a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, with the individual's current address. The license or card may be used as proof of domicile or residence under this section. In addition, the officer or authorized employee may require the individual to produce another document bearing his or her name and address, including, but not limited to, voter registration or a utility or other bill. The department may specify other satisfactory proof of domicile or residence.

(9) Not earlier than January 1, 2000 or later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to a secretary of state office and have his or her digitized photograph taken. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released. The individual is not required to report under this subsection if he or she had a digitized photograph taken for an operator's or chauffeur's license or official state personal identification card before January 1, 2000, or within 2 years before he or she is released. The photograph shall be used on the individual's operator's or chauffeur's license or official state personal identification card. The individual shall have a new photograph taken when he or she renews the license or identification card as provided by law. The secretary of state shall make the digitized photograph available to the department for a registration under this act.

(10) If an individual does not report under subsection (3) or (4) or section 4a, the department shall notify the local law enforcement agency, sheriff's department, or department post. An appearance ticket may be issued for the individual's failure to report as provided in sections 9a to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9a to 764.9g.

(11) The department shall prescribe the form for the notices and verification procedures required under this section.

<< MI ST 28.728 >>

M.C.L.A. § 28.728

Sec. 8. (1) The department shall maintain a computerized database of registrations and notices required under this act.

(2) The department shall maintain a computerized database separate from that described in subsection (1) to implement section 10(2) and (3). *** Except as provided in subsection (3), the database shall consist of a compilation of individuals registered under this act. ***

(3) The database described in subsection (2) shall not include *** the following individuals:

(a) An individual registered solely because he or she had 1 or more dispositions for a listed offense entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, in a case that was not designated as a case in which the individual was to be tried in the same manner as an adult under section 2d of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d. *** Except as provided in subdivision (b), the exclusion for juvenile dispositions does not apply to a disposition for a violation of section 520b or 520c of the Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, after the individual becomes 18 years of age.

(b) An individual who is exempt under section 8d from that database.

(4) The compilation of individuals shall be indexed numerically by zip code area. Within each zip code area, the compilation shall contain all of the following information:

(a) The name and aliases, address, physical description, and birth date of each individual registered under this act who is included in the compilation and who resides in that zip code area and any listed offense of which the individual has been convicted.

(b) The name and campus location of each institution of higher education to which the individual is required to report under section 4a.

(c) Beginning May 1, 2005, the photograph of each individual registered under this act. The department shall obtain the photographs submitted under section 5a from the secretary of state for purposes of implementing this subdivision.

(5) The department shall update the compilation with new registrations, deletions from registrations, and address changes at the same time those changes are made to the database described in subsection (1). The department shall make the compilation available to each department post, local law enforcement agency, and sheriff's department by the law enforcement information network. Upon request by a department post, local law enforcement agency, or sheriff's department, the department shall provide to that post, agency, or sheriff's department the information from the compilation in printed form for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction. The department shall provide the ability to conduct a computerized search of the compilation based upon the name and campus location of an institution of higher education described in subsection (4)(b).

(6) The department shall make the compilation or information from the compilation available to a department post, local law enforcement agency, sheriff's department, and the public by electronic, computerized, or other similar means accessible to the post, agency, or sheriff's department. The electronic, computerized, or other similar means shall provide for both a search by name and by zip code.

(7) If a court determines that the public availability under section 10 of any information concerning individuals registered under this act, including names and aliases, addresses, physical descriptions, or dates of birth, violates the constitution of the United States or this state, the department shall revise the compilation in subsection (2) so that it does not contain that information.

<< MI ST 28.728c >>

M.C.L.A. § 28.728c

Sec. 8c. (1) An individual described in subsection (15) who is convicted before October 1, 2004 of a violation described in that subsection may petition the court under this section for an order allowing him or her to register under this act as provided in section 8d(1).

(2) An individual described in subsection (15)(a) or (b) who is convicted on or after October 1, 2004 of a violation described in that subsection may petition the court under this section for an order allowing him or her to register under this act as provided in section 8d(1).

(3) This section is the sole means by which an individual may obtain judicial review of his or her registration requirements under this act. This subsection does not prohibit an appeal of the conviction or sentence as otherwise provided by law or court rule.

(4) A petition filed under this section shall be filed in the court in which the individual was convicted of committing the listed offense. A petition filed under subsection (1) shall be filed before October 1, 2007 or within 3 years after the individual is discharged from the jurisdiction of the juvenile court or, if the individual was assigned to youthful trainee

status, within 3 years after he or she has successfully completed youthful trainee status, whichever is later, and, except as otherwise provided in this subsection, the court shall not consider a petition filed by the individual after that date. A petition filed under subsection (2) shall not be filed before the individual's seventeenth birthday or after the individual's twentieth birthday. If the individual is charged in this state or elsewhere with committing, attempting to commit, or conspiring to commit a felony, other than the felony for which he or she has filed the petition for registration as provided under section 8d, or an offense that if committed by an adult would be a felony, the court may hold the petition in abeyance until the charges are finally disposed of. If the court holds the petition in abeyance, the 3-year limitation periods described in this subsection begin to run when the period of abeyance has ended. A petition shall not be filed under this section if a previous petition was filed under this section and was denied by the court after a hearing. As used in this subsection, "felony" means a crime that is specifically designated to be a felony or that is punishable by imprisonment for more than 1 year.

(5) A petition filed under this section shall be made under oath and shall contain all of the following:

- (a) The name and address of the petitioner.
- (b) A statement identifying the offense for which registration as provided in section 8d is being requested.
- (c) A statement of whether the individual was previously convicted of a listed offense for which registration is required under this act.
- (d) A statement specifically stating that the individual is not disqualified under subsection (14) from filing a petition under this section.

(6) An individual who knowingly makes a false statement in a petition filed under this section is guilty of perjury as proscribed under section 423 of the Michigan penal code, 1931 PA 328, MCL 750.423.

(7) A copy of the petition shall be filed with the office of the prosecuting attorney that prosecuted the case against the individual at least 30 days before a hearing is held on the petition. The prosecuting attorney may appear and participate in all proceedings regarding the petition and may seek appellate review of any decision on the petition.

(8) If the name of the victim of the offense is known by the prosecuting attorney, the prosecuting attorney shall provide the victim with written notice that a petition has been filed and shall provide the victim with a copy of the petition. The notice shall be sent by first-class mail to the victim's last known address. The petition shall include a statement of the victim's rights under subsection (11).

(9) If an individual petitions the court under subsection (1) or (2) for an offense described in subsection (15)(a) or (b) and the individual is not on the database maintained under section 8(2) at the time the petition is filed, the court may order the department not to place the individual on that database during the period in which the court is considering whether to grant the petition as follows:

- (a) Except as provided in subdivision (b), for a period of 30 days after the date the order is issued or as provided by the court, whichever occurs first.
- (b) If jurisdiction is continued by the court past the individual's seventeenth birthday, during the period in which jurisdiction is continued. The court shall notify the department of the order as required under section 8d.

(10) If an individual properly files a petition with the court under this section, the court shall conduct a hearing on the petition as provided in this section.

(11) The victim has the right to attend all proceedings under this section and to make a written or oral statement to the court before any decision regarding the petition is made. A victim shall not be required to appear at any proceeding under this section against his or her will.

(12) The court shall consider all of the following in determining whether to allow the individual to register under this act as provided in section 8d:

- (a) The individual's age and level of maturity at the time of the offense.
- (b) The victim's age and level of maturity at the time of the offense.
- (c) The nature of the offense.
- (d) The severity of the offense.
- (e) The individual's prior juvenile or criminal history.
- (f) The individual's likelihood to commit further listed offenses.

(g) Any impact statement submitted by the victim under the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or under this section.

(h) Any other information considered relevant by the court.

(13) If the court determines that the individual meets the criteria for registration under section 8d, the court may order the individual to register under this act as provided in that section.

(14) The court shall not grant a petition filed under this section if any of the following apply:

(a) The individual was previously convicted of a listed offense for which registration is required under this act.

(b) The individual fails to carry the burden of proving by clear and convincing evidence that he or she is not likely to commit further listed offenses.

(c) The court determines that the offense involved any of the following:

(i) A factor set forth in section 520b(1)(b) to (h) of the Michigan penal code, 1931 PA 328, MCL 750.520b.

(ii) A factor set forth in section 520c(1)(b) to (l) of the Michigan penal code, 1931 PA 328, MCL 750.520c.

(iii) A factor set forth in section 520d(1)(b) to (e) of the Michigan penal code, 1931 PA 328, MCL 750.520d.

(iv) A factor set forth in section 520e(1)(b) to (f) of the Michigan penal code, 1931 PA 328, MCL 750.520e.

(d) The individual is charged in this state or elsewhere with committing, attempting to commit, or conspiring to commit a felony, other than the felony for which he or she has filed the petition for registration as provided under section 8d, or an offense that if committed by an adult would be a felony. This subsection does not prohibit the court from holding the petition in abeyance under subsection (4). As used in this subdivision, "felony" means a crime specifically designated to be a felony or that is punishable by imprisonment for more than 1 year.

(e) The individual was sentenced for the offense as an adult. This subdivision does not apply to an individual described in subsection (15)(c) who successfully completed his or her probationary period and was discharged from youthful trainee status.

(15) The right to petition under this section applies to all of the following individuals:

(a) An individual who is convicted as a juvenile under section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, of committing, attempting to commit, or conspiring to commit a violation solely described in section 520b(1)(a), 520c(1)(a), or 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, if either of the following applies:

(i) The individual was under 13 years of age when he or she committed the offense and is not more than 5 years older than the victim.

(ii) The individual was 13 years of age or older but less than 17 years of age when he or she committed the offense and is not more than 3 years older than the victim.

(b) An individual who was charged under section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, with committing, attempting to commit, or conspiring to commit a violation solely described in section 520b(1)(a), 520c(1)(a), or 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, and is convicted as a juvenile of violating, attempting to violate, or conspiring to violate section 520e or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g, if either of the following applies:

(i) The individual was under 13 years of age when he or she committed the offense and is not more than 5 years older than the victim.

(ii) The individual was 13 years of age or older but less than 17 years of age when he or she committed the offense and is not more than 3 years older than the victim.

(c) An individual who has successfully completed his or her probationary period under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, for committing a listed offense, and has been discharged from youthful trainee status.

<< MI ST 28.728d >>

M.C.L.A. § 28.728d

Sec. 8d. (1) An individual who petitions the court under section 8c to register as provided in this section shall register under this act as follows:

(a) For a violation described in section 8c(15)(a) or (b), the individual shall register under this act until the petition is granted but is not subject to the requirements of section 8(2).

(b) For a violation described in section 8c(15)(c) and for which the petition is granted, the individual shall register under this act for a period of 10 years after the date he or she initially registered or, if the individual was in a state correctional facility, for 10 years after he or she is released from that facility, whichever is greater, and is subject to the requirements of section 8(2) during that registration period.

(2) If the court under section 8c orders an individual to register under this section pending the court's determination of the petition, the court shall promptly provide a copy of that order to the department and to the individual. If the department is provided with an order under this subsection for an individual described in section 8c(15)(a) or (b), the department shall not enter the individual's registration into the database maintained under section 8(2) until ordered by the court to do so or until expiration of the order, whichever occurs first.

(3) If the court grants a petition filed under section 8c, the court shall promptly provide a copy of that order to the department and to the individual. If the department is provided with an order under this subsection for a violation described in section 8c(15)(a) or (b), the department shall not enter the individual's registration into the database maintained under section 8(2) or, if the person is already registered, shall promptly remove that registration from the database maintained under section 8(2). The department shall promptly remove an individual's registration from the database maintained under section 8(1) upon expiration of the applicable registration period described in subsection (1) or (2) as provided in those subsections.

<< MI ST 28.730 >>

M.C.L.A. § 28.730

Sec. 10. (1) Except as provided in this act, a registration or report ~~***~~ is confidential and information from that registration or report shall not be open to inspection except for law enforcement purposes. The registration or report and all included materials and information are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(2) A department post, local law enforcement agency, or sheriff's department shall make information from the compilation described in section 8(2) for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction available for public inspection during regular business hours. A department post, local law enforcement agency, or sheriff's department is not required to make a copy of the information for a member of the public.

(3) The department may make information from the compilation described in section 8(2) available to the public through electronic, computerized, or other accessible means.

(4) Except as provided in this act, an individual other than the registrant who knows of a registration or report under this act and who divulges, uses, or publishes nonpublic information concerning the registration or report in violation of this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(5) An individual whose registration or report is revealed in violation of this act has a civil cause of action against the responsible party for treble damages.

(6) Subsections (4) and (5) do not apply to the compilation described in section 8(2) or information from that compilation that is provided or made available under section 8(2) or under subsection (2) or (3).

<< Repealed: MI ST 28.728a, 28.728b >>

M.C.L.A. §§ 28.728a, 28.728b

Enacting section 1. Sections 8a and 8b of the sex offenders registration act, 1994 PA 295, MCL 28.728a and 28.728b, are repealed.

<< Note: MI ST 28.722 >>

M.C.L.A. § 28.722 Note

Enacting section 2. This amendatory act takes effect October 1, 2004.

<< Note: MI ST 28.722 >>

M.C.L.A. § 28.722 Note

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

- (a) Senate Bill No. 1167.
- (b) House Bill No. 5195.
- (c) House Bill No. 5240.

This act is ordered to take immediate effect.

Approved July 21, 2004.

Filed July 21, 2004.

Effective date: October 1, 2004.

MI LEGIS 240 (2004)

End of Document

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2005 Mich. Legis. Serv. P.A. 121 (S.B. 617) (WEST)

MICHIGAN 2005 LEGISLATIVE SERVICE

Ninety-Third Legislature, Regular Session

Additions are indicated by **Text**; deletions by

*** . Changes in tables are made but not highlighted.

Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 121

S.B. No. 617

STATE POLICE—SEX OFFENDER REGISTRATION—STUDENT SAFETY ZONES

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions,” (MCL 28.721 to 28.732) by amending the title, as amended by 2004 PA 237, and by adding headings for articles I and II and by adding article III.

The People of the State of Michigan enact:

<< MI ST t. pr. 28.721 >>

M.C.L.A. Prec. § 28.721

TITLE

An act to require persons convicted of certain offenses to register; to prohibit certain individuals from engaging in certain activities within a student safety zone; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions.

I GENERAL

II SEX OFFENDER REGISTRATION

III STUDENT SAFETY ZONES

<< MI ST 28.733 >>

M.C.L.A. § 28.733

Sec. 33. As used in this article:

(a) “Listed offense” means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) “Loiter” means to remain for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors.

(c) “Minor” means an individual less than 18 years of age.

(d) “School” means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12. School does not include a home school.

(e) “School property” means a building, facility, structure, or real property owned, leased, or otherwise controlled by a school, other than a building, facility, structure, or real property that is no longer in use on a permanent or continuous basis, to which either of the following applies:

- (i) It is used to impart educational instruction.
 - (ii) It is for use by students not more than 19 years of age for sports or other recreational activities.
- (f) “Student safety zone” means the area that lies 1,000 feet or less from school property.

<< MI ST 28.735 >>

M.C.L.A. § 28.735

Sec. 35. (1) Except as otherwise provided in this section and section 36, an individual required to be registered under article II shall not reside within a student safety zone.

(2) An individual who violates subsection (1) is guilty of a crime as follows:

(a) For the first violation, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) For the second or subsequent violation, the individual is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(3) This section does not apply to any of the following:

(a) An individual who is not more than 19 years of age and attends secondary school or postsecondary school, and resides with his or her parent or guardian. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone. However, the individual may initiate or maintain contact with a minor with whom he or she attends secondary school or postsecondary school in conjunction with that school attendance.

(b) The individual is not more than 26 years of age and attends a special education program, and resides with his or her parent or guardian or resides in a group home or assisted living facility. However, an individual described in this subdivision shall not initiate or maintain contact with a minor within that student safety zone. The individual shall be permitted to initiate or maintain contact with a minor with whom he or she attends a special education program in conjunction with that attendance.

(c) An individual who was residing within that student safety zone at the time the amendatory act that added this section was enacted into law. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(d) An individual who is a patient in a hospital or hospice that is located within a student safety zone. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(e) An individual who resides within a student safety zone because the individual is an inmate or resident of a prison, jail, juvenile facility, or other correctional facility or is a patient of a mental health facility under an order of commitment. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(4) An individual who resides within a student safety zone and who is subsequently required to register under article II shall change his or her residence to a location outside the student safety zone not more than 90 days after he or she is sentenced for the conviction that gives rise to the obligation to register under article II. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone during the 90-day period described in this subsection.

(5) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

<< MI ST 28.736 >>

M.C.L.A. § 28.736

Sec. 36. (1) Subject to subsection (2), sections 34 and 35 do not apply to any of the following:

(a) An individual who is convicted as a juvenile under section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, of committing, attempting to commit, or conspiring to commit a violation solely described in section 520b(1)(a), 520c(1)(a), or 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, if either of the following applies:

(i) The individual was under 13 years of age when he or she committed the offense and is not more than 5 years older than the victim.

(ii) The individual was 13 years of age or older but less than 17 years of age when he or she committed the offense and is not more than 3 years older than the victim.

(b) An individual who was charged under section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, with committing, attempting to commit, or conspiring to commit a violation solely described in section 520b(1)(a), 520c(1)(a), or 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, and is convicted as a juvenile of violating, attempting to violate, or conspiring to violate section 520e or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g, if either of the following applies:

(i) The individual was under 13 years of age when he or she committed the offense and is not more than 5 years older than the victim.

(ii) The individual was 13 years of age or older but less than 17 years of age when he or she committed the offense and is not more than 3 years older than the victim.

(c) An individual who has successfully completed his or her probationary period under sections 11 to 15 of chapter II for committing a listed offense and has been discharged from youthful trainee status.

(d) An individual convicted of committing or attempting to commit a violation solely described in section 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520e, who at the time of the violation was 17 years of age or older but less than 21 years of age and who is not more than 5 years older than the victim.

(2) An individual who is convicted of more than 1 offense described in subsection (1) is ineligible for exemption under this section.

<< Note: MI ST 28.733 >>

M.C.L.A. § 28.733 Note

Enacting section 1. This amendatory act takes effect January 1, 2006.

This act is ordered to take immediate effect.

Approved September 23, 2005.

Filed September 28, 2005.

Effective date: January 1, 2006.

MI LEGIS 121 (2005)

2005 Mich. Legis. Serv. P.A. 123 (S.B. 607) (WEST)

MICHIGAN 2005 LEGISLATIVE SERVICE

Ninety-Third Legislature, Regular Session

Additions are indicated by **Text**; deletions by

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Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 123

S.B. No. 607

STATE POLICE—SEX OFFENDERS—CHANGE OF RESIDENCE

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions,” by amending section 5 (MCL 28.725), as amended by 2004 PA 240.

The People of the State of Michigan enact:

<< MI ST 28.725 >>

M.C.L.A. § 28.725

Sec. 5. (1) Within 10 days after any of the following occur, an individual required to be registered under this act shall notify the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post of the individual's new residence or domicile:

(a) The individual changes **or vacates** his or her residence, domicile, or place of work or education, including any change required to be reported under section 4a.

(b) The individual is paroled.

(c) Final release of the individual from the jurisdiction of the department of corrections.

(2) Within 10 days after either of the following occurs, the department of corrections shall notify the local law enforcement agency or sheriff's department having jurisdiction over the area to which the individual is transferred or the department post of the transferred residence or domicile of an individual required to be registered under this act:

(a) The individual is transferred to a community residential program.

(b) The individual is transferred into a minimum custody correctional facility of any kind, including a correctional camp or work camp.

(3) An individual required to be registered under this act shall notify the department on a form prescribed by the department not later than 10 days before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.

(4) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the department and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases.

(5) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a.

(6) Except as provided in subsections (7) and (8), an individual shall comply with this section for 25 years after the date of initially registering or, if the individual is in a state correctional facility, for 10 years after release from the state correctional facility, whichever is longer.

(7) Except as provided in subsection (8), an individual shall comply with this section for life if the individual is convicted of any of the following or a substantially similar offense under a law of the United States, any state, or any country or under tribal or military law:

(a) A violation of section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.

(b) A violation of section 520c(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520c.

(c) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if the victim is less than 18 years of age.

(d) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.

(e) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(f) An attempt or conspiracy to commit an offense described in subdivisions (a) to (e).

(g) Except as provided in this subdivision, a second or subsequent listed offense after October 1, 1995 regardless of when any earlier listed offense was committed. An individual is not required to comply with this section for life if his or her first or second listed offense is for a conviction on or before September 1, 1999 for an offense that was added on September 1, 1999 to the definition of listed offense, unless he or she is convicted of a subsequent listed offense after September 1, 1999.

(8) An individual who is ordered to register as provided in section 8d shall register subject to that section.

<< Note: MI ST 28.725 >>

M.C.L.A. § 28.725 Note

Enacting section 1. This amendatory act takes effect January 1, 2006.

<< Note: MI ST 28.725 >>

M.C.L.A. § 28.725 Note

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4934 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed September 29, 2005.

Effective date: January 1, 2006.

MI LEGIS 123 (2005)

2005 Mich. Legis. Serv. P.A. 127 (H.B. 4932) (WEST)

MICHIGAN 2005 LEGISLATIVE SERVICE

Ninety-Third Legislature, Regular Session

Additions are indicated by **Text**; deletions by

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Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 127

H.B. No. 4932

STATE POLICE—SEX OFFENDERS—STUDENT SAFETY ZONES

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions,” (MCL 28.721 to 28.732) by amending the title, as amended by 2004 PA 237, and by adding headings for articles I and II and by adding article III.

The People of the State of Michigan enact:

<< MI ST t. pr. 28.721 >>

M.C.L.A. Prec. § 28.721

TITLE

An act to require persons convicted of certain offenses to register; to prohibit certain individuals from engaging in certain activities within a student safety zone; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions.

I GENERAL

II SEX OFFENDER REGISTRATION

III STUDENT SAFETY ZONES

<< MI ST 28.733 >>

M.C.L.A. § 28.733

Sec. 33. As used in this article:

(a) “Listed offense” means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) “Loiter” means to remain for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors.

(c) “Minor” means an individual less than 18 years of age.

(d) “School” means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12. School does not include a home school.

(e) "School property" means a building, facility, structure, or real property owned, leased, or otherwise controlled by a school, other than a building, facility, structure, or real property that is no longer in use on a permanent or continuous basis, to which either of the following applies:

- (i) It is used to impart educational instruction.
 - (ii) It is for use by students not more than 19 years of age for sports or other recreational activities.
- (f) "Student safety zone" means the area that lies 1,000 feet or less from school property.

<< MI ST 28.734 >>

M.C.L.A. § 28.734

Sec. 34. (1) Except as provided in this section and section 36, an individual required to be registered under article II shall not do 1 or more of the following:

- (a) Work within a student safety zone.
- (b) Loiter within a student safety zone.

(2) An individual who violates this section is guilty of a crime as follows:

(a) For the first violation, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) For the second or subsequent violation, the individual is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(3) Subsection (1)(a) does not apply to any of the following:

(a) An individual who was working within a student safety zone at the time the amendatory act that added this section was enacted into law. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(b) An individual whose place of employment is within a student safety zone solely because a school is relocated or is initially established 1,000 feet or less from the individual's place of employment. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(c) An individual who only intermittently or sporadically enters a student safety zone for the purpose of work. However, this exception does not apply to an individual who initiates or maintains contact with a minor within a student safety zone.

(4) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

<< Note: MI ST 28.733 >>

M.C.L.A. § 28.733 Note

Enacting section 1. This amendatory act takes effect January 1, 2006.

This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed September 29, 2005.

Effective date: January 1, 2006.

MI LEGIS 127 (2005)

2005 Mich. Legis. Serv. P.A. 132 (H.B. 4934) (WEST)

MICHIGAN 2005 LEGISLATIVE SERVICE

Ninety-Third Legislature, Regular Session

Additions are indicated by **Text**; deletions by

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Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 132

H.B. No. 4934

STATE POLICE—SEX OFFENDER REGISTRATION—VIOLATIONS AND PUNISHMENTS

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions,” by amending sections 5 and 9 (MCL 28.725 and 28.729), section 5 as amended by 2004 PA 240 and section 9 as amended by 2004 PA 237.

The People of the State of Michigan enact:

<< MI ST 28.725 >>

M.C.L.A. § 28.725

Sec. 5. (1) Within 10 days after any of the following occur, an individual required to be registered under this act shall notify the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post of the individual's new residence or domicile:

(a) The individual changes **or vacates** his or her residence, domicile, or place of work or education, including any change required to be reported under section 4a.

(b) The individual is paroled.

(c) Final release of the individual from the jurisdiction of the department of corrections.

(2) Within 10 days after either of the following occurs, the department of corrections shall notify the local law enforcement agency or sheriff's department having jurisdiction over the area to which the individual is transferred or the department post of the transferred residence or domicile of an individual required to be registered under this act:

(a) The individual is transferred to a community residential program.

(b) The individual is transferred into a minimum custody correctional facility of any kind, including a correctional camp or work camp.

(3) An individual required to be registered under this act shall notify the department on a form prescribed by the department not later than 10 days before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.

(4) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the department and

the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases.

(5) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a.

(6) Except as provided in subsections (7) and (8), an individual shall comply with this section for 25 years after the date of initially registering or, if the individual is in a state correctional facility, for 10 years after release from the state correctional facility, whichever is longer.

(7) Except as provided in subsection (8), an individual shall comply with this section for life if the individual is convicted of any of the following or a substantially similar offense under a law of the United States, any state, or any country or under tribal or military law:

- (a) A violation of section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.
- (b) A violation of section 520c(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520c.
- (c) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if the victim is less than 18 years of age.
- (d) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.
- (e) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.
- (f) An attempt or conspiracy to commit an offense described in subdivisions (a) to (e).
- (g) Except as provided in this subdivision, a second or subsequent listed offense after October 1, 1995 regardless of when any earlier listed offense was committed. An individual is not required to comply with this section for life if his or her first or second listed offense is for a conviction on or before September 1, 1999 for an offense that was added on September 1, 1999 to the definition of listed offense, unless he or she is convicted of a subsequent listed offense after September 1, 1999.
- (8) An individual who is ordered to register as provided in section 8d shall register subject to that section.

<< MI ST 28.729 >>

M.C.L.A. § 28.729

Sec. 9. (1) Except as provided in subsections (2), (3), and (4), an individual required to be registered under this act who willfully violates this act is guilty of a felony punishable as follows:

- (a) If the individual has no prior convictions for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.
- (b) If the individual has 1 prior conviction for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 7 years or a fine of not more than \$5,000.00, or both.
- (c) If the individual has 2 or more prior convictions for violations of this act, other than a failure to comply with section 5a, by imprisonment for not more than 10 years or a fine of not more than \$10,000.00, or both.

(2) An individual who fails to comply with section 5a, other than payment of the fee required under section 5a(7) is guilty of a crime punishable as follows:

- (a) If the individual has no prior convictions for a violation of this act, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.
- (b) If the individual has 1 prior conviction for a violation of this act, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00, or both.
- (c) If the individual has 2 or more prior convictions for a violation of this act, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,500.00, or both.

(3) An individual who willfully fails to sign a registration, notice, or verification as provided in section 7(4) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(4) An individual who willfully refuses or fails to pay the registration fee prescribed in section 5a(7) or section 7(1) within 90 days of the date the individual reports under section 4a or 5a is guilty of a misdemeanor punishable by imprisonment for not more than 90 days.

(5) The court shall revoke the probation of an individual placed on probation who willfully violates this act.

- (6) The court shall revoke the youthful trainee status of an individual assigned to youthful trainee status who willfully violates this act.
- (7) The parole board shall rescind the parole of an individual released on parole who willfully violates this act.
- (8) An individual's failure to register as required by this act or a violation of section 5(1), (3), or (4) may be prosecuted in the judicial district of any of the following:
- (a) The individual's last registered address or residence.
 - (b) The individual's actual address or residence.
 - (c) Where the individual was arrested for the violation.

<< Note: MI ST 28.725 >>

M.C.L.A. § 28.725 Note

Enacting section 1. This amendatory act takes effect January 1, 2006.
This act is ordered to take immediate effect.

Approved September 28, 2005.

Filed September 29, 2005.

Effective date: January 1, 2006.

MI LEGIS 132 (2005)

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2005 Mich. Legis. Serv. P.A. 301 (H.B. 4598) (WEST)

MICHIGAN 2005 LEGISLATIVE SERVICE

Ninety-Third Legislature, Regular Session

Additions are indicated by **Text**; deletions by

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Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 301

H.B. No. 4598

STATE POLICE—SEX OFFENDERS REGISTRATION ACT

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions,” by amending section 2 (MCL 28.722), as amended by 2004 PA 240.

The People of the State of Michigan enact:

<< MI ST 28.722 >>

M.C.L.A. § 28.722

Sec. 2. As used in this act:

(a) “Convicted” means 1 of the following:

(i) Having a judgment of conviction or a probation order entered in any court having jurisdiction over criminal offenses, including, but not limited to, a tribal court or a military court, and including a conviction subsequently set aside under 1965 PA 213, MCL 780.621 to 780.624.

(ii) Either of the following:

(A) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, before October 1, 2004.

(B) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, on or after October 1, 2004 if the individual's status of youthful trainee is revoked and an adjudication of guilt is entered.

(iii) Having an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28.

(iv) Having an order of disposition or other adjudication in a juvenile matter in another state or country.

(b) “Department” means the department of state police.

(c) “Institution of higher education” means 1 or more of the following:

(i) A public or private community college, college, or university.

(ii) A public or private trade, vocational, or occupational school.

(d) “Local law enforcement agency” means the police department of a municipality.

(e) “Listed offense” means any of the following:

(i) A violation of section 145a, 145b, or 145c of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.145b, and 750.145c.

(ii) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.

(iii) A violation of section 335a(2)(b) of the Michigan penal code, 1931 PA 328, MCL 750.335a, if that individual was previously convicted of violating section 335a of that act.

(iv) A third or subsequent violation of any combination of the following:

(A) Section 167(1)(f) of the Michigan penal code, 1931 PA 328, MCL 750.167.

(B) Section *** 335a(2)(a) of the Michigan penal code, 1931 PA 328, MCL 750.335a.

(C) A local ordinance of a municipality substantially corresponding to a section described in sub-subparagraph (A) or (B).

(v) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.

(vi) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an individual less than 18 years of age.

(vii) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.

(viii) A violation of section 448 of the Michigan penal code, 1931 PA 328, MCL 750.448, if a victim is an individual less than 18 years of age.

(ix) A violation of section 455 of the Michigan penal code, 1931 PA 328, MCL 750.455.

(x) A violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(xi) Any other violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age.

(xii) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(xiii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (xii).

(xiv) An offense substantially similar to an offense described in subparagraphs (i) to (xiii) under a law of the United States, any state, or any country or under tribal or military law.

(f) "Municipality" means a city, village, or township of this state.

(g) "Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. This section shall not be construed to affect existing judicial interpretation of the term residence.

(h) "Student" means an individual enrolled on a full- or part-time basis in a public or private educational institution, including, but not limited to, a secondary school, trade school, professional institution, or institution of higher education.

<< Note: MI ST 28.722 >>

M.C.L.A. § 28.722 Note

Enacting section 1. This amendatory act takes effect February 1, 2006.

<< Note: MI ST 28.722 >>

M.C.L.A. § 28.722 Note

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4597 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved December 20, 2005.

Filed December 21, 2005.

Effective date: February 1, 2006.

MI LEGIS 301 (2005)

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2005 Mich. Legis. Serv. P.A. 322 (H.B. 5397) (WEST)

MICHIGAN 2005 LEGISLATIVE SERVICE

Ninety-Third Legislature, Regular Session

Additions are indicated by **Text**; deletions by

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Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 322

H.B. No. 5397

STATE POLICE—REGISTERED SEX OFFENDERS—RESIDENCES

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions,” by amending sections 5a, 34, and 35 (MCL 28.725a, 28.734, and 28.735), section 5a as amended by 2004 PA 240, section 34 as added by 2005 PA 127, and section 35 as added by 2005 PA 121.

The People of the State of Michigan enact:

<< MI ST 28.725a >>

M.C.L.A. § 28.725a

Sec. 5a. (1) Not later than December 1, 2004, the department shall mail a notice to each individual registered under this act who is not in a state correctional facility explaining the individual's duties under this section and this act as amended and the procedure for registration, notification, and verification and paying the registration fee prescribed under subsection (7) or section 7(1).

(2) Upon the release of an individual registered under this act who is in a state correctional facility, the department of corrections shall provide written notice to that individual explaining his or her duties under this section and this act as amended and the procedure for registration, notification, and verification and payment of the registration fee prescribed under subsection (7) or section 7(1). The individual shall sign and date the notice. The department of corrections shall maintain a copy of the signed and dated notice in the individual's file. The department of corrections shall forward the original notice to the department within 30 days, regardless of whether the individual signs it.

(3) Not later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides. The individual shall present proof of domicile or residence and update any information that changed since registration, including information that is required to be reported under section 4a. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released.

(4) Except as provided in subsection (5), following initial verification under subsection (3), or registration under this act after January 15, 2000, an individual required to be registered under this act who is not incarcerated shall report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides for verification of domicile or residence as follows:

(a) If the person is registered only for 1 or more *** listed offenses that are misdemeanors, not earlier than January 1 or later than January 15 of each year after the initial verification or registration. As used in this subdivision, "misdemeanor ***" means *** that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(b) If the person is registered for 1 or more *** listed offenses that are felonies, not earlier than the first day or later than the fifteenth day of each April, July, October, and January following initial verification or registration. As used in this subdivision, "felony ***" means *** that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1.

(5) The continued reporting requirements of this section following initial registration do not apply to an individual convicted as a juvenile of committing an offense described in section 8c(15)(a) or (b) committed by the individual when he or she was less than 17 years of age, except that the individual shall report a change in his or her residence within this state or to another state as provided in this section within 10 days after the change of residence is made. If the individual fails to file a petition under section 8c before he or she becomes 18 years of age, or if his or her petition is denied by the court, the individual shall report as otherwise required under this section.

(6) When an individual reports under subsection (3) or (4), an officer or authorized employee of the local law enforcement agency, sheriff's department, or department post shall verify the individual's residence or domicile and any information required to be reported under section 4a. The officer or authorized employee shall sign and date a verification form. The officer shall give a copy of the signed form showing the date of verification to the individual. The officer or employee shall forward verification information to the department by the law enforcement information network in the manner the department prescribes. The department shall revise the databases maintained under section 8 as necessary and shall indicate verification in the compilation under section 8(2).

(7) Except as otherwise provided in section 5b, beginning October 16, 2004, an individual who reports as prescribed under subsection (3) or (4) and who has not already paid the fee prescribed under section 7(1) shall pay a \$35.00 registration fee. An individual shall only be required to pay a fee once under this subsection.

(8) An individual required to be registered under this act shall maintain either a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, with the individual's current address. The license or card may be used as proof of domicile or residence under this section. In addition, the officer or authorized employee may require the individual to produce another document bearing his or her name and address, including, but not limited to, voter registration or a utility or other bill. The department may specify other satisfactory proof of domicile or residence.

(9) Not earlier than January 1, 2000 or later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to a secretary of state office and have his or her digitized photograph taken. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released. The individual is not required to report under this subsection if he or she had a digitized photograph taken for an operator's or chauffeur's license or official state personal identification card before January 1, 2000, or within 2 years before he or she is released. The photograph shall be used on the individual's operator's or chauffeur's license or official state personal identification card. The individual shall have a new photograph taken when he or she renews the license or identification card as provided by law. The secretary of state shall make the digitized photograph available to the department for a registration under this act.

(10) If an individual does not report under subsection (3) or (4) or section 4a, the department shall notify the local law enforcement agency, sheriff's department, or department post. An appearance ticket may be issued for the individual's failure to report as provided in sections 9a to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9a to 764.9g.

(11) The department shall prescribe the form for the notices and verification procedures required under this section.

<< MI ST 28.734 >>

M.C.L.A. § 28.734

Sec. 34. (1) Except as provided in this section and section 36, an individual required to be registered under article II shall not do 1 or more of the following:

- (a) Work within a student safety zone.
- (b) Loiter within a student safety zone.

(2) An individual who violates this section is guilty of a crime as follows:

(a) For the first violation, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) *** An individual who violates this section and has 1 or more prior convictions under this section is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(3) Subsection (1)(a) does not apply to any of the following:

(a) An individual who was working within a student safety zone *** on January 1, 2006. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(b) An individual whose place of employment is within a student safety zone solely because a school is relocated or is initially established 1,000 feet or less from the individual's place of employment. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(c) An individual who only intermittently or sporadically enters a student safety zone for the purpose of work. However, this exception does not apply to an individual who initiates or maintains contact with a minor within a student safety zone.

(4) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

(5) Nothing in this section shall be construed to prohibit an individual from exercising his or her right to vote.

<< MI ST 28.735 >>

M.C.L.A. § 28.735

Sec. 35. (1) Except as otherwise provided in this section and section 36, an individual required to be registered under article II shall not reside within a student safety zone.

(2) An individual who violates subsection (1) is guilty of a crime as follows:

(a) For the first violation, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) *** An individual who violates this section and has 1 or more prior convictions under this section is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(3) This section does not apply to any of the following:

(a) An individual who is not more than 19 years of age and attends secondary school or postsecondary school, and resides with his or her parent or guardian. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone. However, the individual may initiate or maintain contact with a minor with whom he or she attends secondary school or postsecondary school in conjunction with that school attendance.

(b) An individual who is not more than 26 years of age and attends a special education program, and resides with his or her parent or guardian or resides in a group home or assisted living facility. However, an individual described in this subdivision shall not initiate or maintain contact with a minor within that student safety zone. The individual shall be permitted to initiate or maintain contact with a minor with whom he or she attends a special education program in conjunction with that attendance.

(c) An individual who was residing within that student safety zone *** on January 1, 2006. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(d) An individual who is a patient in a hospital or hospice that is located within a student safety zone. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(e) An individual who resides within a student safety zone because the individual is an inmate or resident of a prison, jail, juvenile facility, or other correctional facility or is a patient of a mental health facility under an order of commitment. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(4) An individual who resides within a student safety zone and who is subsequently required to register under article II shall change his or her residence to a location outside the student safety zone not more than 90 days after he or she is sentenced for the conviction that gives rise to the obligation to register under article II. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone during the 90-day period described in this subsection.

(5) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

<< Note: MI ST 28.725a >>

M.C.L.A. § 28.725a Note

Enacting section 1. This amendatory act takes effect January 1, 2006.

This act is ordered to take immediate effect.

Approved December 22, 2005.

Filed December 27, 2005.

Effective date: January 1, 2006.

MI LEGIS 322 (2005)

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2006 Mich. Legis. Serv. P.A. 46 (S.B. 128) (WEST)

MICHIGAN 2006 LEGISLATIVE SERVICE

Ninety-Third Legislature, Regular Session

Additions are indicated by **Text**; deletions by

*** . Changes in tables are made but not highlighted.

Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 46

S.B. No. 128

STATE POLICE—CONFIDENTIALITY OF REGISTRATION OF REPORT—AVAILABILITY TO PUBLIC

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prohibit certain individuals from engaging in certain activities within a student safety zone; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions,” by amending section 10 (MCL 28.730), as amended by 2004 PA 240.

The People of the State of Michigan enact:

<< MI ST 28.730 >>

M.C.L.A. § 28.730

Sec. 10. (1) Except as provided in this act, a registration or report is confidential and information from that registration or report shall not be open to inspection except for law enforcement purposes. The registration or report and all included materials and information are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(2) A department post, local law enforcement agency, or sheriff's department shall make information from the compilation described in section 8(2) for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction available for public inspection during regular business hours. A department post, local law enforcement agency, or sheriff's department is not required to make a copy of the information for a member of the public.

(3) The department may make information from the compilation described in section 8(2) available to the public through electronic, computerized, or other accessible means. The department shall provide for notification by electronic or computerized means to any member of the public who has subscribed in a manner required by the department when an individual who is the subject of the compilation described in section 8(2) initially registers under this act, or changes his or her registration under this act, to a location that is in a zip code area designated by the subscribing member of the public.

(4) Except as provided in this act, an individual other than the registrant who knows of a registration or report under this act and who divulges, uses, or publishes nonpublic information concerning the registration or report in violation of this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(5) An individual whose registration or report is revealed in violation of this act has a civil cause of action against the responsible party for treble damages.

(6) Subsections (4) and (5) do not apply to the compilation described in section 8(2) or information from that compilation that is provided or made available under section 8(2) or under subsection (2) or (3).

<< Note: MI ST 28.730 >>

M.C.L.A. § 28.730 Note

Enacting section 1. This amendatory act takes effect January 1, 2007.

This act is ordered to take immediate effect.

Approved March 2, 2006.

Filed March 2, 2006.

Effective date: January 1, 2007.

MI LEGIS 46 (2006)

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2006 Mich. Legis. Serv. P.A. 402 (H.B. 5193) (WEST)

MICHIGAN 2006 LEGISLATIVE SERVICE

Ninety-Third Legislature, Regular Session

Additions are indicated by **Text**; deletions by

*** . Changes in tables are made but not highlighted.

Vetoed provisions within tabular material are not displayed.

PUBLIC ACT NO. 402

H.B. No. 5193

STATE POLICE—REGISTERED SEX OFFENDERS—NOTIFICATION OF NEW RESIDENCE

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prohibit certain individuals from engaging in certain activities within a student safety zone; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions,” by amending section 5 (MCL 28.725), as amended by 2005 PA 132.

The People of the State of Michigan enact:

<< MI ST 28.725 >>

M.C.L.A. § 28.725

Sec. 5. (1) *** **An** individual required to be registered under this act shall notify the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post of the individual's new residence or domicile *** **within 10 days after the** individual changes or vacates his or her residence, domicile, or place of work or education, including any change required to be reported under section 4a.

(2) **If an individual who is incarcerated in a state correctional facility and is required to be registered under this act is granted parole or is due to be released upon completion of his or her maximum sentence, the department of corrections, before releasing the individual, shall provide notice of the location of the individual's proposed place of residence or domicile to the sheriff's department having jurisdiction over that location or to the appropriate state police department post.**

(3) Within 10 days after either of the following occurs, the department of corrections shall notify the local law enforcement agency or sheriff's department having jurisdiction over the area to which the individual is transferred or the department post of the transferred residence or domicile of an individual required to be registered under this act:

- (a) The individual is transferred to a community residential program.
- (b) The individual is transferred into a minimum custody correctional facility of any kind, including a correctional camp or work camp.

(4) An individual required to be registered under this act shall notify the department on a form prescribed by the department not later than 10 days before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.

(5) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the department and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases.

(6) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a.

(7) Except as provided in subsections ~~***~~ (8) and (9), an individual shall comply with this section for 25 years after the date of initially registering or, if the individual is in a state correctional facility, for 10 years after release from the state correctional facility, whichever is longer.

(8) Except as provided in subsection (9), an individual shall comply with this section for life if the individual is convicted of any of the following or a substantially similar offense under a law of the United States, any state, or any country or under tribal or military law:

- (a) A violation of section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.
- (b) A violation of section 520c(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520c.
- (c) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if the victim is less than 18 years of age.
- (d) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.
- (e) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.
- (f) An attempt or conspiracy to commit an offense described in subdivisions (a) to (e).
- (g) Except as provided in this subdivision, a second or subsequent listed offense after October 1, 1995 regardless of when any earlier listed offense was committed. An individual is not required to comply with this section for life if his or her first or second listed offense is for a conviction on or before September 1, 1999 for an offense that was added on September 1, 1999 to the definition of listed offense, unless he or she is convicted of a subsequent listed offense after September 1, 1999.

(9) An individual who is ordered to register as provided in section 8d shall register subject to that section.

<< Note: MI ST 28.725 >>

M.C.L.A. § 28.725 Note

Enacting section 1. This amendatory act takes effect December 1, 2006.

<< Note: MI ST 28.725 >>

M.C.L.A. § 28.725 Note

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5194 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 29, 2006.

Filed September 29, 2006.

Effective date: December 1, 2006.

MI LEGIS 402 (2006)

2011 Mich. Legis. Serv. P.A. 17 (S.B. 188) (WEST)

MICHIGAN 2011 LEGISLATIVE SERVICE

Ninety-Sixth Legislature, Regular Session

Additions are indicated by **Text**; deletions by
***.

PUBLIC ACT NO. 17

S.B. No. 188

STATE POLICE--SEX OFFENDERS REGISTRATION

AN ACT to amend 1994 PA 295, entitled "An act to require persons convicted of certain offenses to register; to prohibit certain individuals from engaging in certain activities within a student safety zone; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions," by amending sections 2, 3, 4, 4a, 5, 5a, and 5b (MCL 28.722, 28.723, 28.724, 28.724a, 28.725, 28.725a, and 28.725b), section 2 as amended by 2005 PA 301, section 3 as amended by 1999 PA 85, section 4 as amended by 2004 PA 240, section 4a as amended and section 5b as added by 2004 PA 237, section 5 as amended by 2006 PA 402, and section 5a as amended by 2005 PA 322, and by adding section 3a.

The People of the State of Michigan enact:

<< MI ST 28.722 >>

M.C.L.A. § 28.722

Sec. 2. As used in this act:

(a) "Aircraft" means that term as defined in section 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(b) "Convicted" means 1 of the following:

(i) Having a judgment of conviction or a probation order entered in any court having jurisdiction over criminal offenses, including, but not limited to, a tribal court or a military court, and including a conviction subsequently set aside under 1965 PA 213, MCL 780.621 to 780.624.

(ii) Either of the following:

(A) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, before October 1, 2004. **This sub-subparagraph does not apply if a petition was granted under section 8c at any time allowing the individual to discontinue registration under this act, including a reduced registration period that extends to or past July 1, 2011, regardless of the tier designation that would apply on and after that date.**

(B) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, *** **before** October 1, 2004 if the *** **individual is convicted of any other felony on or after July 1, 2011.**

(iii) Having an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28***, if both of the following apply:

(A) The individual was 14 years of age or older at the time of the offense.

(B) The order of disposition is for the commission of an offense that would classify the individual as a tier III offender.

(iv) Having an order of disposition or other adjudication in a juvenile matter in another state or country*** if both of the following apply:

(A) The individual is 14 years of age or older at the time of the offense.

(B) The order of disposition or other adjudication is for the commission of an offense that would classify the individual as a tier III offender.

(c) "Custodial authority" means 1 or more of the following apply:

(i) The actor was a member of the same household as the victim.

(ii) The actor was related to the victim by blood or affinity to the fourth degree.

(iii) The actor was in a position of authority over the victim and used this authority to coerce the victim to submit.

(iv) The actor was a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person was enrolled.

(v) The actor was an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person was enrolled, or was a volunteer who was not a student in any public school or nonpublic school, or was an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor used his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(vi) That other person was under the jurisdiction of the department of corrections and the actor was an employee or a contractual employee of, or a volunteer with, the department of corrections who knew that the other person was under the jurisdiction of the department of corrections and used his or her position of authority over the victim to gain access to or to coerce or otherwise encourage the victim to engage in sexual contact.

(vii) That other person was under the jurisdiction of the department of corrections and the actor was an employee or a contractual employee of, or a volunteer with, a private vendor that operated a youth correctional facility under section 20g of the corrections code of 1953, 1953 PA 232, MCL 791.220g, who knew that the other person was under the jurisdiction of the department of corrections.

(viii) That other person was a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor was an employee or a contractual employee of, or a volunteer with, the county or the department of corrections who knew that the other person was under the county's jurisdiction and used his or her position of authority over the victim to gain access to or to coerce or otherwise encourage the victim to engage in sexual contact.

(ix) The actor knew or had reason to know that a court had detained the victim in a facility while the victim was awaiting a trial or hearing, or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult, and the actor was an employee or contractual employee of, or a volunteer with, the facility in which the victim was detained or to which the victim was committed.

(d) "Department" means the department of state police.

(e) "Employee" means an individual who is self-employed or works for any other entity as a full-time or part-time employee, contractual provider, or volunteer, regardless of whether he or she is financially compensated.

(f) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 174, MCL 761.1.

(g) "Immediately" means within 3 business days.

(h) "Indigent" means an individual to whom 1 or more of the following apply:

(i) He or she has been found by a court to be indigent within the last 6 months.

(ii) He or she qualifies for and receives assistance from the department of human services food assistance program.

(iii) He or she demonstrates an annual income below the current federal poverty guidelines.

(i) "Institution of higher education" means 1 or more of the following:

(i) A public or private community college, college, or university.

(ii) A public or private trade, vocational, or occupational school.

(j) "Local law enforcement agency" means the police department of a municipality.

(k) "Listed offense" means *** a tier I, tier II, or tier III offense.

(l) "Minor" means a victim of a listed offense who was less than 18 years of age at the time the offense was committed.

(m) "Municipality" means a city, village, or township of this state.

(n) "Registering authority" means the local law enforcement agency or sheriff's office having jurisdiction over the individual's residence, place of employment, or institution of higher learning, or the nearest department post designated to receive or enter sex offender registration information within a registration jurisdiction.

(o) "Registration jurisdiction" means each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the United States Virgin Islands, American Samoa, and the Indian tribes within the United States that elect to function as a registration jurisdiction.

(p) "Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if

a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. **If a person is homeless or otherwise lacks a fixed or temporary residence, residence means the village, city, or township where the person spends a majority of his or her time.** This section shall not be construed to affect existing judicial interpretation of the term residence **for purposes other than the purposes of this act.**

(q) "Student" means an individual enrolled on a full- or part-time basis in a public or private educational institution, including, but not limited to, a secondary school, trade school, professional institution, or institution of higher education.

(r) "Tier I offender" means an individual convicted of a tier I offense who is not a tier II or tier III offender.

(s) "Tier I offense" means 1 or more of the following:

(i) A violation of section 145c(4) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(ii) A violation of section 335a(2)(b) of the Michigan penal code, 1931 PA 328, MCL 750.335a, if a victim is a minor.

(iii) A violation of section 349b of the Michigan penal code, 1931 PA 328, MCL 750.349b, if the victim is a minor.

(iv) A violation of section 520e or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g, if the victim is 18 years or older.

(v) A violation of section 539j of the Michigan penal code, 1931 PA 328, MCL 750.539j, if a victim is a minor.

(vi) Any other violation of a law of this state or a local ordinance of a municipality, other than a tier II or tier III offense, that by its nature constitutes a sexual offense against an individual who is a minor.

(vii) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(viii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (vii).

(ix) An offense substantially similar to an offense described in subparagraphs (i) to (viii) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law.

(t) "Tier II offender" means either of the following:

(i) A tier I offender who is subsequently convicted of another offense that is a tier I offense.

(ii) An individual convicted of a tier II offense who is not a tier III offender.

(u) "Tier II offense" means 1 or more of the following:

(i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a.

(ii) A violation of section 145b of the Michigan penal code, 1931 PA 328, MCL 750.145b.

(iii) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(iv) A violation of section 145d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.145d, except for a violation arising out of a violation of section 157c of the Michigan penal code, 1931 PA 328, MCL 750.157c.

(v) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, committed against a minor unless either of the following applies:

(A) All of the following:

(I) The victim consented to the conduct constituting the violation.

(II) The victim was at least 13 years of age but less than 16 years of age at the time of the violation.

(III) The individual is not more than 4 years older than the victim.

(B) All of the following:

(I) The victim consented to the conduct constituting the violation.

(II) The victim was 16 or 17 years of age at the time of the violation.

(III) The victim was not under the custodial authority of the individual at the time of the violation.

(vi) A violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, committed against an individual 13 years of age or older but less than 18 years of age. This subparagraph does not apply if the court determines that either of the following applies:

(A) All of the following:

(I) The victim consented to the conduct constituting the violation.

(II) The victim was at least 13 years of age but less than 16 years of age at the time of the violation.

(III) The individual is not more than 4 years older than the victim.

(B) All of the following:

(I) The victim consented to the conduct constituting the violation.

(II) The victim was 16 or 17 years of age at the time of the violation.

(III) The victim was not under the custodial authority of the individual at the time of the violation.

(vii) A violation of section 448 of the Michigan penal code, 1931 PA 328, MCL 750.448, if the victim is a minor.

(viii) A violation of section 455 of the Michigan penal code, 1931 PA 328, MCL 750.455.

(ix) A violation of section 520c, 520e, or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520c, 750.520e, and 750.520g, committed against an individual 13 years of age or older but less than 18 years of age.

- (x) A violation of section 520c committed against an individual 18 years of age or older.
- (xi) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (x).
- (xii) An offense substantially similar to an offense described in subparagraphs (i) to (xi) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law.
- (v) "Tier III offender" means either of the following:
- (i) A tier II offender subsequently convicted of a tier I or II offense.
- (ii) An individual convicted of a tier III offense.
- (w) "Tier III offense" means 1 or more of the following:
- (i) A violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, committed against an individual less than 13 years of age.
- (ii) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, committed against a minor.
- (iii) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.
- (iv) A violation of section 520b, 520d, or 520g(1) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520d, and 750.520g. This subparagraph does not apply if the court determines that the victim consented to the conduct constituting the violation, that the victim was at least 13 years of age but less than 16 years of age at the time of the offense, and that the individual is not more than 4 years older than the victim.
- (v) A violation of section 520c or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520c and 750.520g, committed against an individual less than 13 years of age.
- (vi) A violation of section 520e of the Michigan penal code, 1931 PA 328, MCL 750.520e, committed by an individual 17 years of age or older against an individual less than 13 years of age.
- (vii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (vi).
- (viii) An offense substantially similar to an offense described in subparagraphs (i) to (vii) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law.
- (x) "Vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.
- (y) "Vessel" means that term as defined in section 44501 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.44501.

<< MI ST 28.723 >>

M.C.L.A. § 28.723

Sec. 3. (1) Subject to subsection (2), the following individuals who are domiciled or temporarily reside in this state *** or who work with or without compensation or are students in this state *** are required to be registered under this act:

- (a) An individual who is convicted of a listed offense after October 1, 1995.
- (b) An individual convicted of a listed offense on or before October 1, 1995 if on October 1, 1995 he or she is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, or under the jurisdiction of the juvenile division of the probate court or the department of **human services** for that offense or is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, placed under the jurisdiction of the juvenile division of the probate court or family division of circuit court, or committed to the department of ~~***~~ **human services** after October 1, 1995 for that offense.
- (c) An individual convicted **on or before October 1, 1995** of an offense described in section ~~***~~ **2(d)(vi) as added by 1994 PA 295** if on October 1, 1995 he or she is on probation or parole that has been transferred to this state for that offense or his or her probation or parole is transferred to this state after October 1, 1995 for that offense.
- (d) An individual from another state who is required to register or otherwise be identified as a sex or child offender or predator under a comparable statute of that state.
- (e) An individual who was previously convicted of a listed offense for which he or she was not required to register under this act, but who is convicted of any other felony on or after July 1, 2011.**

(2) An individual convicted of an offense added on September 1, 1999 to the definition of listed offense is not required to be registered solely because of that listed offense unless 1 of the following applies:

- (a) The individual is convicted of that listed offense on or after September 1, 1999.
- (b) On September 1, 1999, the individual is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, under the jurisdiction of the family division of circuit court, or committed to the ~~***~~ **department of human services** for that offense or the individual is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, placed under the jurisdiction of the family division of circuit court, or committed to the ~~***~~ **department of human services** on or after September 1, 1999 for that offense.
- (c) On September 1, 1999, the individual is on probation or parole for that offense which has been transferred to this state or the individual's probation or parole for that offense is transferred to this state after September 1, 1999.
- (d) On September 1, 1999, in another state or country the individual is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections or a similar type of state agency, under the jurisdiction of a court that handles matters similar to those handled by the family division of circuit court in this state, or committed to an agency with the same authority as the ~~***~~ **department of human services** for that offense.

(3) A nonresident who is convicted in this state on or after July 1, 2011 of committing a listed offense who is not otherwise described in subsection (1) shall nevertheless register under this act. However, the continued reporting requirements of this act do not apply to the individual while he or she remains a nonresident and is not otherwise required to report under this act. The individual shall have his or her photograph taken under section 5a.

<< MI ST 28.723a >>

M.C.L.A. § 28.723a

Sec. 3a. (1) If an individual pleads guilty to or is found guilty of a listed offense or is adjudicated as a juvenile as being responsible for a listed offense but alleges that he or she is not required to register under this act because section 2(u)(v) or (vi) applies or section 2(w)(iv) applies, and the prosecuting attorney disputes that allegation, the court shall conduct a

hearing on the matter before sentencing or disposition to determine whether the individual is required to register under this act.

(2) The individual has the burden of proving by a preponderance of the evidence in a hearing under this section that his or her conduct falls within the exceptions described in subsection (1) and that he or she is therefore not required to register under this act.

(3) The rules of evidence, except for those pertaining to privileges and protections set forth in section 520j of the Michigan penal code, 1931 PA 328, MCL 750.520j, do not apply to a hearing under this section.

(4) The prosecuting attorney shall give the victim notice of the date, time, and place of the hearing.

(5) The victim of the offense has the following rights in a hearing under this section:

(a) To submit a written statement to the court.

(b) To attend the hearing and to make a written or oral statement to the court.

(c) To refuse to attend the hearing.

(d) To attend the hearing but refuse to testify or make a statement at the hearing.

(6) The court's decision excusing or requiring the individual to register is a final order of the court and may be appealed by the prosecuting attorney or the individual as a matter of right.

(7) This section applies to criminal and juvenile cases pending on July 1, 2011 and to criminal and juvenile cases brought on and after that date.

<< MI ST 28.724 >>

M.C.L.A. § 28.724

Sec. 4. (1) Registration of an individual under this act shall proceed as provided in this section.

(2) For an individual convicted of a listed offense on or before October 1, 1995 who on or before October 1, 1995 is sentenced for that offense, has a disposition entered for that offense, or is assigned to youthful trainee status for that offense, the following shall register the individual by December 31, 1995:

(a) If the individual is on probation for the listed offense, the individual's probation **agent**.

(b) If the individual is committed to jail for the listed offense, the sheriff or his or her designee.

(c) If the individual is under the jurisdiction of the department of corrections for the listed offense, the department of corrections.

(d) If the individual is on parole for the listed offense, the individual's parole **agent**.

(e) If the individual is within the jurisdiction of the juvenile division of the probate court or the department of social services under an order of disposition for the listed offense, the juvenile division of the probate court or the department of social services.

- (3) Except as provided in subsection (4), for an individual convicted of a listed offense on or before October 1, 1995:
- (a) If the individual is sentenced for that offense after October 1, 1995 or assigned to youthful trainee status after October 1, 1995, the probation **agent** shall register the individual before sentencing or assignment.
 - (b) If the individual's probation or parole is transferred to this state after October 1, 1995, the probation or parole **agent** shall register the individual *** **immediately** after the transfer.
 - (c) If the individual is placed within the jurisdiction of the juvenile division of the probate court or family division of circuit court or committed to the department of social services or family independence agency under an order of disposition entered after October 1, 1995, the juvenile division of the probate court or family division of circuit court shall register the individual before the order of disposition is entered.
- (4) For an individual convicted on or before September 1, 1999 of an offense that was added on September 1, 1999 to the definition of listed offense, the following shall register the individual:
- (a) If the individual is on probation or parole on September 1, 1999 for the listed offense, the individual's probation or parole **agent** not later than September 12, 1999.
 - (b) If the individual is committed to jail on September 1, 1999 for the listed offense, the sheriff or his or her designee not later than September 12, 1999.
 - (c) If the individual is under the jurisdiction of the department of corrections on September 1, 1999 for the listed offense, the department of corrections not later than November 30, 1999.
 - (d) If the individual is within the jurisdiction of the family division of circuit court or committed to the family independence agency or county juvenile agency on September 1, 1999 under an order of disposition for the listed offense, the family division of circuit court, the family independence agency, or the county juvenile agency not later than November 30, 1999.
 - (e) If the individual is sentenced or assigned to youthful trainee status for that offense after September 1, 1999, the probation **agent** shall register the individual before sentencing or assignment.
 - (f) If the individual's probation or parole for the listed offense is transferred to this state after September 1, 1999, the probation or parole **agent** shall register the individual within 14 days after the transfer.
 - (g) If the individual is placed within the jurisdiction of the family division of circuit court or committed to the family independence agency for the listed offense after September 1, 1999, the family division of circuit court shall register the individual before the order of disposition is entered.
- (5) Subject to section 3, an individual convicted of a listed offense in this state after October 1, 1995 **and an individual who was previously convicted of a listed offense for which he or she was not required to register under this act, but who is convicted of any other felony on or after July 1, 2011**, shall register before sentencing, entry of the order of disposition, or assignment to youthful trainee status **for that listed offense or that other felony**. The probation **agent** or the family division of circuit court shall give the individual the registration form after the individual is convicted, explain the duty to register *** and accept the completed registration for processing under section 6. The court shall not impose sentence, enter the order of disposition, or*** assign the individual to youthful trainee status, until it determines that the individual's registration was forwarded to the department as required under section 6.

(6) All of the following shall register with the local law enforcement agency, sheriff's department, or the department *** :
 * **immediately** after becoming domiciled or temporarily residing, working, or being a student in this state*** :

(a) Subject to section 3(1), an individual convicted in another state or country **on or** after October 1, 1995 of a listed offense as defined before September 1, 1999.

(b) Subject to section 3(2), an individual convicted in another state or country of an offense added on September 1, 1999 to the definition of listed offenses.

(c) Subject to section 3(1), an individual convicted in another state or country of a listed offense before October 1, 1995 and, subject to section 3(2), an individual convicted in another state or country of an offense added on September 1, 1999 to the definition of listed offenses, who is convicted of any other felony on or after July 1, 2011.

(d) An individual required to be registered as a sex offender in another state or country regardless of when the conviction was entered.

(7) If a prosecution or juvenile proceeding is pending on July 1, 2011, whether the defendant in a criminal case or the minor in a juvenile proceeding is required to register under this act shall be determined on the basis of the law in effect on July 1, 2011.

<< MI ST 28.724a >>

M.C.L.A. § 28.724a

Sec. 4a. (1) An individual required to be registered under this act who is not a resident of this state shall report his or her status in person to the *** **registering authority** having jurisdiction over a campus of an institution of higher education *** if **either** of the following **occurs**:

(a) The individual is or enrolls as a student with that institution of higher education or the individual discontinues that enrollment.

(b) As part of his or her course of studies at an institution of higher education in this state, the individual is present at any other location in this state, another state, a territory or possession of the United States, *** or the individual discontinues his or her studies at that location.

(2) An individual required to be registered under this act who is a resident of this state shall report his or her status in person to the *** **registering authority** having jurisdiction where his or her new residence or domicile is located *** if any of the events described under subsection (1) occur.

(3) The report required under subsections (1) and (2) shall be made as follows:

(a) For an individual registered under this act before October 1, 2002 who is required to make his or her first report under subsections (1) and (2), not later than January 15, 2003.

*** **(b) Immediately** after he or she enrolls or discontinues his or her enrollment as a student on that campus including study in this state or another state, a territory or possession of the United States, or another country.

(4) The additional registration reports required under this section shall be made in the time periods described in section *** **5a(2)(a) to (c)** for reports under that section.

(5) The local law enforcement agency, sheriff's department, or department post to which an individual reports under this section shall require the individual to pay the registration fee required under section 5a or section 7(1) and to present written documentation of employment status, contractual relationship, volunteer status, or student status. Written documentation under this subsection may include, but need not be limited to, any of the following:

(a) A W-2 form, pay stub, or written statement by an employer.

(b) A contract.

(c) A student identification card or student transcript.

(6) This section does not apply to an individual whose enrollment and participation at an institution of higher education is solely through the mail or the internet from a remote location.

<< MI ST 28.725 >>

M.C.L.A. § 28.725

Sec. 5. (1) An individual required to be registered under this act **who is a resident of this state** shall **report in person and** notify the *** **registering authority** having jurisdiction where his or her *** residence or domicile is located *** **immediately** after *** **any of the following occur:**

(a) The individual changes or vacates his or her residence*** **or** domicile*** .

(b) The individual changes his or her place of employment, or employment is discontinued.

(c) The individual enrolls as a student with an institution of higher education, or enrollment is discontinued.

(d) The individual changes his or her name.

(e) The individual intends to temporarily reside at any place other than his or her residence for more than 7 days.

(f) The individual establishes any electronic mail or instant message address, or any other designations used in internet communications or postings.

(g) The individual purchases or begins to regularly operate any vehicle, and when ownership or operation of the vehicle is discontinued.

(h) Any change required to be reported under section 4a.

(2) An individual required to be registered under this act who is not a resident of this state but has his or her place of employment in this state shall report in person and notify the registering authority having jurisdiction where his or her place of employment is located or the department post of the individual's place of employment immediately after the individual changes his or her place of employment or employment is discontinued.

(3) If an individual who is incarcerated in a state correctional facility and is required to be registered under this act is granted parole or is due to be released upon completion of his or her maximum sentence, the department of corrections, before releasing the individual, shall provide notice of the location of the individual's proposed place of residence or domicile to the *** department of state police.

(4) If an individual who is incarcerated in a county jail and is required to be registered under this act is due to be released from custody, the sheriff's department, before releasing the individual, shall provide notice of the location of the individual's proposed place of residence or domicile to the department of state police.

*** (5) Immediately after either of the following occurs, the department of corrections shall notify the local law enforcement agency or sheriff's department having jurisdiction over the area to which the individual is transferred or the department post of the transferred residence or domicile of an individual required to be registered under this act:

(a) The individual is transferred to a community residential program.

(b) The individual is transferred into a *** level 1 correctional facility of any kind, including a correctional camp or work camp.

(6) An individual required to be registered under this act who is a resident of this state shall report in person and notify the *** registering authority having jurisdiction where his or her residence or domicile is located immediately before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.

(7) An individual required to be registered under this act who is a resident of this state shall report in person and notify the registering authority having jurisdiction where his or her residence or domicile is located not later than 21 days before he or she changes his or her domicile or residence to another country or travels to another country [for more than 7 days. The individual shall state the new country of residence or country of travel and the address of his or her new domicile or residence or place of stay, if known. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority.

(8) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the department and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases.

(9) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a.

(10) Except as otherwise provided in *** this section and section 8c, a tier I offender shall comply with this section for 15 years***.

(11) Except as otherwise provided in *** this section and section 8c, a tier II offender shall comply with this section for *** 25 years.

(12) Except as otherwise provided in this section and section 8c, a tier III offender shall comply with this section for life.

(13) The registration periods under this section exclude any period of incarceration for committing a crime and any period of civil commitment.

(14) For an individual who was previously convicted of a listed offense for which he or she was not required to register under this act but who is convicted of any felony on or after July 1, 2011, any period of time that he or she was not incarcerated for that listed offense or that other felony and was not civilly committed counts toward satisfying the registration period for that listed offense as described in this section. If those periods equal or exceed the registration period described in this section, the individual has satisfied his or her registration period for the listed offense and is not required to register under this act. If those periods are less than the registration period described in this section for that listed offense, the individual shall comply with this section for the period of time remaining.

<< MI ST 28.725a >>

M.C.L.A. § 28.725a

Sec. 5a. (1) Not later than *** **July 1, 2011**, the department shall mail a notice to each individual registered under this act who is not in a state correctional facility explaining the individual's duties under *** this act as amended *** .

(2) Upon the release of an individual registered under this act who is in a state correctional facility, the department of corrections shall provide written notice to that individual explaining his or her duties under this section and this act as amended and the procedure for registration, notification, and verification and payment of the registration fee prescribed under subsection (6) or section 7(1). The individual shall sign and date the notice. The department of corrections shall maintain a copy of the signed and dated notice in the individual's file. The department of corrections shall forward the original notice to the department *** **immediately**, regardless of whether the individual signs it.

*** (3) An individual required to be registered under this act who is not incarcerated shall report in person to the ** **registering authority** where he or she is domiciled or resides *** for verification of domicile or residence as follows:

(a) *** **A tier I offender shall report** not earlier than January 1 or later than January 15 of each year after the initial verification or registration. ***

(b) **A tier II offender shall report not earlier than the first day or later than the fifteenth day of each January and July after the initial verification or registration.**

*** (c) **A tier III offender shall report** not earlier than the first day or later than the fifteenth day of each April, July, October, and January *** **after the** initial verification or registration. ***

(4) **When an individual reports under subsection (3), the individual shall review all registration information for accuracy.**

(5) When an individual reports under subsection (3)*** , an officer or authorized employee of the *** **registering authority** shall verify the individual's residence or domicile and any information required to be reported under section 4a. **The officer or authorized employee shall also determine whether the individual's photograph required under this act matches the appearance of the individual sufficiently to properly identify him or her from that photograph. If not, the officer or authorized employee shall require the individual to immediately obtain a current photograph under this section. When all of the verification information has been provided, the officer or authorized employee shall review that information with the individual and make any corrections, additions, or deletions the officer or authorized employee determines are necessary based on the review.** The officer or authorized employee shall sign and date a verification **receipt**. The officer **or authorized**

employee shall give a copy of the signed receipt showing the date of verification to the individual. The officer or authorized employee shall forward verification information to the department *** in the manner the department prescribes. The department shall revise the *** law enforcement database and public internet website maintained under section 8 as necessary and shall indicate verification in the *** public internet website maintained under section 8(2).

(6) Except as otherwise provided in section 5b, beginning October 16, 2004, an individual who reports as prescribed under subsection (3) *** and who has not already paid the fee prescribed under section 7(1) shall pay a \$50.00 registration fee. An individual shall only be required to pay a fee once under this subsection.

(7) An individual required to be registered under this act shall maintain either a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, with the individual's current address. The license or card may be used as proof of domicile or residence under this section. In addition, the officer or authorized employee may require the individual to produce another document bearing his or her name and address, including, but not limited to, voter registration or a utility or other bill. The department may specify other satisfactory proof of domicile or residence.

*** (8) An individual registered under this act who is incarcerated *** shall report to the secretary of state under this subsection *** immediately after he or she is released to have his or her digitalized photograph taken. The individual is not required to report under this subsection if he or she had a digitized photograph taken for an operator's or chauffeur's license or official state personal identification card before January 1, 2000, or within 2 years before he or she is released unless his or her appearance has changed from the date of that photograph. *** Unless the person is a nonresident, the photograph shall be used on the individual's operator's or chauffeur's license or official state personal identification card. The individual shall have a new photograph taken when he or she renews the license or identification card as provided by law, or as otherwise provided in this act. The secretary of state shall make the digitized photograph available to the department for a registration under this act.

(9) If an individual does not report under *** this section or under section 4a, the department shall notify *** all registering authorities as provided in section 8a and initiate enforcement action as set forth in that section.

(10) The department shall prescribe the form for the notices and verification procedures required under this section.

(11) Subsection (1) applies beginning on the effective date of the amendatory act that added this subsection. Subsections (2) through (10) apply beginning July 1, 2011.

<< MI ST 28.725b >>

M.C.L.A. § 28.725b

Sec. 5b. (1) Of the money collected by a court, local law enforcement agency, sheriff's department, or department post from each registration fee prescribed under this act, \$30.00 shall be forwarded to the department, which shall deposit the money in the sex offenders registration fund created under subsection (2), and \$20.00 shall be retained by the court, local law enforcement agency, sheriff's department, or department post.

(2) The sex offenders registration fund is created as a separate fund in the department of treasury. The state treasurer shall credit the money received from the payment of the registration fee prescribed under this act to the sex offenders registration fund. Money credited to the fund shall only be used by the department for training concerning, and the maintenance and automation of, the *** law enforcement database, *** public internet website, *** information required under section 8, or notification and offender registration duties under section 4a. Money in the sex offenders registration fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(3) If an individual required to pay a registration fee under this act is indigent, the registration fee shall be ~~***~~ waived **for a period of 90 days**. The burden is on the individual claiming indigence to prove the fact of indigence to the satisfaction of the local law enforcement agency, sheriff's department, or department post where the individual is reporting.

(4) Payment of the registration fee prescribed under this act shall be made in the form and by means prescribed by the department. Upon payment of the registration fee prescribed under this act, the officer or employee shall forward verification of the payment to the department ~~***~~ in the manner the department prescribes. The department shall revise the ~~***~~ **law enforcement database and public internet website** maintained under section 8 as necessary and shall indicate verification of payment in the ~~***~~ **law enforcement database** under section ~~***~~ **8(1)**.

<< Note: MI ST 28.725a >>

M.C.L.A. § 28.725a Note

Enacting section 1. Section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, as amended by this amendatory act, takes immediate affect.

<< Note: MI ST 28.722, 28.723, 28.724, 28.724a, 28.725, 28.725b >>

M.C.L.A. §§ 28.722, 28.723, 28.724, 28.724a, 28.725, 28.725b Note

Enacting section 2. Sections 2, 3, 4, 4a, 5, and 5b of the sex offenders registration act, 1994 PA 295, MCL 28.722, 28.723, 28.724, 28.724a, 28.725, and 28.725b, as amended by this amendatory act, take effect July 1, 2011.

<< Note: MI ST 28.722 >>

M.C.L.A. § 28.722 Note

Enacting section 3. This amendatory act does not take effect unless Senate Bill No. 189 of the 96th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved April 12, 2011. Filed April 12, 2011.

Effective date: Multiple dates.

2011 Mich. Legis. Serv. P.A. 18 (S.B. 189) (WEST)

MICHIGAN 2011 LEGISLATIVE SERVICE

Ninety-Sixth Legislature, Regular Session

Additions are indicated by **Text**; deletions by
***.

PUBLIC ACT NO. 18

S.B. No. 189

STATE POLICE--SEX OFFENDERS REGISTRATION

AN ACT to amend 1994 PA 295, entitled "An act to require persons convicted of certain offenses to register; to prohibit certain individuals from engaging in certain activities within a student safety zone; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions," by amending sections 6, 7, 8, 8c, 8d, 9, and 10 (MCL 28.726, 28.727, 28.728, 28.728c, 28.728d, 28.729, and 28.730), section 6 as amended by 1996 PA 494, section 7 as amended by 2004 PA 237, section 8 as amended and sections 8c and 8d as added by 2004 PA 240, section 9 as amended by 2005 PA 132, and section 10 as amended by 2006 PA 46, and by adding section 8a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

<< MI ST 28.726 >>

M.C.L.A. § 28.726

Sec. 6. (1) The officer, court, or agency registering an individual or receiving or accepting a registration under section 4 or receiving notice under section 5(1) shall provide the individual with a copy of the registration or notification at the time of registration or notice.

(2) The officer, court, or agency registering an individual or receiving or accepting a registration under section 4 or notified of an address change under section 5(1) shall forward the registration or notification to the department *** **in a manner prescribed by the department immediately** after registration or notification.

<< MI ST 28.727 >>

M.C.L.A. § 28.727

Sec. 7. (1) *** **Registration information obtained** under this act *** shall be forwarded to the department in the format the department prescribes *** **. Except as provided in section 5b(3), a \$50.00 registration fee *** shall accompany each original registration *** . All of the following information shall be obtained or otherwise provided for registration purposes:**

(a) The individual's **legal name *** and any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known.** An individual who is in a witness protection and relocation program is only required to use the name and identifying information reflecting his or her new identity in a registration under this act. The registration and compilation databases shall not contain any information identifying the individual's prior identity or locale. ***

(b) The individual's social security number and any social security numbers or alleged social security numbers previously used by the individual.

- (c) The individual's date of birth and any alleged dates of birth previously used by the individual.
- (d) The address where the individual resides or will reside. If the individual does not have a residential address, information under this subsection shall identify the location or area used or to be used by the individual in lieu of a residence or, if the individual is homeless, the village, city, or township where the person spends or will spend the majority of his or her time.
- (e) The name and address of any place of temporary lodging used or to be used by the individual during any period in which the individual is away, or is expected to be away, from his or her residence for more than 7 days. Information under this subdivision shall include the dates the lodging is used or to be used.
- (f) The name and address of each of the individual's employers. For purposes of this subdivision, "employer" includes a contractor and any individual who has agreed to hire or contract with the individual for his or her services. Information under this subsection shall include the address or location of employment if different from the address of the employer. If the individual lacks a fixed employment location, the information obtained under this subdivision shall include the general areas where the individual works and the normal travel routes taken by the individual in the course of his or her employment.
- (g) The name and address of any school being attended by the individual and any school that has accepted the individual as a student that he or she plans to attend. For purposes of this subdivision, "school" means a public or private postsecondary school or school of higher education, including a trade school.
- (h) All telephone numbers registered to the individual or routinely used by the individual.
- (i) All electronic mail addresses and instant message addresses assigned to the individual or routinely used by the individual and all login names or other identifiers used by the individual when using any electronic mail address or instant messaging system.
- (j) The license plate number, registration number, and description of any motor vehicle, aircraft, or vessel owned or regularly operated by the individual and the location at which the motor vehicle, aircraft, or vessel is habitually stored or kept.
- (k) The individual's driver license number or state personal identification card number.
- (l) A digital copy of the individual's passport and other immigration documents.
- (m) The individual's occupational and professional licensing information, including any license that authorizes the individual to engage in any occupation, profession, trade, or business.
- (n) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.
- (o) A complete physical description of the individual.
- (p) The photograph required under section 5a.
- (q) The individual's fingerprints if not already on file with the department and the individual's palm prints. An individual required to be registered *** under this act shall have his or her fingerprints or palm prints or both taken not later than September 12, 2011 if his or her fingerprints or palm prints are not already on file with the department. The department shall forward a copy of the individual's fingerprints and palm prints to the federal bureau of investigation if not already on file with that bureau.

(r) Information that is required to be reported under section 4a.

(2) A registration **shall** contain *** **all of the following:**

(a) **An electronic copy of the offender's Michigan driver license or Michigan personal identification card, including the photograph required under this act.**

(b) **The text of the provision of law that defines the criminal offense for which the sex offender is registered.**

(c) **Any outstanding arrest warrant information.**

(d) **The individual's tier classification.**

(e) **An identifier that indicates whether a DNA sample has been collected and any resulting DNA profile has been entered into the federal combined DNA index system (CODIS).**

(f) **The individual's complete criminal history record, including the dates of all arrests and convictions.**

(g) **The individual's Michigan department of corrections number and status of parole, probation, or supervised release.**

(h) **The individual's federal bureau of investigation number.**

(3) The form used for *** **notification of duties** under this act shall contain a written statement that explains the duty of the individual being registered to provide notice of *** **changes in his or her registration information**, the procedures for providing that notice, and the verification procedures under section 5a.

(4) The individual shall sign a registration*** **and** notice***. However, the registration*** **and** notice*** shall be forwarded to the department regardless of whether the individual signs it or pays the registration fee required under subsection (1).

(5) The officer, court, or an employee of the agency registering the individual or receiving or accepting a registration under section 4 shall sign the registration form.

(6) An individual shall not knowingly provide false or misleading information concerning a registration, notice, or verification.

(7) The department shall prescribe the form for a notification required under section 5 and the format for forwarding the notification to the department.

(8) The department shall promptly provide registration, notice, and verification information to the federal bureau of investigation and to local law enforcement agencies, sheriff's departments, department posts, and *** **other registering jurisdictions**, as provided by law.

<< MI ST 28.728 >>

M.C.L.A. § 28.728

Sec. 8. (1) The department shall maintain a computerized **law enforcement** database of registrations and notices required under this act. **The law enforcement database shall contain all of the following information for each individual registered under this act:**

- (a) The individual's legal name and any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known.
- (b) The individual's social security number and any social security numbers or alleged social security numbers previously used by the individual.
- (c) The individual's date of birth and any alleged dates of birth previously used by the individual.
- (d) The address where the individual resides or will reside. If the individual does not have a residential address, information under this subsection shall identify the location or area used or to be used by the individual in lieu of a residence or, if the individual is homeless, the village, city, or township where the individual spends or will spend the majority of his or her time.
- (e) The name and address of any place of temporary lodging used or to be used by the individual during any period in which the individual is away, or is expected to be away, from his or her residence for more than 7 days. Information under this subdivision shall include the dates the lodging is used or to be used.
- (f) The name and address of each of the individual's employers. For purposes of this subdivision, "employer" includes a contractor and any individual who has agreed to hire or contract with the individual for his or her services. Information under this subsection shall include the address or location of employment if different from the address of the employer.
- (g) The name and address of any school being attended by the individual and any school that has accepted the individual as a student that he or she plans to attend. For purposes of this subdivision, "school" means a public or private postsecondary school or school of higher education, including a trade school.
- (h) All telephone numbers registered to the individual or routinely used by the individual.
- (i) All electronic mail addresses and instant message addresses assigned to the individual or routinely used by the individual and all login names or other identifiers used by the individual when using any electronic mail address or instant messaging system.
- (j) The license plate number or registration number and description of any motor vehicle, aircraft, or vessel owned or regularly operated by the individual and the location at which the motor vehicle, aircraft, or vessel is habitually stored or kept.
- (k) The individual's driver license number or state personal identification card number.
- (l) A digital copy of the individual's passport and other immigration documents.
- (m) The individual's occupational and professional licensing information, including any license that authorizes the individual to engage in any occupation, profession, trade, or business.
- (n) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.
- (o) A complete physical description of the individual.
- (p) The photograph required under section 5a.
- (q) The individual's fingerprints and palm prints.

- (r) An electronic copy of the offender's Michigan driver license or Michigan personal identification card, including the photograph required under this act.
 - (s) The text of the provision of law that defines the criminal offense for which the sex offender is registered.
 - (t) Any outstanding arrest warrant information.
 - (u) The individual's tier classification and registration status.
 - (v) An identifier that indicates whether a DNA sample has been collected and any resulting DNA profile has been entered into the federal combined DNA index system (CODIS).
 - (w) The individual's complete criminal history record, including the dates of all arrests and convictions.
 - (x) The individual's Michigan department of corrections number and the status of his or her parole, probation, or release.
 - (y) The individual's federal bureau of investigation number.
- (2) The department shall maintain a ~~***~~ public internet website separate from ~~***~~ the law enforcement database described in subsection (1) to implement section 10(2) and (3). Except as provided in subsection (4), the ~~***~~ public internet website shall ~~***~~ contain all of the following information for each individual registered under this act:
- (a) The individual's legal name and any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known.
 - (b) The individual's date of birth.
 - (c) The address where the individual resides. If the individual does not have a residential address, information under this subsection shall identify the village, city, or township used by the individual in lieu of a residence.
 - (d) The address of each of the individual's employers. For purposes of this subdivision, "employer" includes a contractor and any individual who has agreed to hire or contract with the individual for his or her services. Information under this subsection shall include the address or location of employment if different from the address of the employer.
 - (e) The address of any school being attended by the individual and any school that has accepted the individual as a student that he or she plans to attend. For purposes of this subdivision, "school" means a public or private postsecondary school or school of higher education, including a trade school.
 - (f) The license plate number or registration number and description of any motor vehicle, aircraft, or vessel owned or regularly operated by the individual.
 - (g) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred.
 - (h) A complete physical description of the individual.
 - (i) The photograph required under this act. If no photograph is available, the department shall use an arrest photograph or Michigan department of corrections photograph until a photograph as prescribed in section 5a becomes available.

(j) The text of the provision of law that defines the criminal offense for which the sex offender is registered.

(k) The individual's registration status.

(l) The individual's tier classification.

(3) The following information shall not be made available on the public internet website described in subsection (2):

(a) The identity of any victim of the offense.

(b) The individual's social security number.

(c) Any arrests not resulting in a conviction.

(d) Any travel or immigration document numbers.

(e) Any electronic mail addresses and instant message addresses assigned to the individual or routinely used by the individual and any login names or other identifiers used by the individual when using any electronic mail address or instant messaging system.

(f) The individual's driver license number or state personal identification card number.

(4) The *** public internet website described in subsection (2) shall not include the following individuals:

(a) An individual registered solely because he or she had 1 or more dispositions for a listed offense entered under section 18 of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, in a case that was not designated as a case in which the individual was to be tried in the same manner as an adult under section 2d of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d. ***

(b) An individual *** registered solely because he or she was the subject of an order of disposition or other adjudication in a juvenile matter in another state or country.

(c) An individual registered solely because he or she has been convicted of a single tier I offense.

(5) The compilation of individuals shall be indexed alphabetically by village, city, township, and county, numerically by zip code area, and geographically as determined appropriate by the department. ***

(6) The department shall update the *** public internet website with new registrations, deletions from registrations, and address changes at the same time those changes are made to the law enforcement database described in subsection (1). The department shall make the *** law enforcement database available to each department post, local law enforcement agency, and sheriff's department by the law enforcement information network. Upon request by a department post, local law enforcement agency, or sheriff's department, the department shall provide to that post, agency, or sheriff's department the information from the *** law enforcement database in printed form for the *** designated areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction. The department shall provide the ability to conduct a computerized search of the *** law enforcement database and the public internet website based upon the name and campus location of an institution of higher education-***.

(7) The department shall make the *** **law enforcement database** available to a department post, local law enforcement agency, or sheriff's department*** by electronic, computerized, or other similar means accessible to the post, agency, or sheriff's department. **The department shall make the public internet website available to the public by electronic, computerized, or other similar means accessible to the public.** The electronic, computerized, or other similar means shall provide for *** a search by name***, **village, city, township, and county designation, zip code, and geographical area.**

(8) If a court determines that the public availability under section 10 of any information concerning individuals registered under this act*** violates the constitution of the United States or this state, the department shall revise the *** **public internet website described** in subsection (2) so that it does not contain that information.

(9) **If the department determines that an individual has completed his or her registration period, including a registration period reduced by law under the amendatory act that added this subsection, or that he or she otherwise is no longer required to register under this act, the department shall remove the individual's registration information from both the law enforcement database and the public internet website within 7 days after making that determination.**

(10) **If the individual provides the department with documentation showing that he or she is required to register under this act for a violation that has been set aside under 1965 PA 213, MCL 780.621 to 780.624, or that has been otherwise expunged, the department shall note on the public internet website that the violation has been set aside or expunged.**

<< MI ST 28.728a >>

M.C.L.A. § 28.728a

Sec. 8a. (1) If an individual fails to register or to update his or her registration information as required under this act, the local law enforcement agency, sheriff's office, or department post responsible for registering the individual or for verifying and updating his or her registration information shall do all of the following immediately after the date the individual was required to register or to update his or her registration information:

- (a) Determine whether the individual has absconded or is otherwise unlocatable.
 - (b) If the registering authority was notified by a registration jurisdiction that the individual was to appear in order to register or update his or her registration information in the jurisdiction of the registering authority, notify the department in a manner prescribed by the department that the individual failed to appear as required.
 - (c) Revise the information in the registry to reflect that the individual has absconded or is otherwise unlocatable.
 - (d) Seek a warrant for the individual's arrest if the legal requirements for obtaining a warrant are satisfied.
 - (e) Enter the individual into the national crime information center wanted person file if the requirements for entering information into that file are met.
- (2) If an individual fails to register or to update his or her registration information as required under this act, the department shall do all of the following immediately after being notified by the registering authority that the individual failed to appear as required:
- (a) Notify that other registration jurisdiction that the individual failed to appear as required.
 - (b) Notify the United States marshal's service in the manner required by the United States marshal's service of the individual's failure to appear as required.

(c) Update the national sex offender registry to reflect the individual's status as an absconder or as unlocatable.

<< MI ST 28.728c >>

M.C.L.A. § 28.728c

Sec. 8c. (1) An individual *** **classified as a tier I offender who meets the requirements of subsection (12)** may petition the court under *** **that subsection** for an order allowing him or her to *** **discontinue registration** under this act *** .

(2) An individual *** **classified as a tier III offender who meets the requirements of subsection (13)** may petition the court under *** **that subsection** for an order allowing him or her to *** **discontinue registration** under this act *** .

(3) An individual classified as a tier I, tier II, or tier III offender who meets the requirements of subsection (14) or (15) may petition the court under that subsection for an order allowing him or her to discontinue registration under this act.

(4) This section is the sole means by which an individual may obtain judicial review of his or her registration requirements under this act. This subsection does not prohibit an appeal of the conviction or sentence as otherwise provided by law or court rule. * A petition filed under this section shall be filed in the court in which the individual was convicted of committing the listed offense. *** However, if the conviction occurred in another state or country and the individual is a resident of this state, the individual may file a petition in the circuit court in the county of his or her residence for an order allowing him or her to discontinue registration under this act only.** A petition shall not be filed under this section if a previous petition was filed under this section and was denied by the court after a hearing. ***

(5) A petition filed under this section shall be made under oath and shall contain all of the following:

(a) The name and address of the petitioner.

(b) A statement identifying the offense for which **discontinuation from** registration *** is being requested.

(c) A statement of whether the individual was previously convicted of a listed offense for which registration is required under this act.

(6) An individual who knowingly makes a false statement in a petition filed under this section is guilty of perjury as proscribed under section 423 of the Michigan penal code, 1931 PA 328, MCL 750.423.

(7) A copy of the petition shall be filed with the office of the prosecuting attorney that prosecuted the case against the individual **or, for a conviction that occurred in another state or country, the prosecuting attorney for the county of his or her residence**, at least 30 days before a hearing is held on the petition. The prosecuting attorney may appear and participate in all proceedings regarding the petition and may seek appellate review of any decision on the petition.

(8) If the name of the victim of the offense is known by the prosecuting attorney, the prosecuting attorney shall provide the victim with written notice that a petition has been filed and shall provide the victim with a copy of the petition. The notice shall be sent by first-class mail to the victim's last known address. The petition shall include a statement of the victim's rights under subsection **(10)**.

(9) If an individual properly files a petition with the court under this section, the court shall conduct a hearing on the petition as provided in this section.

(10) The victim has the right to attend all proceedings under this section and to make a written or oral statement to the court before any decision regarding the petition is made. A victim shall not be required to appear at any proceeding under this section against his or her will.

(11) The court shall consider all of the following in determining whether to allow the individual to ~~***~~ **discontinue registration under *** subsection (12) or (13) but shall not grant the petition if the court determines that the individual is a continuing threat to the public:**

- (a) The individual's age and level of maturity at the time of the offense.
- (b) The victim's age and level of maturity at the time of the offense.
- (c) The nature of the offense.
- (d) The severity of the offense.
- (e) The individual's prior juvenile or criminal history.
- (f) The individual's likelihood to commit further listed offenses.
- (g) Any impact statement submitted by the victim under the **William Van Regenmorter** crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or under this section.
- (h) Any other information considered relevant by the court.

~~***~~

(12) The court may grant a petition properly filed by an individual under subsection (1) if all of the following apply:

- (a) Ten or more years have elapsed since the date of his or her conviction for the listed offense or from his or her release from any period of confinement for that offense, whichever occurred last.
- (b) The petitioner has not been convicted of any felony since the date described in subdivision (a).
- (c) The petitioner has not been convicted of any listed offense since the date described in subdivision (a).
- (d) The petitioner successfully completed his or her assigned periods of supervised release, probation, or parole without revocation at any time of that supervised release, probation, or parole.
- (e) The petitioner successfully completed a sex offender treatment program certified by the United States attorney general under 42 USC 16915(b)(1), or another appropriate sex offender treatment program. The court may waive the requirements of this subdivision if successfully completing a sex offender treatment program was not a condition of the petitioner's confinement, release, probation, or parole.

(13) The court may grant a petition properly filed by an individual under subsection (2) if all of the following apply:

(a) The petitioner is required to register based on an order of disposition entered under section 18 of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.28.

(b) Twenty-five or more years have elapsed since the date of his or her adjudication for the listed offense or from his or her release from any period of confinement for that offense, whichever occurred last.

(c) The petitioner has not been convicted of any felony since the date described in subdivision (b).

(d) The petitioner has not been convicted of any listed offense since the date described in subdivision (b).

(e) The petitioner successfully completed his or her assigned periods of supervised release, probation, or parole without revocation at any time of that supervised release, probation, or parole.

(f) The court determines that the petitioner successfully completed a sex offender treatment program certified by the United States attorney general under 42 USC 16915(b)(1), or another appropriate sex offender treatment program. The court may waive the requirements of this subdivision if successfully completing a sex offender treatment program was not a condition of the petitioner's confinement, release, probation, or parole.

(14) The court shall grant a petition properly filed by an individual under subsection (3) if the court determines that the conviction for the listed offense was the result of a consensual sexual act between the petitioner and the victim and any of the following apply:

(a) All of the following:

(i) The victim was 13 years of age or older but less than 16 years of age at the time of the offense.

(ii) The petitioner is not more than 4 years older than the victim.

(b) All of the following:

(i) The individual was convicted of a violation of section 158, 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.158, 750.338, 750.338a, and 750.338b.

(ii) The victim was 13 years of age or older but less than 16 years of age at the time of the violation.

(iii) The individual is not more than 4 years older than the victim.

(c) All of the following:

(i) The individual was convicted of a violation of section 158, 338, 338a, 338b, or 520c(1)(i) of the Michigan penal code, 1931 PA 328, MCL 750.158, 750.338, 750.338a, 750.338b, and 750.520c.

(ii) The victim was 16 years of age or older at the time of the violation.

(iii) The victim was not under the custodial authority of the individual at the time of the violation.

(15) The court shall grant a petition properly filed by an individual under subsection (3) if either of the following applies:

(a) Both of the following:

(i) The petitioner was adjudicated as a juvenile.

(ii) The petitioner was less than 14 years of age at the time of the offense.

(b) The individual was registered under this act before July 1, 2011 for an offense that required registration but for which registration is not required on or after July 1, 2011.

<< MI ST 28.728d >>

M.C.L.A. § 28.728d

Sec. 8d. *** If the court grants a petition filed under section 8c, the court shall promptly provide a copy of that order to the department and to the individual. *** The department shall promptly remove an individual's registration from the database maintained under section 8(1)-*** .

<< MI ST 28.729 >>

M.C.L.A. § 28.729

Sec. 9. (1) Except as provided in subsections (2), (3), and (4), an individual required to be registered under this act who willfully violates this act is guilty of a felony punishable as follows:

(a) If the individual has no prior convictions for a violation of this act, *** by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(b) If the individual has 1 prior conviction for a violation of this act, *** by imprisonment for not more than 7 years or a fine of not more than \$5,000.00, or both.

(c) If the individual has 2 or more prior convictions for violations of this act, *** by imprisonment for not more than 10 years or a fine of not more than \$10,000.00, or both.

(2) An individual who fails to comply with section 5a, other than payment of the fee required under section *** 5a(6), is guilty of a *** **misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.**

(3) An individual who willfully fails to sign a registration*** and notice*** as provided in section 7(4) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(4) An individual who willfully refuses or fails to pay the registration fee prescribed in section *** 5a(6) or section 7(1) within 90 days of the date the individual reports under section 4a or 5a is guilty of a misdemeanor punishable by imprisonment for not more than 90 days.

(5) The court shall revoke the probation of an individual placed on probation who willfully violates this act.

(6) The court shall revoke the youthful trainee status of an individual assigned to youthful trainee status who willfully violates this act.

- (7) The parole board shall rescind the parole of an individual released on parole who willfully violates this act.
- (8) An individual's failure to register as required by this act or a violation of section *** 5 may be prosecuted in the judicial district of any of the following:
- (a) The individual's last registered address or residence.
 - (b) The individual's actual address or residence.
 - (c) Where the individual was arrested for the violation.

<< MI ST 28.730 >>

M.C.L.A. § 28.730

Sec. 10. (1) Except as provided in this act, a registration or report is confidential and information from that registration or report shall not be open to inspection except for law enforcement purposes. The registration or report and all included materials and information are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(2) A department post, local law enforcement agency, or sheriff's department shall make information from the *** **public internet website** described in section 8(2) for the *** **designated** areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction available for public inspection during regular business hours. A department post, local law enforcement agency, or sheriff's department is not required to make a copy of the information for a member of the public.

(3) The department may make information from the *** **public internet website** described in section 8(2) available to the public through electronic, computerized, or other accessible means. The department shall provide for notification by electronic or computerized means to any member of the public who has subscribed in a manner required by the department when an individual who is the subject of the *** **public internet website** described in section 8(2) initially registers under this act, or changes his or her registration under this act, to a location that is in a *** **designated** area **or geographic radius** designated by the subscribing member of the public.

(4) Except as provided in this act, an individual other than the registrant who knows of a registration or report under this act and who divulges, uses, or publishes nonpublic information concerning the registration or report in violation of this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(5) An individual whose registration or report is revealed in violation of this act has a civil cause of action against the responsible party for treble damages.

(6) Subsections (4) and (5) do not apply to the *** **public internet website** described in section 8(2) or information from that *** **public internet website** that is provided or made available under section 8(2) or under subsection (2) or (3).

<< Repealed: MI ST 28.731, 28.732 >>

M.C.L.A. §§ 28.731, 28.732

Enacting section 1. Sections 11 and 12 of the sex offenders registration act, 1994 PA 295, MCL 28.731 and 28.732, are repealed.

<< Note: MI ST 28.726 >>

M.C.L.A. § 28.726 Note

Enacting section 2. This amendatory act takes effect July 1, 2011.

<< Note: MI ST 28.726 >>

M.C.L.A. § 28.726 Note

Enacting section 3. This amendatory act does not take effect unless Senate Bill No. 188 of the 96th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved April 12, 2011. Filed April 12, 2011.

Effective date: July 1, 2011.

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Adam Walsh Child Protection and Safety Act: A Legal Analysis

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APPENDIX U

Summary

The Adam Walsh Child Protection and Safety Act, (P.L. 109-248, H.R. 4472), emerged from Congress following the passage of separate bills in the House and Senate (H.R. 3132 and S. 1086 respectively). The act's provisions fall into four categories: a revised sex offender registration system, child and sex related amendments to federal criminal and procedure, child protective grant programs, and other initiatives designed to prevent and punish sex offenders and those who victimize children.

The sex offender registration provisions replace the Jacob Wetterling Act provisions with a statutory scheme under which states are required to modify their registration systems in accordance with federal requirements at the risk of losing 10% of their Byrne program law enforcement assistance funds. The act seeks to close gaps in the prior system, provide more information on a wider range of offenders, and make the information more readily available to the public and law enforcement officials.

In the area of federal criminal law and procedure, the act enlarges the kidnaping statute, increases the number of federal capital offenses, enhances the mandatory minimum terms of imprisonment and other penalties that attend various federal sex offenses, establishes a civil commitment procedure for federal sex offenders, authorizes random searches as a condition for sex offender probation and supervised release, outlaws Internet date drug trafficking, permits the victims of state crimes to participate in related federal habeas corpus proceedings, and eliminates the statute of limitations for certain sex offenses and crimes committed against children.

The act revives the authorization of appropriations under the Police Athletic Youth Enrichment Act among its other grant provisions and requires the establishment of a national child abuse registry among its other child safety initiatives.

This report is available in an abridged version, without footnotes and most citations to authority, as CRS Report RS22646, *Adam Walsh Child Protection and Safety Act: A Sketch*, by (name redacted).

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Introduction

The President signed the Adam Walsh Child Protection and Safety Act on July 27, 2006.¹ The act serves four basic purposes. First, it reformulates the federal standards for sex offender registration in state, territorial and tribal sexual offender registries, and does so in a manner designed to make the system more uniform, more inclusive, more informative, and more readily available to the public online. Second, it introduces a fairly extensive and diverse set of amendments to federal criminal law and procedure, featuring, among other things, a federal procedure for the civil commitment of convicted sex offenders upon their release from prison, a random search authority over sex offenders on probation or supervised release, and a number of new mandatory minimum terms of imprisonment for various new and existing federal sex offenses. Third, it creates, amends, or revives several grant programs designed to reinforce private, state, local, tribal and territorial prevention; law enforcement; and treatment efforts in the case of crimes committed against children. Finally, it calls for a variety of administrative or regulatory initiatives in the interest of child safety, such as the creation of the National Child Abuse Registry.

The act arrived on the President's desk as H.R. 4472 having been approved by the House on March 8, 2006² and by the Senate on July 20, 2006.³ Each Chamber had previously passed many of the same provisions in separate bills of their own. In the case of the House, the predecessor was H.R. 3132 which the House endorsed on September 15, 2005;⁴ in the case of the Senate, it was S. 1086, which the Senate approved on May 4, 2006.⁵

Sex Offender Registration

One of the center pieces of the Adam Walsh Child Protection and Safety Act is the revision of the nation-wide sex offender registration system.⁶ The earlier statute, the Jacob Wetterling Act, encouraged states to establish and maintain a registration system.⁷ Each of them has done so.⁸ The

¹ P.L. 109-248, 120 Stat. 587 (2006).

² 152 *Cong. Rec.* H692 (daily ed. Mar. 8, 2006).

³ 152 *Cong. Rec.* S8031 (daily ed. July 7, 2006).

⁴ 151 *Cong. Rec.* H7924 (daily ed. Sept. 14, 2005); see also, H.Rept. 109-218, pts. I, II (2005); *Protection Against Sexual Exploitation of Children Act of 2005, and the Prevention and Deterrence of Crimes Against Children Act of 2005: Hearing Before the Subcomm. on Crime, Terrorism, and Homeland Security of the House Comm. on the Judiciary on H.R. 2318 and H.R. 2388*, 109th Cong., 1st Sess. (2005); *House Bills on Sexual Crimes Against Children: Hearing Before the Subcomm. on Crime, Terrorism, and Homeland Security of the House Comm. on the Judiciary on H.R. 764, H.R. 95, H.R. 1355, H.R. 1505, H.R. 2423, H.R. 244, H.R. 2796, and H.R. 2797*, 109th Cong., 1st Sess. (2005).

⁵ 152 *Cong. Rec.* S4089 (daily ed. May 4, 2006). S. 1086 had been reported earlier without written report, 151 *Cong. Rec.* S11664 (daily ed. Oct. 20, 2005).

⁶ For a discussion of related legislative proposals in the 110th Congress and associated policy matters, see CRS Report RL32800, *Sex Offender Registration and Community Notification Law: Recent Legislation and Issues*, by (name redacted).

⁷ 42 U.S.C. 14071-14073 (commonly referred to as the Jacob Wetterling Act).

⁸ Ala. Code §§ 13A-11-200 to 13A-11-202; Alaska Stat. §§ 12.63.010 to 12.63.100; Ariz. Rev. Stat. Ann. §§ 13-3821 to 13-3828; Ark. Code Ann. §§ 12-12-901 to 12-12-922; Cal. Penal Code §§ 290-293; Colo. Rev. Stat. § 16-22-101 to 16-22-114; Conn. Gen. Stat. Ann. §§ 54-250 to 54-261; Del. Code Ann. tit. 11, § 4120; Fla. Stat. Ann. § 775.21; Ga. Code Ann. § 42-1-12; Haw. Rev. Stat. Ann. §§ 846E-1 to 846E-13; Idaho Code §§ 18-8301 to 18-8329; 730 Ill. Comp. Stat. Ann. ¶¶ 105/1 to 150-12; 152/101 to 152/121; Ind. Code Ann. §§ 11-8-8-1 to 11-8-8-20; Iowa Code Ann. §§ 692A.1 to 692A.16; Kan. Stat. Ann. §§ 22-4901 to 22-4912; Ky. Rev. Stat. Ann. §§ 17.500-17.580; La. Rev. Stat. Ann. §§ 15:540-15:550; Me. Rev. Stat. Ann. tit. 34-A, §§ 11201-11256; Md. Code Ann. Crim. Proc. §§ 11-701 to 11-726; Mass. Gen. Laws ch. 6, §§ 178D-Q; Mich. Comp. Laws Ann. §§ 28.721-.732; Minn. Stat. Ann. §§ 243.166, 243.167; Miss. (continued...)

state systems had many common features, but were hardly uniform. The Walsh Act preserves the basis structure of the earlier law, expands upon it, and makes more specific matters that were previously left to individual state choice.⁹ It contemplates a publicly available, contemporaneously accurate, online system. Conscious of the legal and technical adjustments required, the Walsh Act anticipates that states and other jurisdictions may require three years or more to fully implement its modifications. As a consequence, for purposes of compliance by the states and other jurisdictions, the prior law remains in effect until the later of three years after enactment or one year after the necessary software for the new uniform, online system has become available.¹⁰ For registrants, however, the new requirements became effective upon enactment.¹¹

Constitutional Considerations

Two state sex offender statutes have survived constitutional scrutiny before the Supreme Court, *Connecticut Department of Public Safety v. Doe*¹² and *Smith v. Doe*.¹³ In *Smith*, the Court rejected an ex post facto challenge because the statute was intended to create a regulatory scheme that was civil and nonpunitive and because it was not “so punitive either in purpose or effect as to negate the state’s intention to deem it civil.”¹⁴ In *Connecticut Department of Public Safety*, it rejected the argument that due process required a pre-registration hearing as to the current dangerousness of the offender because the statute predicated registration upon prior conviction, not upon current dangerousness.¹⁵

(...continued)

Code Ann. §§ 45-33-21 to 45-33—57; Mo. Ann. Stat. §§ 589.400-589.425 Mont. Code Ann. §§ 46-23-501 to 46-23-570; Neb. Rev. Stat. 29-4003 to 29-4013; Nev. Rev. Stat. §§ 179D.010-179D.850; N.H. Rev. Stat. Ann. §§ 651-B:1 to 651-B:12; N.J. Stat. Ann. §§ 2C:7-1 to 2C:7-19; N.M. Stat. Ann. §§ 29-11A-1 to 29-11A-10; N.Y. Correct. Law §§ 168 to 168-v; N.C. Gen. Stat. §§ 14-208.5 to 14-208.32; N.D. Cent. Code § 12.1-32-15; Ohio Rev. Code Ann. § 2950.1 - 2950.99; Okla. Stat. Ann. tit. 57, §§ 581-589; Or. Rev. Stat. §§ 181.592-181.608; 42 Pa. Cons. Stat. Ann. §§ 9791-9799.9; R.I. Gen. Laws §§ 11-37.1-1 to 11-37-20; S.C. Code Ann. §§ 23-3-400 to 23-3-550; S.D. Codified Laws §§ 22-24B-1 to 22-24B-32; Tenn. Code Ann. §§ 40-39-201 to 40-39-211; Tex. Rev. Code Crim. Pro. Ann. arts. 62.051 - 62.408; Utah Code Ann. § 77-27-21.5; Vt. Stat. Ann. tit. 13 §§ 5401 - 5414; Va. Code Ann. §§ 9.1-901 to 9.1-920; Wash. Rev. Code Ann. §§ 9A.44.130 - 9A.44.145; W. Va. Code §§ 15-12-1 to 15-12-10; Wis. Stat. Ann. §§ 301.45 - 301.46; Wyo. Stat. Ann. §§ 7-19-301 to 7-19-307; D.C. Code Ann. §§ 22-4001 to 22-4017.

⁹ Title I of the Adam Walsh Child Protection and Safety Act is captioned the Sex Offender Registration and Notification Act, §101. To avoid confusion with other sections of law, sections of the Adam Walsh Child Protection and Safety Act are noted in italics throughout this report.

¹⁰ 42 U.S.C. 16924; P.L. 109-248, §129, 120 Stat. 600-601 (2006).

¹¹ *United States v. Madera*, ____ F.Supp.2d ____, ____ (2007 WL 141283)(M.D.Fla. Jan. 16, 2007); Department of Justice, Interim Rule with Request for Comments, Supplemental Information, (Interim Rule), 72 *Fed.Reg.* 8894, 8895 (Feb. 28, 2007)(“In contrast to SORNA [Sex Offender Registration and Notification Act]’s provision of a three-year grace period for jurisdictions to implement its requirements, SORNA’s direct federal law registration requirements for sex offenders are not subject to any deferral of effectiveness. They took effect when SORNA was enacted on July 27, 2006, and currently apply to all offenders in the categories for which SORNA requires registration”).

¹² 538 U.S. 1 (2003).

¹³ 538 U.S. 84 (2003).

¹⁴ *Smith v. Doe*, 538 U.S. at 92.

¹⁵ *Connecticut Department of Public Safety v. Doe*, 538 U.S. at 7.

Other courts have rejected similar and other constitutional challenges,¹⁶ although individual aspects of a particular statute or its implementation have been found constitutionally defective on occasion.¹⁷

Who Must Register

The class of offenders required to register has been expanded under the act. The group includes anyone found in the United States and previously convicted of a federal, state, local, tribal, military, or foreign qualifying offense,¹⁸ although strictly speaking violations of the laws of the District of Columbia or U.S. territories are not specifically mentioned as qualifying offenses.¹⁹ Offenders must register in each state or territory in which they live, work, or attend school.²⁰

There are five classes of qualifying offenses: crimes identified as one of the “specific offenses against a minor;” crimes in which some sexual act or sexual conduct is an element; designated federal sex offenses; specified military offenses; and attempts or conspiracy to commit any offense in the other four classes of qualifying offenses.²¹

Specified offenses against a minor

This class consists of essentially the same members as made up the class of qualifying offenses under the Jacob Wetterling Act when these offenses are or were committed in violation of state, local, tribal, foreign, or military law, or presumably in violation of D.C. or territorial law:

¹⁶ E.g., *United States v. Madera*, ____ F.Supp.2d ____, ____ (2007 WL 141283)(M.D.Fla. Jan. 16, 2007)(upholding the constitutionality of the Adam Walsh sex offender registration system against challenge on ex post facto, procedural due process, substantive due process, and federalism grounds); see generally, *State Statutes or Ordinances Requiring Persons Previously Convicted of Crime to Register with Authorities*, 36 ALR5th 161 (1996 & 2006 Supp.) and cases cited therein.

¹⁷ See e.g., *State v. Dickerson*, 142 Idaho 514, 129 P.3d 1263 (2006)(unconstitutional violation of the right to travel in a statute imposing more stringent reporting requirements on those who moved into the state after a particular date); *Creekmore v. Attorney General*, 341 F.Supp.2d 648 (E.D.Tex. 2004)(due process violation in requiring registration administratively on the basis of a military conviction when the statute did not require registration for such convictions); *State v. Bani*, 97 Haw. 285, 36 P.3d 1255 (2002)(public notification feature of the state registration statute, without a hearing on dangerousness, would violate the due process clause of the Constitution of Hawai‘i); but see, *State v. Guidry*, 105 Haw. 222, 96 P.3d 242 (2004)(due process requirements may be satisfied by petitioning the court for hearing).

¹⁸ “A sex offender shall register. . . .” 42 U.S.C. 16913(a). “The term ‘sex offender’ means an individual who was convicted of a sex offense,” 42 U.S.C. 16911(1). “[T]he term ‘sex offense’ means – a criminal offense. . . a [designated] Federal offense. . . [or] a military offense. . . .” 42 U.S.C. 16911(5)(A)(1). “The term ‘criminal offense’ means a State, local, tribal, foreign, or military offense. . . or other criminal offense,” 42 U.S.C. 16911(6). Thus, on its face the act’s registration requirements apply regardless of whether the conviction occurred prior to enactment of the act. The act vests, however, the Attorney General with authority to specify its application to offenders convicted prior to its effective date, 42 U.S.C. 16913(d). As least on an interim basis, the Attorney General has decided that the act applies to all offenders convicted prior to enactment, Interim Rule, 72 *Fed.Reg.* at 8896; 28 C.F.R. §72.3.

¹⁹ “The term ‘criminal offense’ means a State, local, tribal, foreign, or military offense. . . or other criminal offense,” 42 U.S.C. 16911(6). Violations of District and territorial law may be what drafters meant by “other criminal offenses.”

²⁰ “A sex offender shall register . . . in each jurisdiction where the offender resides” 42 U.S.C. 16913. “The term ‘jurisdiction’ means any of the following: (A) A State. (B) the District of Columbia. (C) the Commonwealth of Puerto Rico. (D) Guam. (E) The Northern Mariana Islands. (F) The United States Virgin Islands. (H) To the extent provided and subject to the requirements of Section 127 [relating to the tribal election maintain a separate registry or to participate in that of an applicable state], a federally recognized Indian tribe,” 42 U.S.C. 16911(10).

²¹ 42 U.S.C. 16911(5)(A).

- kidnaping of a minor, except by a parent or guardian;
- false imprisonment of a minor, except by a parent or guardian;
- solicitation of a minor to engage in sexual conduct;
- use of a minor in a sexual performance;
- solicitation to practice prostitution;
- video voyeurism (as described in 18 U.S.C. 1801);
- possession, production, or distribution of child pornography;
- criminal sexual conduct toward a minor, or the use of the Internet to facilitate or attempt such conduct;
- any conduct that by its nature is a sexual offense against a minor. 42 U.S.C. 16911 (5)(ii), (7), (6).

Virtually all the states require registration for convictions of the state's criminal law version of these generic crimes. Their treatment of federal, foreign, military and out of state convictions has been a bit more individualistic.²²

Sex element crimes

The act simply states that the class of qualify offenses also includes any "criminal offense that has an element involving a sexual act or sexual contact with another."²³ It does not define either the term "sexual act" or "sexual contact." Elsewhere in the United States Code they are consistently defined as follows.

[T]he term "sexual act" means—

(A) contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however, slight;

(B) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

(C) the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or

²² See e.g., Ky. Rev. Stat. §17.510(6)(covering state, out of state, federal, military and territorial convictions with no mention of foreign convictions); Iowa Code Ann. §692A.2 (covering state, out of state, military and foreign convictions with no mention of D.C. or territorial convictions); Va. Code §9.1-902 [B] ("Offense for which registration is required' . . . shall also include any similar offense under the laws of (i) any foreign country or any political subdivision thereof, (ii) the United States or any political subdivision thereof and any offense for which registration in a sex offender or crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted"); *Creekmore v. Attorney General*, 341 F.Supp.2d 648 (E.D.Tex. 2004)(noting that the current Texas registration statute, unlike an earlier version, covers military convictions); *State v. Dickerson*, 142 Idaho 514, 129 P.3d 1263 (2006) (holding unconstitutional as a violation of the right to travel an Idaho statute that required registration of those convicted in Idaho after July 1, 1993 and those with out of state convictions who move into the State after that date regardless of the date of their out of state convictions).

²³ 42 U.S.C. 16911(5)(A)(i).

(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

[T]he term “sexual contact” means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.²⁴

The class appears to have been intended as a residual group of sexual offenses that fall outside the coverage of the other classes of qualifying offenses. It applies to violations of state, local, tribal, foreign, military, and presumably D.C. and territorial law.²⁵

Federal qualifying offenses

The class of federal offenses that trigger registration requirements includes violations of:

- 18 U.S.C. 1591 (sex trafficking of children or by force or fraud)
- 18 U.S.C. 2241 (aggravated sexual abuse)
- 18 U.S.C. 2242 (sexual abuse)
- 18 U.S.C. 2243 (sexual abuse of ward or child)
- 18 U.S.C. 2244 (abusive sexual contact)
- 18 U.S.C. 2245 (sexual abuse resulting in death)
- 18 U.S.C. 2251 (sexual exploitation of children)
- 18 U.S.C. 2251A (selling or buying children)
- 18 U.S.C. 2252 (transporting, distributing or selling child sexually exploitive material)
- 18 U.S.C. 2252A (transporting or distributing child pornography)
- 18 U.S.C. 2252B (misleading Internet domain names)
- 18 U.S.C. 2252C (misleading Internet website source codes)
- 18 U.S.C. 2260 (making child sexually exploitative material overseas for export to the U.S.)
- 18 U.S.C. 2421 (transportation of illicit sexual purposes)
- 18 U.S.C. 2422 (coercing or enticing travel for illicit sexual purposes)
- 18 U.S.C. 2423 (travel involving illicit sexual activity with a child)
- 18 U.S.C. 2424 (filing false statement concerning an alien for illicit sexual purposes)

²⁴ 18 U.S.C. 2246(2), (3), adopted by cross reference in 20 U.S.C. 6777(e)(8); 20 U.S.C. 9134(f)(7)(E); 47 U.S.C. 254(h)(7)(H); 47 U.S.C. 902 note (P.L. 106-554, 114 Stat. 2763A-336 (2000)).

²⁵ 42 U.S.C. 16911(5)(A)(i), (6).

- 18 U.S.C. 2425 (interstate transmission of information about a child relating to illicit sexual activity), 42 U.S.C. 16911(5)(A)(iii).

Military offenses

Qualifying military offenses are those designed by the Secretary of Defense pursuant to P.L. 105-119, §115(a)(8)(C)(i), 111 Stat. 2466 (1998). Department of Defense Instruction 1325.7, Enclosure 27 lists following as qualifying offenses:

- UCMJ art. 120 (rape and carnal knowledge)
- UCMJ art. 125 (forcible sodomy and sodomy of a minor)
- UCMJ art. 133 (conduct unbecoming an officer involving any sexually violent offense or a criminal offense of a sexual nature against a minor or kidnaping a minor or prostitution involving a minor)
- UCMJ art. 134 (indecent assault, assault with intent to commit rape or sodomy, indecent act with a minor, indecent language to a minor, kidnaping a minor other than by a parent, pornography involving a minor, conduct prejudicial to good order and discipline (involving any sexually violent offense or a criminal offense of a sexual nature against a minor or kidnaping of a minor) or assimilated crime conviction (of a sexually violent offense or a criminal offense of a sexual nature against a minor or kidnaping of a minor))
- UCMJ art. 80 (attempt to commit any of the foregoing)
- UCMJ art. 81 (conspiracy to commit any of the foregoing)
- UCMJ art. 82 (solicitation to commit any of the foregoing).

Attempt or conspiracy

The final class of qualifying offenses consists of the attempts or conspiracies to commit some offense described in one of the other classes.²⁶ The class is limited to instances where the offender is convicted of attempt or conspiracy.²⁷ The distinction is important since attempt or conspiracy to commit one of the other qualifying offenses may not always be a separate crime. For example, it is a federal qualifying offense to sell a child with the intent to promote child pornography,²⁸ but it is not a federal crime to attempt to do so.

Exceptions

The inventory of qualifying offenses is subject to exception. Conviction for an otherwise qualifying foreign offense does not necessitate registration if it was not secured in a manner which satisfies minimal due process requirements under guidelines or regulations promulgated by the Attorney General.²⁹ Nor does conviction of a consensual sex offense require registration if the

²⁶ 42 U.S.C. 16911(5)(A)(iv).

²⁷ 42 U.S.C. 16813, 16911(1).

²⁸ 18 U.S.C. 2251A.

²⁹ 42 U.S.C. 16911(5)(B), 16912(b).

victim is an adult not in the custody of the offender, or if the victim is 13 years of age or older and the offender no more than four years older.³⁰ Finally, juvenile delinquency adjudications do not constitute qualifying convictions unless the offender is 14 years of age or older at the time of the misconduct and the misconduct adjudicated is comparable to, or more severe than, aggravated sexual assault or attempt or conspiracy to commit such an offense.³¹

There are no specific limitations on registration based on convictions that have been overturned, sealed or expunged under state or foreign law or on convictions for which the offender has been pardoned. There are no specific limitations on requirements that flow from past convictions regardless for their vintage. Instead, the Attorney General is authorized to promulgate rules of applicability.³²

Registration Requirements

Those required to register must provide their name, social security number, the name and address of their employers, the name and address of places where they attend school, and the license plate numbers and descriptions of vehicles they own or operate.³³ The jurisdiction of registration must also include a physical description and current photograph of the registrant and a copy of his driver's license or government issued identification card; a set of fingerprints, palm prints, and a DNA sample; the text of the law under which he was convicted; a criminal record that includes the dates of any arrests and convictions, any outstanding warrants, as well as parole, probation, supervisory release, and registration status; and any other information required by the Attorney General.³⁴

When and For How Long

Those required to register must do so before they are released from incarceration;³⁵ those whose sentences do not include a term of imprisonment must register within three days of sentencing.³⁶ Those required to register who were released or sentenced without a term imprisonment before the effective date of the act are subject to the registration requirements announced by the Attorney General.³⁷ Those required to register when entering the United States are funneled into the system through a regime established and operated by the Secretaries of State and Homeland Security.³⁸

³⁰ 42 U.S.C. 16911(5)(C).

³¹ 42 U.S.C. 16911(8).

³² 42 U.S.C. 16913(d). The Attorney General's interim regulations call for registration regardless of the vintage of the conviction, 72 *Fed. Reg.* 8894 (Feb. 16, 2007)(28 C.F.R. §72.3).

³³ 42 U.S.C. 16914(a); 18 U.S.C. 4042(c)(3).

³⁴ 42 U.S.C. 16914(b).

³⁵ For those required to register, registration is a mandatory condition for probation and supervised release, 18 U.S.C. 3563(a)(8), 3583(d).

³⁶ 42 U.S.C. 16913(b).

³⁷ 42 U.S.C. 16913(d). The Attorney General has issued an interim rule requiring the registration of those convicted of qualifying offenses regardless of whether the conviction occurred prior to effective date of the act, 72 *Fed. Reg.* 8894 (Feb. 16, 2007)(28 C.F.R. §72.3).

³⁸ 42 U.S.C. 16928. Americans and permanent resident aliens who have convicted of a "specified offense against a minor" are ineligible the family-relate immigration visa participation by virtue of Section 402, 8 U.S.C. 1154(a)(1)(A)(viii), (B)(i)(I), 1101(a)(15) (K). A "specified offense against a minor" is any violation of state, local, tribal, foreign, or military law involving kidnapping of a minor, except by a parent or guardian; false imprisonment of a (continued...)

Custodians must notify those in their care of the obligation to register; notification of offenders who are not incarcerated is to be accomplished pursuant to instructions from the Attorney General.³⁹ Registrants have three days to notify at least one jurisdiction in which they are registered whenever they change their names, addresses, or places of employment or study.⁴⁰

The regularity with which registrants must appear for new photographs and to verify their registration information depends upon their status. It is at least every three months for Tier III offenders, that is, those convicted of a felony constituting or at least comparable in severity to kidnapping (other than by a parent or guardian); or to the felonious commission of, or attempt or conspiracy to commit, abusive sexual contact against a child under 13 years of age, or sexual abuse or aggravated sexual abuse; or those who have previously qualified as Tier II offenders at the time of conviction.

Tier II offenders must reappear no less frequently than every six months.⁴¹ Tier II offenders are those with a felony conviction for violation of either: one of several designated federal sex offenses (or at least its equivalent in severity), or one of three generically described sex offenses.⁴² The federal offenses are violations of 18 U.S.C. 1591 (sex trafficking), 2422(b) (use of a facility in interstate or foreign commerce to coerce or entice a child to engage in illicit sexual activity), 2423(a) (interstate transportation of a child for illicit sexual purposes), 2244 (abusive sexual contact).⁴³ The generic offenses are use of a child in a sexual performance, solicitation of a child to practice prostitution, and production or distribution of child pornography.⁴⁴ An offender is also a Tier II offender who prior to the conviction triggering the registration requirement was already been classified as a Tier I offender.⁴⁵

Tier I offenders are those required to register who are neither Tier II nor Tier III offenders,⁴⁶ and must reappear for new photographs and verification at least once a year.⁴⁷

Tier I offenders must maintain their registration for 15 years, which can be reduced to 10 years if during that time they avoid felony and sex offense convictions, complete a sex offender treatment program, and satisfy any supervised release, parole, and probation demands.⁴⁸ Tier II offenders must maintain their registration for 25 years.⁴⁹ Tier III offenders must maintain their registration

(...continued)

minor, except by a parent or guardian; solicitation of a minor to engage in sexual conduct; use of a minor in a sexual performance; solicitation to practice prostitution; video voyeurism (as described in 18 U.S.C. 1801); possession, production, or distribution of child pornography; criminal sexual conduct toward a minor, or the use of the Internet to facilitate or attempt such conduct; any conduct that by its nature is a sexual offense against a minor, 42 U.S.C. 16911 (5)(ii), (7), (6).

³⁹ 42 U.S.C. 16917.

⁴⁰ 42 U.S.C. 16913(c).

⁴¹ 42 U.S.C. 16916(2).

⁴² 42 U.S.C. 16911(3).

⁴³ 42 U.S.C. 16911(3)(A).

⁴⁴ 42 U.S.C. 16911(3)(B).

⁴⁵ 42 U.S.C. 16911(3)(C).

⁴⁶ 42 U.S.C. 16911(2).

⁴⁷ 42 U.S.C. 16916(1).

⁴⁸ 42 U.S.C. 16915(a)(1),(b).

⁴⁹ 42 U.S.C. 16915(a)(2).

for life, which can be reduced to 25 years if during that time they satisfy the same conditions that would meet Tier I reduction requirements.⁵⁰

Registration Information Online

The act insists that each jurisdiction make registration information publicly available on the Internet, accessible according to zip code and geographical radius.⁵¹ The site may not include the identity of the registrant's victim, mention arrests that have not resulted in conviction, list the registrant's social security number, or contain any other information banned by the Attorney General.⁵² Individual jurisdictions may elect not to include information relating to a Tier I offender other than one convicted of a "specific offense against a minor," the name of the registrant's employer, the name of the school where the registrant is a student, or any other information identified by the Attorney General.⁵³

The act directs the Attorney General to maintain a National Sex Offender Registry and to make sure that the evolving flow of registration information is contemporaneously forwarded electronically to the appropriate jurisdictions.⁵⁴ He has also been instructed to maintain the publicly available Dru Sjodin National Sex Offender Public Website, which now provides an online, public entryway to the Internet sex offender registries of the 50 states, the District of Columbia, Puerto Rico and Guam.⁵⁵

Finally, jurisdictions must participate in the Megan Nicole Kanka and Alexandra Nicole Zapp Communication Notification Program under which they are obligated to provide updated registration information within five days to the Attorney General; to law enforcement, school and public housing officials in the area where the registrant lives, works, or studies; to other jurisdictions where the registrant lives, works, or studies or recently did so; to National Child Protection Act background check agencies; to child welfare agencies; to certain volunteer organizations; and to individuals and entities that request notification under a jurisdiction's law.⁵⁶

During the two years following enactment, the Attorney General is to see to the development and support the software necessary to implement uniform registries within the jurisdictions.⁵⁷ In addition, he is to establish a sex offender management assistance (SOMA) grant program to assist states to implement the act.⁵⁸ Moreover, he is to assist jurisdictions to identify and locate registrants after the scattering associated a hurricane or other national disaster.⁵⁹

⁵⁰ 42 U.S.C. 16915(a)(3), (b).

⁵¹ 42 U.S.C. 16918(a).

⁵² 42 U.S.C. 16918(b).

⁵³ 42 U.S.C. 16918(c).

⁵⁴ 42 U.S.C. 16919.

⁵⁵ 42 U.S.C. 16920. As of March 22, 2007, however, it did not provide access to a Virgin Islands registry, *see*, http://www.nsopr.gov/conditions_main.htm.

⁵⁶ 42 U.S.C. 16921.

⁵⁷ 42 U.S.C. 16924.

⁵⁸ 42 U.S.C. 16926.

⁵⁹ 42 U.S.C. 16943.

The act establishes the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Training (SMART Office) within the Justice Department's Office of Justice Programs.⁶⁰ The Office is charged with the responsibility of administering the sex offender registration and notification standards and the associated grant program.⁶¹

Failure to Comply

Jurisdictions that fail to comply after the act becomes fully effective run the risk of having their Byrne program funds reduced by 10%.⁶² When considering whether to penalize a noncomplying jurisdiction, the Attorney General may consider the fact that the jurisdiction's highest court has held that full compliance would place the jurisdiction in violation of its constitution.⁶³

Other than tribal jurisdictions, each jurisdiction is obligated to criminalize an offender's failure to satisfy registration requirements with a maximum term of imprisonment greater than one year.⁶⁴ The comparable provision in prior law made no mention of how severely the offense was to be punished.⁶⁵ Furthermore, the act makes failure to register a federal crime for offenders convicted of a federal qualifying offense, or who travel in interstate commerce, or who travel in Indian country, or who live in Indian country.⁶⁶ Violations are punishable by imprisonment for not more than 10 years and by an addition penalty to be served consecutively of not less than five nor more than 30 years if the offender commits a crime of violence.⁶⁷ Moreover, violation exposes an offender to a term of supervised release for any term of years not less than five years or for life.⁶⁸ If the offender is a foreign national ("an alien") he becomes deportable upon conviction.⁶⁹

When an individual who is required to register (regardless of whether he has done so) commits one of the felonies outlawed in 18 U.S.C. 1201 (kidnaping), 1591 (sex trafficking), ch. 109A (sexual abuse), ch. 110 (sexual exploitation of children) or ch. 117 (travel for illicit sexual

⁶⁰ 42 U.S.C. 16945.

⁶¹ 42 U.S.C. 16945(c).

⁶² More precisely, failure to substantially implement the required registration system may result in the loss of "10 percent of the funds that would otherwise be allocated for that fiscal year to the jurisdiction under sub part 1 of part E of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.)," 42 U.S.C. 16925(a).

⁶³ 42 U.S.C. 16925.

⁶⁴ 42 U.S.C. 16913(e).

⁶⁵ 42 U.S.C. 14071(d).

⁶⁶ 18 U.S.C. 2250(a).

⁶⁷ 18 U.S.C. 2250(c). *Section 141(b)* instructs the United States Sentencing Commission to consider certain additional statutorily designated factors in formulating the guidelines for the failure to register offense. The Commission has issued proposed guidelines reflecting this command and the other modifications implicated by the new offenses and sentencing changes ushered in with the Act, 72 *Fed.Reg.* 4372 (Jan. 30, 2007).

⁶⁸ 18 U.S.C. 3583(k). Under Section 3583(k) several other offenses already carried a supervised term of release of any term of years and for life. For those offenses – violations of 18 U.S.C. 1591 (sex trafficking of children or by force or fraud), 2241 (aggravated sexual abuse), 2242 (sexual abuse), 2244(a)(1) (aggravated sexual abuse-like abusive sexual contact), 2244(a)(2) (sexual abuse-like abusive sexual contact), 2251 (sexual exploitation of children), 2251A (selling or buying children), 2252 (transporting, distributing or selling child sexually exploitive material), 2252A (transporting or distributing child pornography), 2260 (making child sexually exploitive material overseas for export to the U.S.), 2421 (transportation of illicit sexual purposes), 2422 (coercing or enticing travel for illicit sexual purposes), 2423 (travel involving illicit sexual activity with a child), and 2425 (interstate transmission of information about a child relating to illicit sexual activity) – the act also sets a five year minimum term of supervised release, 18 U.S.C. 3583.

⁶⁹ 8 U.S.C. 1227(a)(2)(A)(v).

purposes), his term of supervised release is to be revoked and he is to be sentenced to a term of imprisonment of not less than five years.⁷⁰

Additional appropriations have been authorized to permit the Attorney General to use the Marshals Service and other resources at his disposal to locate and apprehend those who have failed to register.⁷¹

Standards and Reports

The Attorney General must provide Congress with an annual report relating to sex offender registration covering prosecution for failure to register, the use of the Marshals Service to track down those who fail to register, and a description of compliance with registration system requirements by each jurisdiction and of the Justice Department's efforts to ensure compliance.⁷²

Section 637 calls for the Attorney General to assemble a task force comprised of federal, state and local representatives to study and report on various risk-based classification of sex offenders. *Section 638* asks that he examine and report on the effectiveness of various means to reducing recidivism among sex offenders. And *Section 63* – without any explicit reference to sex offenders or children – commands him to study the means of improving the effectiveness of federal, state and local homicide investigations.⁷³

The National Institute of Justice has been given five years to study and make recommendations to Congress for the reduction of the number of sex offenses committed against children and for improved effectiveness of the sex offender registration system.⁷⁴

Section 636 instructs the Government Accountability Office (GAO) to study the feasibility of a nationwide requirement comparable to that established in Chapter 507 of the Nevada Session Laws,⁷⁵ under which sex offender registration information is shared with motor vehicle authorities to ensure that those required to register as sex offenders have done so before a driver's license is issued.

Adjustments to Federal Criminal Law

The Adam Walsh Child Protection and Safety Act is focused, as its name implies, upon child protection and safety. Its efforts involve the creation of new federal crimes, the enhancement of the penalties for preexisting federal crimes, and the amendment of federal criminal procedure. Many of these efforts are child-specific; some are more general. The new federal crimes include the following.

- murder in the course of a wider range of federal sex offenses, 18 U.S.C. 2245

⁷⁰ 18 U.S.C. 3583(k).

⁷¹ 42 U.S.C. 16941.

⁷² 42 U.S.C. 16991.

⁷³ The section does suggest that he include within the report an examination of the extent of coordination between homicide investigators and the National Center for Missing Children as well as the National Center for Missing Adults.

⁷⁴ 42 U.S.C. 16990.

⁷⁵ Nev. Rev. Stat. §§179D.570, 483.283, 483.861, 483.929.,

- Internet date rape drug trafficking, 21 U.S.C. 841(b)(7)
- kidnaping that involves the use of interstate facilities, 18 U.S.C. 1201
- child abuse in Indian country, 18 U.S.C. 1153
- production of obscene material, 18 U.S.C. 1465, 1466
- obscenity or pornography in Internet source codes, 18 U.S.C. 2252C
- child exploitation enterprises, 18 U.S.C. 2252A(g).

The list of penalty increases is comparable, if somewhat more extensive.

- serious violent crimes against children, 18 U.S.C. 3559(f)
- coercion or enticement of a child for illicit sexual purposes, 18 U.S.C. 2422
- interstate transportation of a child for illicit sexual purposes, 18 U.S.C. 2423
- sexual abuse in a federal prison or enclave, 18 U.S.C. 2242
- aggravated sexual abuse of a child, 18 U.S.C. 2241
- abusive sexual contact with a child, 18 U.S.C. 2244
- sexual exploitation of a child, 18 U.S.C. 2251
- traffic in child exploitive material, 18 U.S.C. 2252
- traffic in child pornography, 18 U.S.C. 2252A
- use of a misleading Internet domain name to induce a child, 18 U.S.C. 2252B
- overseas production of child exploitive or pornographic material, 18 U.S.C. 2260
- sex trafficking, 18 U.S.C. 1591
- failure to report child abuse, 18 U.S.C. 2258
- false statements relating child or sexual offenses, 18 U.S.C. 1001.

The amendments to federal criminal procedure are a bit less numerous and somewhat more likely to implicate crimes in addition to those committed against children. Among their number are:

- random searches of sex offender registrants as a condition of probation or supervised release, 18 U.S.C. 3563, 3583
- expanded DNA collection from those facing federal charges or convicted of any federal offense, 42 U.S.C. 14135a(a)(1)(A)
- elimination of the statute of limitations for various sexual crimes or crimes committed against a child, 18 U.S.C. 3299
- participation of state crime victims in federal habeas proceedings, 18 U.S.C. 3771(b)(2)(B)
- study of the elimination of marital privileges in abuse cases
- preventive detention in cases involving a minor victim or a firearm, 18 U.S.C. 3142(g)(1)

- compensation for guardians ad litem, 18 U.S.C. 3509(h)
- government control of evidence in pornography cases, 18 U.S.C. 3509(m)
- forfeiture procedures in obscenity, exploitation and pornography cases, 18 U.S.C. 1467, 2253, 2254
- murder during course of various sex offenses as a felony murder predicate, 18 U.S.C. 3592(c)(1)
- civil commitment procedure for federal sex offenders, 18 U.S.C. 4248.

Nlw Proclidurls

Worrontless seorches

Section 210 amends federal law to expose sex offender registrants to warrantless, suspicionless (random) searches as a condition of their supervised release or probation.⁷⁶ As a general rule, random searches raise Fourth Amendment questions.

The Fourth Amendment states that, “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”⁷⁷ The Amendment’s facially absolute terms are subject to qualification. For example, the Supreme Court recently upheld the random search of the person of a parolee in *Sampson v. California*.⁷⁸

As the Court explained in that context, the hallmark of Fourth Amendment compliance is reasonableness, and the courts will “examine the totality of the circumstances to determine whether a search is reasonable.”⁷⁹ More precisely, “Whether a search is reasonable is determined by assessing, on the one hand, the degree to which it intrudes upon an individual’s privacy and, on the other, the degree to which it is needed for the promotion of legitimate governmental interest.”⁸⁰

The Court had previously upheld the suspicion-based, but warrantless, search of a probationer’s apartment in *United States v. Knights*.⁸¹ There the Court had observed that in balancing an individual’s privacy interest against the interests of the government the weight afforded the individual’s interest varies according to the individual’s justifiable expectation of privacy under the circumstances, and those subject to punishment by the government – like prisoners, parolees and probationers – may claim only a reduced expectation of privacy.⁸² Among them, however, there is a range of expectations corresponding to the continuum of punishments that accompanies

⁷⁶ 18 U.S.C. 3563(b)(23), 3583(d).

⁷⁷ U.S. Const. Amend. IV.

⁷⁸ 126 S.Ct. 2193 (2006). For a general discussion of *Sampson*, see CRS Report RL33664, *An Overview of the Supreme Court’s Search and Seizure Decisions from the October 2005 Term*, by (name redacted).

⁷⁹ *Id.* at 2197.

⁸⁰ *Id.*

⁸¹ 534 U.S. 112 (2001).

⁸² *Id.* at 119-20.

their status. “On this continuum, parolees have fewer expectations of privacy than probationers” and those on federal supervised release.⁸³ Moreover, a parolee’s acceptance of suspicionless searches as a condition of parole significantly diminishes the individual’s expectation of privacy.⁸⁴ Under these circumstances, the *Sampson* Court concluded Sampson had no legitimate expectation of privacy.

On the other hand, the Court considered the government’s interest substantial, “a State’s interest in reducing recidivism and thereby promoting reintegration and positive citizenship among probationers and parolees warrant privacy intrusions that would not otherwise be tolerated under the Fourth Amendment.”⁸⁵

In the absence of such an expectation, the Court found it unnecessary to consider the question of whether the search might be justified under the Fourth Amendment’s special needs doctrine or under the Amendment’s consent exception.⁸⁶ Some may believe that *Section 210* makes such an examination necessary, since it involves probationers and those on supervised released, individuals said to have a higher expectation of privacy than the parolee in *Sampson*.

Application of the Court’s special needs and consent jurisprudence, however, presents its own challenges. The special needs doctrine emerged from the Court’s school and drug testing cases.⁸⁷ Beginning there, the Court has identified circumstances under which the government’s particularly weighty special interests, balanced against the nature of the intrusion upon an individual’s privacy interests, justify a search without the usual protection of either probable cause or a warrant. Even here, however, the Court has been “particularly reluctant to recognize exceptions to the general rule of individualized suspicion where the government authorities primarily pursue their general crime control ends.”⁸⁸ Yet there are circumstances under which the Court has been able to overcome its reluctance.⁸⁹

As for consent, an individual could be said to have consented to a condition for parole and perhaps even probation where the alternative is incarceration, but supervised release is imposed in addition to, rather than in lieu of, imprisonment.⁹⁰ Unlike parole or probation, it is imposed rather than accepted. Imposition of the condition, however, is discretionary,⁹¹ and a court might impose alternative, less desirable conditions to be applied should the individual fail to consent to random searches. Whether this would be considered sufficient to constitute a voluntary waiver of an individual’s Fourth Amendment rights is unclear at best.⁹² Yet the question is unlikely to arise,

⁸³ *Sampson v. California*, 126 S.Ct. at 2198.

⁸⁴ *Id.* at 2199.

⁸⁵ *Id.* at 2200.

⁸⁶ *Id.* at 2199-200 n. 3.

⁸⁷ *New Jersey v. T.L.O.*, 469 U.S. 325, 351 (1985); *Skinner v. Railway Labor Executives*, 489 U.S. 602, 616-18 (1989); *Treasury Employees v. Von Raab*, 489 U.S. 656, 665-66 (1989); *Vernonia School Dist. 47J v. Acton*, 515 U.S. 646, 652-53 (1995).

⁸⁸ *Indianapolis v. Edmond*, 531 U.S. 32, 43 (2000); *see also, Ferguson v. Charleston*, 532 U.S. 67, 79 (2001) (“In each of those earlier cases, the ‘special need’ that was advanced as a justification for the absence of a warrant or individualized suspicion was one divorced from the State’s general interest in law enforcement”).

⁸⁹ *See, Illinois v. Lidster*, 540 U.S. 419, 423 (2004) (law enforcement warrantless, suspicionless traffic stop to secure information concerning third party suspects).

⁹⁰ 18 U.S.C. 3583.

⁹¹ 18 U.S.C. 3583(d).

⁹² Voluntary consent constitutes a waiver of Fourth Amendment rights, *Schneekloth v. Bustamonte*, 412 U.S. 218, 241 (continued...)

since the case law in the lower federal courts on a comparable matter suggests that the changes worked by *Section 210* would pass constitutional muster.

Federal law requires consent to DNA sample collection as a mandatory condition of federal probation⁹³ and of federal supervised release.⁹⁴ Fourth Amendment challenges to the collection of DNA samples from prisoners, from those on probation and from those on supervised release have generally been unsuccessful in the lower federal courts, although the courts sometimes reach the same result from the different approaches – some favor a special needs analysis and others a *Knight* reasonable analysis.⁹⁵

Section 210 amends the provisions governing probation and supervised release to permit the court to impose as an explicit condition of probation or supervised release that an individual required to register as a sex offender remain subject to warrantless searches, without the need of suspicion if conducted by a probation officer as part of his supervisory duties, or upon reasonable suspicion that the individual has violated a condition of his probation or supervised release if conducted by other law enforcement officers.

The distinction between probation officers and other law enforcement officers in *Section 210* reflects the two modes of analysis under which random searches may be permissible. In *Knights*, the Court approved the warrantless search of a probationer by law enforcement officers with reasonable suspicion. In the school and drug cases, the Court approved random searches in the interests of special administrative needs, interests arguably comparable to the government's interest in the administration of the federal system probation and supervised release.

Expanded DNA collection

Prior to the 109th Congress, the DNA Analysis Backlog Elimination Act authorized the collection of DNA samples from individuals convicted of a federal qualifying offense,⁹⁶ and from individuals on probation, parole or supervised release relating to such an offense.⁹⁷ Qualifying offenses included any felony, any violation of Chapter 109A of Title 18 of the United State Code relating to sexual abuse, any crime of violence, or any attempt or conspiracy to commit any such offenses.⁹⁸ The statute directed and continues to direct that the samples be provided to the Federal Bureau of Investigation for analysis and inclusion in the Combined DNA Index System

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(1973). The Court in *Anobile v. Pelligrino*, 303 F.3d 107, 124-25 (2d Cir. 2002), noting that acceptance of a race track employment license conditioned upon a blanket consent to subsequent residential searches did not constitute valid consent sufficient to sanction an otherwise unreasonable search.

⁹³ 18 U.S.C. 3563(a)(5), (a)(9).

⁹⁴ 18 U.S.C. 3583(d).

⁹⁵ *United States v. Hook*, 471 F.3d 766, 771-73 (7th Cir. 2006); *United States v. Conley*, 453 F.3d 674, 676-80 (6th Cir. 2006); *United States v. Kraklio*, 451 F.3d 922, 923-25 (8th Cir. 2006); *Johnson v. Quander*, 440 F.3d 489, (D.C. Cir. 2006); *United States v. Sczubelek*, 402 F.3d 175, 181-87 (3d Cir. 2005); *United States v. Kincade*, 379 F.3d 813, 821-39 (9th Cir. 2004); *Groceman v. U.S. Dept. of Justice*, 354 F.3d 411, 413-14 (5th Cir. 2004); *United States v. Kimler*, 335 F.3d 1132, 1146 (10th Cir. 2003).

⁹⁶ 42 U.S.C. 14135a(a)(1)(2000 ed. & Supp. IV).

⁹⁷ 42 U.S.C. 14135a(a)(2)(2000 ed. & Supp. IV). For background and policy issues associated with law enforcement DNA collection, see CRS Report RL32247, *DNA Testing for Law Enforcement: Legislative Issues for Congress*, by (name redacted); and CRS Report RL30717, *DNA Identification: Applications and Issues*, by (name redacted).

⁹⁸ 42 U.S.C. 14135a(d)(2000 ed. & Supp. IV).

(CODIS).⁹⁹ The record is to be expunged from the Index upon notification that the individual's conviction for the qualifying offense has been overturned.¹⁰⁰

As noted previously, the lower federal courts have generally rejected constitutional challenges to these and similar state DNA sample collection statutes involving inmates, probationers, parolees and those on supervised release.¹⁰¹

The Violence Against Women and Department of Justice Reauthorization Act of 2005, P.L. 109-162, 119 Stat. 2960, 3085 (2006), amended the DNA Act to authorize the collection of samples from individuals arrested under the laws of the United States (or from non-United States persons detained under the laws of the United States), without regard to whether a qualifying offense supplies the basis for the arrest or detention.¹⁰²

Section 155 further expands the Attorney General's authority to permit collection of samples from those (1) "facing charges" for a federal offense or (2) convicted of *any* federal offense rather than just those convicted of qualifying offenses. The act does not define the term "facing charges" nor is it defined in any other section of the Code. Without more it might be thought to refer to those under indictment, but use of the term later in same subparagraph suggests it was intended to refer to those released on bail but under pre-trial supervision.¹⁰³

The amendments in the 109th Congress may anticipate certain technical adjustments. For example, they do not amend the expungement provision that applies only to qualifying offenses; so that the records of individuals with overturned convictions for the more serious qualifying offenses continue to be subject to expungement, but those with overturned convictions for the less serious nonqualifying offenses are not.¹⁰⁴

The Violence Against Women and the Walsh amendments of the 109th Congress appear to have been too recently enacted to have been the subject of decided case law as yet.¹⁰⁵ Academicians

⁹⁹ 42 U.S.C. 14135a(b).

¹⁰⁰ 42 U.S.C. 14132(d).

¹⁰¹ Unsuccessful challenges include those under the: Fourth Amendment: *United States v. Hook*, 471 F.3d 766, 771-73 (7th Cir. 2006); *United States v. Conley*, 453 F.3d 674, 676-80 (6th Cir. 2006); *United States v. Kraklio*, 451 F.3d 922, 923-25 (8th Cir. 2006); *Johnson v. Quander*, 440 F.3d 489, 492-500 (D.C. Cir. 2006); *United States v. Sczubelek*, 402 F.3d 175, 181-87 (3d Cir. 2005); *United States v. Kincade*, 379 F.3d 813, 821-39 (9th Cir. 2004); *Groceman v. U.S. Dept. of Justice*, 354 F.3d 411, 413-14 (5th Cir. 2004); *United States v. Kimler*, 335 F.3d 1132, 1146 (10th Cir. 2003); Fifth Amendment: *United States v. Reynard*, 473 F.3d 1008, 1021 (9th Cir. 2007); *United States v. Hook*, 471 F.3d 766, 773-74 (7th Cir. 2006); *Boling v. Romer*, 101 F.3d 1336, 1340-341 (10th Cir. 1997); Ex post facto: *United States v. Reynard*, 473 F.3d 1008, 1017-21 (9th Cir. 2007); *United States v. Hook*, 471 F.3d 766, 775-76 (7th Cir. 2006); *Johnson v. Quander*, 440 F.3d 489, 500-501 (D.C. Cir. 2006); Cruel and unusual punishment: *United States v. Hook*, 471 F.3d 766, 774-75 (7th Cir. 2006); Separation of powers: *United States v. Sczubelek*, 402 F.3d 175, 187-89 (3d Cir. 2005).

¹⁰² 42 U.S.C. 14135a(a) (1)(A).

¹⁰³ Subparagraph 14135a(a)(1)(A) reads in its entirety with emphasis added: "The Attorney General may, as prescribed by the Attorney General in regulation, collect DNA samples from individuals who are arrested, *facing charges*, or convicted or from non-United States persons who are detained under the authority of the United States. The Attorney General may delegate this function within the Department of Justice as provided in Section 510 of Title 28, and may also authorize and direct any other agency of the United States that arrests or detains individuals or *supervises individuals facing charges* to carry out any function and exercise any power of the Attorney General under this section."

¹⁰⁴ 42 U.S.C. 14132.

¹⁰⁵ But see, *United States v. Purdy*, 2005 WL 3465721 (No. 8:05CR204)(D.Neb. Dec. 19, 2005)(an unreported case (continued...))

differ as to the constitutional prospects of arrestee DNA sampling practices.¹⁰⁶ And as noted earlier, the lower courts have generally rejected constitutional challenges to DNA collection statutes, particularly following conviction.¹⁰⁷ Yet, in a Fourth Amendment context, defendants whose convictions have been overturned and arrestees, particularly those never prosecuted, do not fit as readily into a special needs category as inmates, parolees and those on supervised release. Moreover, on the continuum of punishment mentioned in *Knight* and *Sampson*, they presumably have a greater expectation of privacy than inmates, parolees and those on supervised release, all of whom have been convicted. Whether a court would consider the difference sufficient to tip the balance remains to be seen.

Statute of limitations

The statute of limitations for most federal crimes is five years.¹⁰⁸ There is no statute of limitations for federal capital offenses or for any of federal crimes of terrorism involving a risk of serious injury.¹⁰⁹ Moreover, the statute of limitations for a federal crime involving kidnapping a child or sexual or physical abuse of child is the longer of 10 years or the life of the child.¹¹⁰

Section 211 eliminates the statute of limitations for the federal crimes of kidnapping of a child (18 U.S.C. 1201), sexual abuse (18 U.S.C. ch. 109A), sexual exploitation of a child (18 U.S.C. ch. 110), travel for illicit sexual purposes (18 U.S.C. ch. 117), or sex trafficking of a child or of an adult by force or fraud (18 U.S.C. 1591).¹¹¹

There is no indication whether *Section 211* was intended to apply only prospectively to crimes committed after its enactment or also retroactively to crimes committed before its enactment. In any event, the elimination cannot be applied to cases in which the earlier applicable statute of limitations had run by the time *Section 211* was enacted.¹¹² And in rare cases, due process and the passage of time may preclude prosecution notwithstanding the absence of a statute of limitations bar.¹¹³

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finding DNA collection from arrestees under a Nebraska statute contrary to the remands of the Fourth Amendment).

¹⁰⁶ Compare, Maclin, *Is Obtaining an Arrestee's DNA a Valid Special Needs Search Under the Fourth Amendment? What Should (and Will) the Supreme Court Do?* 34 JOURNAL OF LAW, MEDICINE AND ETHICS 165 (2006), and Kaye, *Who Needs Special Needs? On the Constitutionality of Collecting DNA and Other Biometric Data From Arrestees*, 34 JOURNAL OF LAW, MEDICINE AND ETHICS 188 (2006).

¹⁰⁷ Supra footnote 94.

¹⁰⁸ 18 U.S.C. 3282.

¹⁰⁹ 18 U.S.C. 3281, 3286(b).

¹¹⁰ 18 U.S.C. 3283. See generally, CRS Report RL31253, *Statutes of Limitation in Federal Criminal Cases: An Overview*, by (name redacted).

¹¹¹ 18 U.S.C. 3299.

¹¹² *Stogner v. California*, 539 U.S. 607, 632-33 (2003) ("We conclude that a law enacted after expiration of a previously applicable limitations period violates the *Ex Post Facto* Clause when it is applied to revive a previously time-barred prosecution").

¹¹³ *United States v. Marion*, 404 U.S. 307, 324 (1971). A successful due process challenge would ordinarily require the accused to show that he has been prejudiced by the delay and in at least some of the federal circuits that the government chose to suffer the delay for tactical or improper reasons, *United States v. Atchley*, 474 F.3d 840, 852 (6th Cir. 2007); *United States v. Abdush-Shakur*, 465 F.3d 458, 465 (10th Cir. 2006); *United States v. Avants*, 367 F.3d 433, 441 (5th Cir. 2004).

State crime victims in federal habeas proceedings

The victims of federal crimes enjoy limited statutory rights to notice, attendance and participation in related federal judicial proceedings, 18 U.S.C. 3771.¹¹⁴ The victims of state crimes generally enjoy comparable rights in state judicial proceedings as a matter of state law.¹¹⁵

Section 212 affords the victims of state crimes certain attendance and participation rights in federal habeas corpus proceedings involving the state crime of which they were the victim.¹¹⁶ It grants them the right not to be excluded from the habeas proceedings, the right to be reasonably heard there, the right to proceedings free from unreasonable delay, and the right to be treated fairly and with respect for their dignity and privacy.¹¹⁷ The rights are available to all victims, not merely those who were children at the time of the offense or those who were the victims of a sexual offense. The federal courts are obliged to honor these and the other rights vested in *Section 3771*, which are enforceable through writs of mandamus.¹¹⁸ The rights conveyed to the victims of state crimes in federal habeas proceedings, however, impose no obligations upon federal executive branch officials.¹¹⁹

All of which gives *Section 212* a number of interesting features. First, the section does not include a right to notification of the time or place of the habeas proceedings to which the other rights attach, although some state statutory or constitutional provisions may require notice by state officials.¹²⁰ Second, it seems to call for the right of victims to brief and argue the points of law raised in the habeas proceedings (the right to be reasonably heard), since the usual form of a victim's being heard, the victim impact statement, has no real place in a habeas proceeding.¹²¹ Third, it seems to promise no right of attendance or participation for the families or representatives of those victims who are children unless the child is dead or incapacitated.¹²²

A victim's right to habeas proceedings unmarred by unreasonable delays can be traced to hearing testimony and to an earlier short-lived section of the bill, which would have imposed time limits in federal habeas cases when they involved challenges to state convictions for the murder of a

¹¹⁴ See generally, CRS Report RL33679, *Crime Victims' Rights Act: A Summary and Legal Analysis of 18 U.S.C. 3771*, by (name redacted).

¹¹⁵ See generally, Beloof, Cassell, & Twist, *VICTIMS IN CRIMINAL PROCEDURE* (2d ed. 2006); and CRS Report 97-735, *Victims' Rights Amendment: Background & Issues Associated With Proposals to Amend the United States Constitution*, by (name redacted) (appending citations and selected texts of state victims' rights provisions).

¹¹⁶ 18 U.S.C. 3771(b)(2).

¹¹⁷ 18 U.S.C. 3771(b)(2)(A); 3771(a)(3), (4), (7), (8).

¹¹⁸ 18 U.S.C. 3771(b)(2)(A), (B), (d).

¹¹⁹ 18 U.S.C. 3771(b)(2) (C).

¹²⁰ *Section 212* provides cross references to those federal victims rights which apply in habeas proceeding involving state prisoners, 18 U.S.C. 3771(b)(2)(A). It does not mention 18 U.S.C. 3771(a)(2) where the right to notice is found.

¹²¹ The participation right granted by *Section 212* is "the right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding," 18 U.S.C. 3771(a)(4); 3771(b)(2)(A).

¹²² *Section 212* defines "crime victim" as "the person against whom the State offense is committed or, if that person is killed or incapacitated, that person's family member or other lawful representative," 18 U.S.C. 3771(b)(2)(D). The definition of victims for other of *Section 3771*'s purposes seems more solicitous of the interests of the child victim: "'crime victim' means a person directly and proximately harmed as a result of the commission of a Federal offense. ... In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter. . . ." 18 U.S.C. 3771(e) (emphasis added).

child.¹²³ A provision affording victims the right to fair and dignified treatment needs little explanation. The rationale for the section's other features is somewhat more difficult to ascertain.

Moritol privileges

Evidentiary questions in federal criminal cases are governed in large measure by the Federal Rules of Evidence, which are generally formulated and amended by committees within the Judicial Conference working under the auspices of the Supreme Court and with at least tacit Congressional approval.¹²⁴ The general rule on federal privileges states that they "shall be governed by the principles of the common law as they may be interpreted by the courts of the United States in light of reason and experience."¹²⁵ Under this rubric the federal courts have recognized two marital privileges. One protects confidential communications between spouses¹²⁶ and the other permits one spouse to refuse to testify against the other.¹²⁷ The federal courts have recognized an exception to the communications privilege in cases involving crimes committed by one spouse against the other or against children in the home,¹²⁸ but at least one court has refused to recognize a corresponding exception to the privilege against compelled spousal testimony.¹²⁹

Section 214 directs the Committee on Rules, Practice, Procedure and Evidence of the Judicial Conference to study the necessity and desirability of establishing an exception to both privileges in cases involve a crime committed by one spouse against a child or minor ward of either. The results will presumably be presented to Congress in the form a report transmitted through Conference and the Supreme Court, since by statute only Congress can create, abolish, or modify a federal rule of evidentiary privilege.¹³⁰

Civil Commitment

A little over a third of the states have enacted statutes that permit involuntary civil commitment of previously convicted sex offenders based on the prospect of their future commission of sexual offenses.¹³¹ In other states, involuntary civil commitment is available when the individual is

¹²³ *Protection Against Sexual Exploitation of Children Act of 2005, and the Prevention and Deterrence of Crimes Against Children Act of 2005: Hearing Before the Subcomm. on Crime, Terrorism, and Homeland Security of the House Comm. on the Judiciary on H.R. 2318 and H.R. 2388*, 109th Cong., 1st Sess. 17-8 (testimony of Carol Fornoff, mother of a murdered child)(2005); H.Rept. 109-218 at 12.

¹²⁴ 28 U.S.C. 2071-2077.

¹²⁵ F.R.Evid. 501.

¹²⁶ *Blau v. United States*, 340 U.S. 332, 333-34 (1951); *United States v. Darif*, 446 F.3d 701, 705 (7th Cir. 2006); *United States v. Griffin*, 440 F.3d 1138, 1143-144 (9th Cir. 2006).

¹²⁷ *Trammel v. United States*, 445 U.S. 40, 53 (1980); *United States v. Thompson*, 454 F.3d 459, 464 (5th Cir. 2006); *United States v. Darif*, 446 F.3d 701, 707 (7th Cir. 2006); *United States v. Griffin*, 440 F.3d 1138, 1143-144 (9th Cir. 2006).

¹²⁸ *United States v. Bahe*, 128 F.3d 1440, 1444-446 (10th Cir. 1997); *United States v. White*, 974 F.2d 1135, 1138 (9th Cir. 1992); *United States v. Allery*, 526 F.2d 1362, 1366-367 (8th Cir. 1975); *United States v. Martinez*, 44 F.Supp.2d 835, 836-37 (W.D.Tex. 1999).

¹²⁹ *United States v. Jarvison*, 409 F.3d 1221, 1231 (10th Cir. 2005).

¹³⁰ 28 U.S.C. 2074(b).

¹³¹ *Ariz. Rev. Stat. Ann. §§ 36-3701 to 36-3713*; *Cal. Welf. & Inst. Code §§ 6600-6609.3*; *Fla. Stat. Ann. § 394.910 to 394.931*; *Ga. Code Ann. § 42-1-12*; *725 Ill. Comp. Stat. Ann. ¶¶ 207/1 to 207/99*; *Iowa Code Ann. §§ 229A.1 to 229A.16*; *Kan. Stat. Ann. §§ 59-29a01 to 59-29a15*; *Mass. Gen. Laws ch. 123A, §§ 1-16*; *Minn. Stat. Ann. §§ 253B.185(1) to (6)*; *Mo. Ann. Stat. §§ 632.480 -632.513*; *N.H. Rev. Stat. Ann. §§ 135-E:1 to 135-E:12*; *N.J. Stat. Ann. (continued...)*

found to be a danger to himself or others, a procedure that under some circumstances may be used to commit sex offenders.¹³²

The Supreme Court has addressed concerns that the sex offender civil commitment procedures could be used in lieu of a criminal trial to circumvent the constitutional protections afforded the criminally accused. Faced with the argument that the statutes might be used to punish an individual simply because he was thought to pose a risk of committing some undefined crime in the future, the Court upheld a narrowly crafted Kansas statute in *Kansas v. Hendricks*:

The challenged Act unambiguously requires as finding of dangerousness either to one's self or to others as a prerequisite to involuntary confinement. Commitment proceedings can be initiated only when a person has been convicted of a mental abnormality or personality disorder which makes the person likely to engage in the predatory acts of sexual violence. The statute thus requires proof of more than mere predisposition to violence; rather, it requires evidence of past sexual violent behavior and a present mental condition that creates a likelihood of such conduct in the future if the person is not incapacitated. ... A finding of dangerousness, standing alone, is ordinarily not a sufficient ground upon which to justify indefinite involuntary commitment. We have sustained civil commitment statutes when they have coupled proof of dangerousness with the proof of some additional factor, such as a mental illness or mental abnormality. These added statutory requirements serve to limit involuntary civil confinement to those who suffer from a volitional impairment rendering them dangerous beyond their control. The Kansas Act is plainly of a kind with these other civil commitment statutes: it requires a finding of future dangerousness, and then links that finding to the existence of a mental abnormality or personality disorder that makes it difficult, if not impossible for the person to control his dangerous behavior. The precommitment requirement of a mental abnormality or personality disorder is consistent with the requirements of these other statutes that we have upheld in that it narrows the class of persons eligible for confinement to those who are unable to control their dangerousness.¹³³

Soon thereafter the Court seemed to withdraw somewhat from its pronouncements in *Hendricks*. The Kansas Supreme Court read *Hendricks* to mean that civil commitment of sex offenders under the statute required proof that they could not control their criminal urges; not so, said the United States Supreme Court in *Kansas v. Crane*.¹³⁴

It is enough to say that there must be proof of serious difficulty in controlling behavior. And this, when viewed in light of such features of the case as the nature of the psychiatric diagnosis, and the severity of the mental abnormality itself, must be sufficient to distinguish the dangerous sexual offender whose serious mental illness, abnormality, or disorder subjects him to civil commitment from the dangerous but typical recidivist convicted in an ordinary criminal case.

The later courts have been of two minds when it comes to dealing with what standard of control will satisfy due process demands for sexual predator civil commitment statutes in light of

(...continued)

§§ 30:4-27.24 to 30:4-27.29; N.D. Cent. Code §§ 25-03.3-01 to 25-03.3-23; S.C. Code Ann. §§ 44-48-10 to 44-48-170; Tex. Health & Safety Code §§841.001-841.150; Va. Code Ann. §§ 37.1-70.1 to 37.1-70.16; Wash. Rev. Code Ann. §§ 71.09.010 - 71.09.902; Wis. Stat. Ann. §§ 980.01 - 980.13.

¹³² See e.g., *State ex rel. Harkavy v. Consilvio*, 34 A.D.3d 67, 819 N.Y.S.2d 499 (2006); cf., *In re Michael U.*, 273 Neb. 198, 728 N.W.2d 116 (2007).

¹³³ *Kansas v. Hendricks*, 521 U.S. 346, 357-58 (1997).

¹³⁴ 534 U.S. 407, 413 (2002).

Hendricks and *Crane*. Some assert that the government must show that the individual has “serious difficulty controlling his potentially dangerous behavior.”¹³⁵ Others conclude that it is sufficient to establish that by virtue of some mental disorder the individual is more likely than not to engage in sexual violence in the future, because such proof “implicitly includes proof that such persons’s mental disorder involves serious difficulty in controlling his or her sexually dangerous behavior.”¹³⁶

Section 302 establishes a federal civil commitment procedure for sexual offenders in which it takes the more cautious approach.¹³⁷ It permits commitment where the court finds by clear and convincing evidence that the individual is “a sexually dangerous person.”¹³⁸ A sexually dangerous person is one “who has engaged or attempted to engage in sexually violent conduct or child molestation and who is sexually dangerous to others.”¹³⁹ A person is sexually dangerous to others who “suffers from a serious mental illness, abnormality, or disorder as a result of which he would have serious difficulty in refraining from sexually violent conduct or child molestation if released.”¹⁴⁰

Section 301 creates a grant program to assist states in establishing, enhancing or operating effective civil commitment programs for “sexually dangerous persons,” whom it defines in explicit “control” terms.¹⁴¹

Boil

As a general rule, individuals arrested for the commission of federal offenses are entitled to be released under their own recognizance or under the least restrictive conditions necessary to ensure their appearance at later judicial proceedings and to ensure community safety.¹⁴² The bail statute cites a number of permissible conditions, such as continued employment, travel restrictions, and the like.¹⁴³ In the case of individuals charged with any of the specifically designated offenses

¹³⁵ *People v. Zapisek*, 147 Cal.App.4th 1151, 1159-164, 54 Cal.Rptr.3d 873, 878 (2007); *In re Care and Treatment of Murrell*, ___ S.W.3d ___, ___ (2007 WL 465932)(Mo. Feb. 13, 2007); *In re Detention of Barnes*, 6589 N.W.2d 98, 101 (Iowa 2003); *In re Civil Commitment of Ramey*, 648 N.W.2d 260, 267 (Minn.App. 2002); *In re Commitment of W.Z.*, 173 N.J. 109, 126-30, 801 A.2d 205, 215-17 (2002).

¹³⁶ *In re Commitment of Laxton*, 254 Wis.2d 185,201, 647 N.W.2d 784, 793 (2002); *State v. White*, 891 So.2d 502, 504-10 (Fla. 2004); *In re the Detention of Thorell*, 149 Wash.2d 724, 745, 72 P.3d 708, 720 (2003); *In re Commitment of Almaguer*, 117 S.W.3d 500, 505-506 (Tex.App. 2003); *State v. Varner*, 207 Ill.2d 425, 432, 279 Ill.Dec. 506,510, 800 N.E.2d 794, 798 (2003); *In re Treatment and Care of Luckabaugh*, 351 S.C. 122, 143-44, 568 S.E.2d 338, 348-49 (2002); *In re Leon G.*, 204 Ariz. 15, 27, 59 P.3d 779, 788 (2002); see also, *Rose v. Mayberg*, 454 F.3d 958, 962 (9th Cir. 2006).

For a more extensive discussion of the division see, Gaines, *Instruct the Jury: Crane’s “Serious Difficult” Requirement and Due Process*, 56 SOUTH CAROLINA LAW REVIEW 291 (2004); *Ignoring the Supreme Court: State v. White, the Civil Commitment of Sexually Violent Predators, and Majoritarian Judicial Pressures*, 58 HASTINGS LAW JOURNAL 413 (2006).

¹³⁷ 18 U.S.C. 4247, 4248.

¹³⁸ 18 U.S.C. 4248(d).

¹³⁹ 18 U.S.C. 4247(5).

¹⁴⁰ 18 U.S.C. 4247(6).

¹⁴¹ “The term ‘sexually dangerous person’ means a person suffering from a serious mental illness, abnormality, or disorder, as a result of which he would have serious difficulty in refraining from sexually violent conduct or child molestation,” 42 U.S.C. 16971(e)(2).

¹⁴² 18 U.S.C. 3142(a)-(c).

¹⁴³ 18 U.S.C. 3142(c)(B).

involving children, the law sets a rebuttable presumption that no set of conditions will ensure public safety or the individual's later appearance.¹⁴⁴ The list includes failing to register as a sex offender or violations of the following involving a child:

18 U.S.C. 1201 (kidnaping)

18 U.S.C. 1591 (sex trafficking of children or by force or fraud)

18 U.S.C. 2241 (aggravated sexual abuse)

18 U.S.C. 2242 (sexual abuse)

18 U.S.C. 2244 (a)(1)(abusive sexual contact that if abuse would have been aggravated sexual abuse)

18 U.S.C. 2245 (sexual abuse resulting in death)

18 U.S.C. 2251 (sexual exploitation of children)

18 U.S.C. 2251A (selling or buying children)

18 U.S.C. 2252 (transporting, distributing or selling child sexually exploitive material)

18 U.S.C. 2252A (transporting or distributing child pornography)

18 U.S.C. 2260 (making child sexually exploitative material overseas for export to the U.S.)

18 U.S.C. 2421 (transportation of illicit sexual purposes)

18 U.S.C. 2422 (coercing or enticing travel for illicit sexual purposes)

18 U.S.C. 2423 (travel involving illicit sexual activity with a child)

18 U.S.C. 2425 (interstate transmission of information about a child relating to illicit sexual activity), 18 U.S.C. 2245.

Section 216(1) provides that an individual, charged with an offense that would trigger such a presumption who is nevertheless released prior to trial, must be subject to (1) electronic monitoring; (2) restrictions on his personal associations, place of residence, and travel; (3) instructions to avoid contact with past and potential victims; (4) a requirement to report regularly to supervisory authorities; (5) a curfew; and (6) a prohibition on possession of a firearm, explosive or similar dangerous instrumentalities.¹⁴⁵

Federal law permits the court to order preventive detention upon the motion of the prosecution when an individual is charged with a crime of violence or other designated serious federal offense.¹⁴⁶ *Section 216(2)* adds to the list, nonviolent crimes if they involve a child victim; or the failure to register as a sex offender; or the possession of a firearm, destructive device, or other

¹⁴⁴ 18 U.S.C. 3142(e).

¹⁴⁵ 18 U.S.C. 3142(c)(1)(B).

¹⁴⁶ 18 U.S.C. 3142(f)(1).

dangerous weapon. In doing so, the section overturns the effect of the majority of circuit court decisions that had held that simple unlawful possession of a firearm is not a crime of violence for preventive detention purposes.¹⁴⁷

When considering whether to order preventive detention, the court was once instructed to consider, among other things, “The nature and circumstances of the offense charged, including whether the offense is a crime of violence, or an offense listed in Section 2332b(g)(5)(B)[(federal crime of terrorism)] *for which a maximum term of imprisonment of 10 years or more is prescribed or involves a narcotic drug.*”¹⁴⁸

Section 216(3) rewrites the provision so that it reads, “The nature and circumstances of the offense charged, including whether the offense is a crime of violence, a federal crime of terrorism, or *involves a minor victim or a controlled substance, firearm, explosive, or destructive device.*”¹⁴⁹ Several changes are obvious. Special consideration must now be given to any federal crime of terrorism not merely federal crimes of terrorism carrying a 10 year sentence. The offenses that carry less than a 10 year maximum penalty range from destruction of federal property valued at less than \$1000 to threats and involuntary manslaughter committed under a variety of jurisdictional circumstances.¹⁵⁰ The same preventive detention consideration now attends any federal crime committed against a child, including acts of fraud and other federal crimes which neither invoke nor risk physical injury of the child.

Guardian od litem

Federal law allows the court to appoint guardians ad litem to protect the interests of children who witness or are the victims of a crime.¹⁵¹ *Section 507* amends the law to explicitly authorize federal courts to provide for such guardians’ compensation and expenses.¹⁵²

Prosecution pre-trial control of pornography

Rule 16 of the Federal Rules of Criminal Procedure states that the prosecution must permit the defendant to inspect and copy any papers, documents, data or tangible items in the government’s possession (1) that were obtained from the defendant, or (2) that the government intends to use at

¹⁴⁷ *United States v. Ingle*, 454 F.3d 1082, 1085-86 (10th Cir. 2004); *United States v. Bowers*, 432 F.3d 518, 524 (3d Cir. 2005); *United States v. Johnson*, 399 F.3d 1297, 1320 (11th Cir. 2005); *United States v. Twine*, 344 F.3d 987, 987-88 (9th Cir. 2003); *United States v. Lane*, 252 F.3d 905, 906-908 (7th Cir. 2001); *United States v. Singleton*, 182 F.3d 7, 16 (D.C. Cir. 1999); *contra*, *United States v. Dillard*, 214 F.3d 88, 104 (2d Cir. 2000).

¹⁴⁸ 18 U.S.C. 3142(g)(1)(2000 ed. & Supp. IV)(emphasis added).

¹⁴⁹ 18 U.S.C. 3142(g)(1).

¹⁵⁰ The inventory of federal crimes of terrorism punishable by imprisonment for a maximum term of less than 10 years includes 18 U.S.C. 32(c)(threat to destroy aircraft or aircraft facilities); 175b(b), (c) (biological weapon material, transfer to or possession by unregistered persons); 351, 1112 (involuntary manslaughter of a Member of Congress, Cabinet officer, or Supreme Court Justice); 930(c), 1112, 1113 (involuntary manslaughter or attempted manslaughter in a federal facility); 1361 (causing less than \$1000 damage to federal property); 1363 (damage to property within U.S. special maritime and territorial jurisdiction); 1751, 1112 (involuntary manslaughter of the President, Vice President, or senior White House staff); 2280(a)(2) (threat of violence against maritime navigation); 2281 (a)(2)(threat of violence against fixed maritime platforms); 2332 (involuntary manslaughter of an American overseas); and 49 U.S.C. 46506 (involuntary manslaughter or attempted manslaughter within the special aircraft jurisdiction of the United States).

¹⁵¹ 18 U.S.C. 3509(h).

¹⁵² *Id.*

trial, or (3) that are material to the preparation of a defense.¹⁵³ In view of these provisions, at least some district courts had instructed prosecutors to give defense counsel and defense experts copies of materials seized in child pornography prosecution when otherwise the defense would be under considerable burden and when there was no indication that either defense counsel or its experts were likely to disregard the court's protective order and abuse their access to the material.¹⁵⁴

Section 504 states that material constituting child pornography must remain in the care, custody, and control of the prosecution or the court.¹⁵⁵ Rule 16 notwithstanding, defense requests for copies must be denied as long as the prosecution makes the material reasonably available, i.e., with ample opportunity to inspect and examine the material at a government facility.¹⁵⁶

The few lower court cases to face the question to date have found no constitutional infirmity.¹⁵⁷ One court, however, has ordered that copies be provided to defense counsel because the increased cost and technical difficulties associated with examination and analysis by the defense at the government facility failed to provide an "ample opportunity" for examination and analysis by the defense.¹⁵⁸

Forfeiture

Property associated with obscenity or the sexual exploitation of children is subject to confiscation by the United States.¹⁵⁹ As a general rule, confiscation can be accomplished either as part of the criminal prosecution of the property owner (criminal forfeiture) and in civil proceedings in which the "offending" property is often treated as the defendant (civil forfeiture). Civil forfeiture requires neither the conviction nor even the complicity of the property owner; it is enough that the property satisfies the statutory nexus between the crime and the property. Civil forfeitures are often governed by the provisions of Chapter 46 of Title 18 of the United States Code;¹⁶⁰ criminal forfeiture by the provisions governing criminal forfeiture in controlled substance cases.¹⁶¹ Law enforcement agencies that investigate and prosecute the crimes that result in confiscation usually share in the proceeds of the forfeiture.¹⁶²

Preexisting federal law authorized the criminal forfeiture of obscene material, property constituting or traceable to obscenity violations, and property used to facilitate commission of

¹⁵³ F.R.Crim.P. 16(E).

¹⁵⁴ *United States v. Hill*, 322 F.Supp.2d 1081, 1091-94 (C.D. Cal. 2004); *United States v. Frabizio*, 341 F.Supp.2d 47, 48-51 (D.Mass. 2004); *United States v. Cadet*, 423 F.Supp.2d 1, 2-5 (E.D.N.Y. 2006).

¹⁵⁵ 18 U.S.C. 3509(m)(1).

¹⁵⁶ 18 U.S.C. 3509(m)(2), (3).

¹⁵⁷ *United States v. Johnson*, 456 F.Supp.2d 1016, 1018-20 (N.D. Iowa 2006) (18 U.S.C. 3509(m) is not contrary to the Fifth or Sixth Amendment either on its face or as applied); *United States v. O'Rourke*, ____ F.Supp.2d ____, ____ (D. Ariz. Jan. 17, 2007).

¹⁵⁸ *United States v. Knelling*, ____ F.Supp.2d ____, ____ (E.D.Va. Jan 25, 2007).

¹⁵⁹ 18 U.S.C. 1467, 2253, 2254.

¹⁶⁰ 18 U.S.C. 981-985.

¹⁶¹ 21 U.S.C. 853.

¹⁶² 28 U.S.C. 524(c).

such violations.¹⁶³ The obscenity statute spelled out the procedures to be used rather than relying on those that applied in controlled substance cases, and made no provision for civil forfeiture.¹⁶⁴

Section 505(a) repeals the individual criminal forfeiture provisions in the obscenity statute, adopts the controlled substance procedures by cross reference, and establishes a civil forfeiture provision adopting the procedures of Chapter 46.¹⁶⁵

Section 505(b) works much the same change in the forfeiture provisions that apply to the crimes of sexual exploitation of children.¹⁶⁶ It replaces individual criminal and civil forfeiture procedures with adoption of the generic procedures of Chapter 46 and the controlled substance statute, *id.* It eliminates from the coverage of the exploitation-related forfeiture sections Mann Act violations,¹⁶⁷ probably because the Mann Act has its own compatible criminal and civil forfeiture provisions.¹⁶⁸ The section also authorizes for the first time criminal and civil forfeiture of property generated by or used to facilitate violations of Chapter 109A (sexual abuse).¹⁶⁹

Capitol punishment

Imposition of the death penalty for murder under federal law is confined to murders committed under one or more of a series of aggravating offenses. One such aggravating circumstance is the fact that the murder was committed during the course of another specifically designated federal crime.¹⁷⁰ The list of aggravating federal felonies includes crimes like treason, kidnaping, and aircraft sabotage. *Section 206(a)(4)* adds 18 U.S.C. 2245 (murder committed during the course of various sexual offenses) to the list.¹⁷¹

Nlw Crimls

Murder in course of a federal sex offense

Section 2245, noted above, makes it a capital offense to murder an individual during the course of any of the crimes proscribed in the Chapter 109A of Title 18 of the United States Code relating to

¹⁶³ 18 U.S.C. 1467(a).

¹⁶⁴ 18 U.S.C. 1467 (2000 ed. & Supp. IV).

¹⁶⁵ 18 U.S.C. 1467(a), (b).

¹⁶⁶ 18 U.S.C. 2253, 2254.

¹⁶⁷ 18 U.S.C. 2421-2427 (transportation for illicit sexual purposes).

¹⁶⁸ 18 U.S.C. 2428.

¹⁶⁹ 18 U.S.C. 2253, 2254.

¹⁷⁰ 18 U.S.C. 3592(c)(1).

¹⁷¹ 18 U.S.C. 2245 makes it a capital offense to commit a murder during the course of any violation of 18 U.S.C. ch. 109A (sexual abuse); 18 U.S.C. 1591 (sex trafficking of children or by force or fraud); 18 U.S.C. 2251 (sexual exploitation of children); 18 U.S.C. 2251A (selling or buying children); 18 U.S.C. 2260 (making child sexually exploitative material overseas for export to the U.S.); 18 U.S.C. 2421 (transportation for illicit sexual purposes); 18 U.S.C. 2422 (coercing or enticing travel for illicit sexual purposes); 18 U.S.C. 2423 (travel involving illicit sexual activity with a child); or 18 U.S.C. 2425 (interstate transmission of information about a child relating to illicit sexual activity).

sexual abuse.¹⁷² Section 206(a)(3) amends the provision so that it is also a capital offense to commit a murder during the course of several other federal crimes, i.e.:

18 U.S.C. 1591 (sex trafficking of children or by force or fraud)

18 U.S.C. 2251 (sexual exploitation of children)

18 U.S.C. 2251A (selling or buying children)

18 U.S.C. 2260 (making child sexually exploitative material overseas for export to the U.S.)

18 U.S.C. 2421 (transportation for illicit sexual purposes)

18 U.S.C. 2422 (coercing or enticing travel for illicit sexual purposes)

18 U.S.C. 2423 (travel involving illicit sexual activity with a child)

18 U.S.C. 2425 (interstate transmission of information about a child relating to illicit sexual activity), 18 U.S.C. 2245.

Internet date rape drug trafficking

Drugs and other controlled substances are assigned to various schedules, are regulated, and penalties for their abuse are calibrated, according to the type and amount of the drug or substance and its capacity for abuse and legitimate use. Unlawful distribution of various “date rape drugs” is punishable as follows:

Substance	Amount	Term of Imprisonment
I. Flunitrazepam	less than 30 mg	not more than three years (2d offense: not more than six years), 21 U.S.C. 841(b)(2)
	30-999 mg	not more than five years (2d offense: not more than 10 years) 21 U.S.C. 841(b)(1)(D)
	1 gr or more	not more than 20 years; not less than 20 years or more than life if serious injury results (2d offense: not less than life) 21 U.S.C. 841(b)(1)(C)
II. GHB (Gamma Hydroxybutyric Acid)	any amount	not more than 20 years; not less than 20 years or more than life if serious injury results (2d offense: not less than life) 21 U.S.C. 841(b)(1)(C)
III. Ketamine (Sch.III) 21 C.F.R. §1308.13(c)(6)	any amount	not more than five years (2d offense: not more than 10 years) 21 U.S.C. 841(b)(1)(D)

In addition, surreptitiously administering any controlled substance with the intent to commit a crime of violence (including rape) is punishable by imprisonment for not more than 20 years.¹⁷³

¹⁷² 18 U.S.C. 2245.

¹⁷³ 21 U.S.C. 841(b)(7).

Section 201 makes use of the Internet to unlawfully distribute GHB, ketamine, flunitrazepam, or any substance designated by the Attorney General as similarly susceptible to abuse as a date rape drug, punishable by imprisonment for not more than 20 years.¹⁷⁴

Kidnaping

Section 213 expands federal kidnaping jurisdiction by amending 18 U.S.C. 1201 as follows:

(a) Whoever unlawfully seizes, confines, inveigles, decoys, kidnaps, abducts, or carries away and holds for ransom or reward or otherwise any person, except in the case of a minor by the parent thereof, when—

(1) the person is willfully transported in interstate or foreign commerce, regardless of whether the person was alive when transported across a State boundary ~~if the person was alive when the transportation began~~, or the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense ... 18 U.S.C. 1201 (emphasis added to reflect amendment).

In addition to interstate transportation of the victim, *Section 1201* prior to amendment and now includes kidnaping within U.S. special aircraft or special maritime and territorial jurisdiction or when the victim is a federal officer or employee or foreign dignitary.¹⁷⁵ Some may find the conversion of a local kidnaping into a federal offense if “the offender travels in interstate or foreign commerce or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce in committing or in furtherance of the commission of the offense,” a substantial expansion in federal jurisdiction.

Indian country

Under federal law, “any Indian who commits against the person or property of another Indian or other person” any of several specifically designated crimes within Indian country is subject to the exclusive criminal jurisdiction of the United States.¹⁷⁶ Prior to enactment of the Adam Walsh Child Protection and Safety Act, the section covered a felony violation of federal sexual abuse law (18 U.S.C. ch.109A), incest, assault resulting in serious injury, and assault upon a child.¹⁷⁷ These crimes are defined by the law of the surrounding state when otherwise undefined by federal law.¹⁷⁸ *Section 215* supplements the list of *Section 1153* offenses by adding any “felony child abuse or neglect.”¹⁷⁹ The change makes state child abuse and neglect felonies federal crimes subject to prosecution in federal court.

¹⁷⁴ 21 U.S.C. 841(g).

¹⁷⁵ 18 U.S.C. 1201(a)(2)-(5).

¹⁷⁶ 18 U.S.C. 1153.

¹⁷⁷ *Id.*

¹⁷⁸ 18 U.S.C. 1153(b).

¹⁷⁹ 18 U.S.C. 1153.

Production of obscene material

It has long been a federal crime to transport obscene material in interstate or foreign commerce,¹⁸⁰ and more recently to be engaged in the business of selling obscene material that has been so transported.¹⁸¹ *Section 506* makes it a federal crime to produce obscene material for such purposes.¹⁸² The new crime carries the same penalty as its predecessors, imprisonment for not more than five years.¹⁸³

Obscenity and pornography in Internet source codes

Preexisting federal law prohibits the use of misleading Internet domain names to deceptively induce children to view pornography.¹⁸⁴ *Section 703* makes it a federal crime to include words or digital images in Internet website source codes with the intent to deceptively induce a child to view pornography (punishable by imprisonment for not more than 20 years) or to deceptively induce an individual of any age to view obscene material (punishable by imprisonment for not more than 10 years).¹⁸⁵

Child exploitation enterprises

Section 701 outlaws child exploitation enterprises.¹⁸⁶ The new offense involves three or more persons who on three or more occasions commit one or more of a series federal felonies (generally sexual offenses) involving more than one child.¹⁸⁷ Offenders face imprisonment for any term of years not less than 20 years or for life.¹⁸⁸ The section makes no mention of whether the mandatory minimums are to be served consecutive to those of the predicate offenses, some of which carry more severe minimums than the enterprise offense. The class of predicate offenses when they involve a child consists of the following.

18 U.S.C. 1201 (kidnaping)¹⁸⁹

18 U.S.C. 1591 (sex trafficking of children or by force or fraud)

18 U.S.C. 2241 (aggravated sexual abuse)¹⁹⁰

18 U.S.C. 2242 (sexual abuse)

¹⁸⁰ 18 U.S.C. 1465.

¹⁸¹ 18 U.S.C. 1466.

¹⁸² 18 U.S.C. 1465, 1466.

¹⁸³ *Id.*

¹⁸⁴ 18 U.S.C. 2252B.

¹⁸⁵ 18 U.S.C. 2252C.

¹⁸⁶ 18 U.S.C. 2252A(g).

¹⁸⁷ 18 U.S.C. 2252A(g)(2).

¹⁸⁸ 18 U.S.C. 2252A(g)(1).

¹⁸⁹ Kidnaping a child is punishable by imprisonment for not less than 25 years by operation of Section 202, 18 U.S.C. 3559(f)(2).

¹⁹⁰ Aggravated sexual abuse of a child is punishable by imprisonment for not less than 30 years by operation of Section 206(a)(1), 18 U.S.C. 2241(c).

- 18 U.S.C. 2243 (sexual abuse of ward or child)
- 18 U.S.C. 2244 (abusive sexual contact)
- 18 U.S.C. 2245 (sexual abuse resulting in death)
- 18 U.S.C. 2251 (sexual exploitation of children)¹⁹¹
- 18 U.S.C. 2251A (selling or buying children)
- 18 U.S.C. 2252 (transporting, distributing or selling child sexually exploitive material)
- 18 U.S.C. 2252A (transporting or distributing child pornography)
- 18 U.S.C. 2252B (misleading Internet domain names)
- 18 U.S.C. 2252C (misleading Internet website source codes)
- 18 U.S.C. 2260 (making child sexually exploitive material overseas for export to the U.S.)¹⁹²
- 18 U.S.C. 2421 (transportation for illicit sexual purposes)
- 18 U.S.C. 2422 (coercing or enticing travel for illicit sexual purposes)
- 18 U.S.C. 2423 (travel involving illicit sexual activity with a child)
- 18 U.S.C. 2424 (filing false statement concerning an alien for illicit sexual purposes)
- 18 U.S.C. 2425 (interstate transmission of information about a child relating to illicit sexual activity), 18 U.S.C. 2252A(g).

Notes

Crimes against children

Although some federal crimes of violence subject offenders to a specific mandatory minimum term of imprisonment or to more severe penalties if the victim is a child, most do not. *Section 202* establishes new sentencing ranges for the federal crimes of murder, kidnapping, maiming, or aggravated assault (a crime of violence involving the use of a dangerous weapon or resulting in serious injury) when the victim is under 18 years of age.¹⁹³ In the case of murder, the penalty is imprisonment for any term of years not less than 30 years, imprisonment for life, or death;¹⁹⁴ in the case of kidnapping or maiming, imprisonment for life or any term of years not less than 25

¹⁹¹ Sexual exploitation involving a child by a recidivist or resulting in death is punishable by imprisonment for not less than 30 years by operation of Section 206(b)(1), 18 U.S.C. 2251(e).

¹⁹² By operation of Section 206f(b)(5), violations are punishable by imprisonment for not 25 years if committed by an offender with a prior conviction, by imprisonment for not more than 35 years if committed by an offender with 2 or more prior convictions; and by imprisonment for not more than 30 years if death results, 18 U.S.C. 2260(a), (c).

¹⁹³ 18 U.S.C. 3559(f).

¹⁹⁴ 18 U.S.C. 3559(f)(1).

years;¹⁹⁵ and in the case of aggravated assault, imprisonment for life or any term of years not less than 10 years.¹⁹⁶ The new minimum terms of imprisonment must yield to any otherwise applicable higher mandatory minimum, but the new maximum penalties trump any otherwise applicable maximum.¹⁹⁷

The new provision has the effect of making capital offenses out of several federal murder statutes that heretofore were punishable only by a term of imprisonment. A handful of earlier federal laws included a penalty escalator (but not capital punishment) when the offense they proscribe resulted in a death. The new provision only converts these to capital offenses when the victim is a child and when the misconduct involves the intentional killing of the victim or a reckless, fatal act of violence.¹⁹⁸ Among the statutes implicated are:

- 18 U.S.C. 38 (murder resulting from fraud involving aircraft and spacecraft parts)¹⁹⁹
- 18 U.S.C. 43 (murder in the course of an animal terrorism offense)
- 18 U.S.C. 175c (murder resulting from the use or possession of variola virus)
- 18 U.S.C. 248 (murder in the course of restricting access to abortion clinics)
- 18 U.S.C. 831 (murder resulting from the use or possession of nuclear materials)
- 18 U.S.C. 1347 (murder resulting from health care fraud)
- 18 U.S.C. 1365 (murder resulting from consumer product tampering)
- 18 U.S.C. 1652 (murder by an American pirate)
- 18 U.S.C. 1952 (murder in violation of the Travel Act)
- 18 U.S.C. 2118 (murder in the course of a drug store robbery or burglary)
- 18 U.S.C. 2155 (murder in the course destroying national defense material or utilities)
- 18 U.S.C. 2261-2262 (murder in the course of a federal crime of stalking).

Penalty increases attributable to the new statute may appear less dramatic in the case of kidnaping and maiming, because there are fewer federal statutes proscribing those crimes and because they were already fairly severely punished. Apart from the operation of the new Section 3559(f), kidnaping is punishable under federal law by imprisonment for any term of years or for life.²⁰⁰ And maiming when a federal crime and except when subject to the new penalty structure is punishable by imprisonment for not more than 20 years.²⁰¹ On the other hand, neither carries a

¹⁹⁵ 18 U.S.C. 3559(f)(2).

¹⁹⁶ 18 U.S.C. 3559(f) (3).

¹⁹⁷ 18 U.S.C. 3559(f).

¹⁹⁸ 18 U.S.C. 3559(f)(1), 3591(a)(2).

¹⁹⁹ It remains to be seen whether the courts would consider fraud a “crime of violence” even if it involved the concealment or introduction of a lethal product defect.

²⁰⁰ 18 U.S.C. 1201, 245.

²⁰¹ 18 U.S.C. 114.

mandatory minimum sentence, and the mandatory minimum under Section 3559(f) for maiming (25 years) is greater than the sentence otherwise authorized for the crime (20 years).

The impact of Section 3559(f) on federal assault law may be difficult to assess. There are scores of federal assault statutes.²⁰² Many prohibit assaults directed at federal officials and consequently are not likely to involve children as victims in most instances. Of the others, some impose more severe penalties when an assault involves a dangerous weapon or bodily injury, but many simply condemn assault. Few impose a sanction as severe as the life sentence or the 10 year mandatory minimum called for in Section 3559(f). Moreover, though the section defines fairly narrowly the injuries that trigger its application,²⁰³ it leaves undefined and open to liberal description the range of dangerous weapons whose use may result in the accelerated sanctions of Section 3559(f). In other federal criminal statutes, the term dangerous weapon has been understood to include shoes,²⁰⁴ belts,²⁰⁵ rings,²⁰⁶ chairs,²⁰⁷ desks,²⁰⁸ teeth,²⁰⁹ and a host of other ordinarily innocent objects that can be misused to inflict serious injury.

A sampling of the federal assault statutes whose sanctions Section 3559(f) replaces (when a child is victimized) with imprisonment for any term of years not less than 10 years or for life, along with the authorized penalties for their violation in the absence of child victim, appears in the margin.²¹⁰

In addition to the enhancements accomplished through Section 3559(f), the act increases penalties for several other child offenses, including the following.

²⁰² One incomplete inventory lists over 60 (CRS Report 94-166, *Extraterritorial Application of American Criminal Law*, by (name redacted), at 56-9).

²⁰³ Section 3559(f) incorporates by cross reference the definition of serious bodily injury found in 18 U.S.C. 1365, i.e., “the term ‘serious bodily injury’ means bodily injury which involves – (A) a substantial risk of death; (B) extreme physical pain; (C) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ, or mental facility,” 18 U.S.C. 1365(h)(3).

²⁰⁴ *United States v. Riggins*, 40 F.3d 1055, 1057 (9th Cir. 1994).

²⁰⁵ *Id.*

²⁰⁶ *United States v. Serrata*, 425 F.3d 886, 910 (10th Cir. 2005).

²⁰⁷ *United States v. Johnson*, 324 F.2d 264, 266 (4th Cir. 1963).

²⁰⁸ *United States v. Gholston*, 932 F.2d 904, 904-905 (11th Cir. 1991).

²⁰⁹ *United States v. Sturgis*, 48 F.3d 784, 788 (4th Cir. 1995).

²¹⁰ 18 U.S.C. 112 (assault with a dangerous weapon or inflicting injury upon an internationally protected person: imprisonment for not more than 10 years); 113 (assault within the special maritime and territorial jurisdiction of the U.S. with a dangerous weapon or inflicting injury: imprisonment for not more than 10 years); 115 (assault on a member of the family of a federal official because of the relationship involving a deadly weapon or inflicting injury: imprisonment for not more than 20 years); 1512(a)(3) (use of physical force to obstruct justice: imprisonment for not more than 10 years); 1952 (Travel Act violations involving the commission of a crime of violence: imprisonment for not more than 20 years); 1959 (violent crimes in aid of racketeering involving assault with a dangerous weapon or serious injury: imprisonment for not more than 20 years); 2113 (assault with a dangerous weapon in the course of bank robbery: imprisonment for not more than 25 years); 2332 (terrorist assault upon an American overseas resulting or intended to result in injury: imprisonment for not more than 10 years); 2332b (terrorist assault transcending national boundaries and involving a dangerous weapon or serious injury: imprisonment for not more than 30 years).

Crime	Imprisonment: Prior	Imprisonment: New
Use of mail/interstate commerce facilities to coerce or entice a child to engage in sexual activities, 18 U.S.C. 2422(b)	Not less than five years/not more than 30 years	Not less than 10 years/not more than life, §203
Transporting a child in interstate commerce for sexual activity, 18 U.S.C. 2423(a)	Not less than five years/not more than 30 years	Not less than 10 years/not more than life, §204
Sexual abuse in a federal prison or enclave, 18 U.S.C. 2242(a)	Not more than 20 years	Any term of years or for life, §205
Aggravated sexual abuse of a child, 18 U.S.C. 2241(c)	Any term of years or for life	Not less than 30 years or for life, §206(a)(1)
Abusive sexual contact with a child, 18 U.S.C. 2244(a)(1)	Not more than 10 years	Any term of years or for life (18 U.S.C. 2244(a) (5)), §206(2)
Sexual exploitation of a child by an offender with a prior federal conviction for sex trafficking or a state conviction for sexual abuse, sexual contact of a ward, or child pornography, 18 U.S.C. 2251(e)	Not less than 15 years/not more than 30 years	Not less than 30 years or for life, §206(b)(1)(A), (B)
Sexual exploitation of a child resulting in death, 18 U.S.C. 2251(e)	Death or imprisonment for any term of years or for life	Death or imprisonment for not less than 30 years or for life, §206(b)(1)(C)
Traffic in child sexually exploitive material by an offender with a prior state or federal conviction for sex trafficking in children, 18 U.S.C. 2252(b)	Not less than five years/not more than 20 years	Not less than 15 years/not more than 40 years, §206 (b)(2)
Traffic in child pornography by an offender with a prior state or federal conviction for sex trafficking in children, 18 U.S.C. 2252A(b)	Not less than five years/not more than 20 years	Not less than 15 years/not more than 40 years, §206 (b)(3)
Use of a misleading Internet domain name to induce a child to view harmful material, 18 U.S.C. 2252B	Not more than four years	Not more than 10 years, §206 (b)(4)
Overseas production of child sexually exploitive material for export to the U.S., 18 U.S.C. 2260 (a),(c)	Not more than 10 years; not more than 20 years for recidivists	Not less than 15 years/ not more than 30 years; not less than 25 years/ not more than 50 years for 2d offenders; not less than 35 years nor more than life for offenders with 2 or more prior convictions; death or not less than 30 years or for life if death results, §206 (b)(5)
Overseas production of child pornography material for export to the U.S., 18 U.S.C. 2260 (b), (c)	Not more than 10 years/ not more than 20 years for recidivists	Not less than five years/ not more than 20 years; not less than 15 years/ not more than 40 years for recidivists, §206 (b)(5)
A. Sex trafficking in children by a recidivist, 18 U.S.C. 1591 B. Commission of certain federal sex crimes by an offender with a prior federal sex crime conviction (18 U.S.C. 1591 not a predicate), 18 U.S.C. 3559(e)	A. Not more than 40 years (if the victim is 14 to 18 years old); any term of years or life (if the victim is under 14) B. life imprisonment	A/B. life imprisonment (18 U.S.C. 1591 becomes a predicate for Section 3559(e) purposes), §206 (c)

Crime	Imprisonment: Prior	Imprisonment: New
Sexual abuse of a ward in a federal prison or enclave, 18 U.S.C. 2243 (b)	Not more than five years	Not more than 15 years, §207
Sex trafficking in children by a recidivist, 18 U.S.C. 1591	Not more than 40 years (if the victim is 14 to 18 years old); any term of years or life (if the victim is under 14)	Not less than 10 years or for life (if the victim is 14 to 18 years old); any term of years but not less than 15 years or life (if the victim is under 14), §208
Failure to report child abuse on federal land or facility, 18 U.S.C. 2258, 3581(b)(7)	Not more than six months	Not more than one year, §209
False statements relating to an offense 1591 (sex trafficking), 2250 (failure to register), chs. 109A (sexual abuse), 110 (sexual exploitation of children), 117 (travel for illicit sexual purposes), 18 U.S.C. 1001	Not more than five years	Not more than eight years, §141(c)

Crimes by Sex Offenders

Section 702 provides a flat additional 10 year term of imprisonment to be imposed upon any individual, required to register as a sex offender under either state or federal law, who commits a subsequent felony violation of any of several federal offenses, if the crime involves a child.²¹¹ The 10 year term and the sentence for the predicate offense are to be served consecutively.²¹² The predicate offense list consists of felony violations of:

- 18 U.S.C. 1201 (kidnaping)
- 18 U.S.C. 1466A (obscene visual representation of sexual child abuse)
- 18 U.S.C. 1470 (transfer of obscene material to children)
- 18 U.S.C. 1591 (sex trafficking of children or by force or fraud)
- 18 U.S.C. 2241 (aggravated sexual abuse)
- 18 U.S.C. 2242 (sexual abuse)
- 18 U.S.C. 2243 (sexual abuse of a ward or child)
- 18 U.S.C. 2244 (abusive sexual contact)
- 18 U.S.C. 2245 (sexual abuse resulting in death)
- 18 U.S.C. 2251 (sexual exploitation of children)

²¹¹ 18 U.S.C. 2260A.

²¹² *Id.*

18 U.S.C. 2251A (selling or buying children)

18 U.S.C. 2260 (making child sexually exploitative material overseas for export to the U.S.)

18 U.S.C. 2421 (transportation for illicit sexual purposes)

18 U.S.C. 2422 (coercing or enticing travel for illicit sexual purposes)

18 U.S.C. 2423 (travel involving illicit sexual activity with a child)

18 U.S.C. 2425 (interstate transmission of information about a child relating to illicit sexual activity).

GraDt Programs

The act establishes, reinforces, and revives several grant programs devoted to child and community safety.

Section 603 authorizes mentoring grants for the Big Brothers Big Sisters of America.²¹³ *Section 604* requires the organization to provide the Administrator of the Office of Juvenile Justice and Delinquency Prevention with progress reports twice a year.²¹⁴ *Section 605* authorizes appropriations for these purposes of \$9 million (for FY2007), \$10 million (for FY2008), \$11.5 million (for FY2009), \$13 million (for FY2010), and \$15 million (for FY2011).²¹⁵

The National Police Athletic League Youth Enrichment Act established a grant program for the Police Athletic League, with an authorization of appropriations in the amount of \$16 million a year through FY2005.²¹⁶ Subtitle VI-B, §§611-617, reauthorizes appropriations at the same levels for fiscal years 2006 through 2010 and revises the factual information found in the organic legislation relating to the League.²¹⁷

Section 621 empowers the Attorney General to make grants to state, local and tribal governments in order to outfit sex offenders with electronic monitoring devices.²¹⁸ It authorizes appropriations of \$5 million for each of fiscal years 2007, 2008 and 2009 and thereafter requests the Attorney General to report on the effectiveness of the program.²¹⁹

Section 623 creates a grant program available to both public and private entities that assist in treatment of juvenile sex offenders or that assist the states in their enforcement of sex offender registration requirements.²²⁰ Appropriations are authorized for FY2007 through FY2009 in such

²¹³ 42 U.S.C. 5611 note.

²¹⁴ *Id.*

²¹⁵ *Id.*

²¹⁶ P.L. 106-367, 114 Stat 1412 (2000); 42 U.S.C. 13751 note (2000 ed.).

²¹⁷ 42 U.S.C. 13701 note.

²¹⁸ 42 U.S.C. 16981(a).

²¹⁹ 42 U.S.C. 16981(c).

²²⁰ 42 U.S.C. 3797ee, 3797ee-1.

amounts as are necessary in the case of the enforcement grants and in the amount \$10 million per year in the case of the juvenile sex offender grants.²²¹

Section 624 permits the Attorney General to award grants to facilitate the prosecution of cases cleared as a consequence of the DNA backlog elimination.²²² It authorizes appropriations of such sums as are necessary for that purpose for FY2007 through FY2011.²²³

Section 625 establishes a grant program for law enforcement agencies to combat sexual abuse of children with authorized appropriations of the necessary sums for FY2007 through FY2009.²²⁴

Section 626 calls for grants to a national private, nonprofit organization for a program of crime prevention media campaign.²²⁵ For such purposes, it authorizes appropriations of \$7 million (for FY2007), \$8 million (for FY2008), \$9 million (for FY2009), and \$10 million (for FY2010).²²⁶

Section 627 permits the Attorney General to award grants to state, local and tribal government programs for the voluntary fingerprinting of children.²²⁷ It authorizes the appropriations totaling \$20 million for use through FY2011 for the task.²²⁸

Section 628 authorizes grants to enable a private, nonprofit organization – the Rape, Abuse & Incest National Network (RAINN) – to operate a sexual assault hotline, conduct media campaigns, and provide technical assistance for law enforcement.²²⁹ It authorizes appropriations of \$3 million per year for fiscal years 2007 through 2010.²³⁰

Section 630 permits the Attorney General to establish an online child safety grant program for the benefit of state, territorial and nonprofit grantees, subject to the availability of appropriations.²³¹

Section 631 creates the Jessica Lunsford Address Verification Grant Program to enable state, local and tribal grantees to verify the addresses of registered sex offenders with authorization of the necessary appropriations for FY2007 through FY2009 and the requirement of an Attorney General's report on the effectiveness of the program.²³²

Other Child Safety Initiatives

The act sets forth a wide assortment of other provisions designed to prevent, prosecute or punish the victimization of children. Among them are sections that broaden access to federal criminal

²²¹ Id.

²²² 42 U.S.C. 16982(a).

²²³ 42 U.S.C. 16982(b).

²²⁴ 42 U.S.C. 16983.

²²⁵ 42 U.S.C. 3765.

²²⁶ Id.

²²⁷ 42 U.S.C. 16984.

²²⁸ 42 U.S.C. 16984(e).

²²⁹ 42 U.S.C. 16985.

²³⁰ Id.

²³¹ 42 U.S.C. 16987.

²³² 42 U.S.C. 16988.

records information systems, create a national child abuse registry, expand recordkeeping requirements for those in the business of producing sexually explicit material, immunize officials from civil liability for activities involving sexual offender registration, and authorize and direct the Department of Justice to establish and maintain a number of child protective activities.

National Child Abuse Registry

Section 633 directs the Secretary of Health and Human Services to establish a registry of substantiated instances of child abuse or neglect collected from state and tribal sources.²³³ The registry is only to be made available to federal, state, local and tribal entities obligated to protect children against abuse and neglect.²³⁴

Background Checks

The Federal Bureau of Investigation (FBI) maintains a number of criminal information databases, consisting of information supplied by state and federal law enforcement officials, that can be used to determine the existence and extent if any of a particular individual's criminal record.²³⁵ The system is used primarily for law enforcement purposes, but is also available for such purposes as background checks of employees or prospective employees for certain occupations.²³⁶

Section 151 directs the Attorney General to make the FBI's national criminal information databases available to governmental child protective service agencies and, when related to responsibilities under federal law, to the National Center for Missing and Exploited Children.²³⁷

Section 152 expands the obligation of states, territories and tribes that receive payments under Title IV-E of the Social Security Act for foster care and adoption assistance to expand the background checks conducted on prospective foster and adoptive parents.²³⁸ Under prior law, unless a state had "opted out," it was required to conduct a criminal records check of prospective foster and adoptive parents of a child for whose benefit assistance payments were to be made and to withhold payments from those convicted of various child abuse or neglect offenses, crimes of violence, or sex offenses.²³⁹

Section 152 makes the obligation more specific and expansive by insisting that the states do a fingerprint criminal record check using the FBI's national crime information databases of all

²³³ 42 U.S.C. 16990.

²³⁴ 42 U.S.C. 16990(e).

²³⁵ 28 U.S.C. 534; 28 C.F.R. pt.20.

²³⁶ 28 U.S.C. 534 note.

²³⁷ The National Center for Missing and Exploited Children is a private nonprofit organization that is authorized, among other things, to receive an annual grant to maintain a national hotline for reporting the location of missing children; to operate a clearinghouse of information concerning missing and exploited children; to provide information relating free or low cost legal, transportation, sustenance and lodging for missing and exploited children; to train law enforcement officials in the prevention, investigation, prosecution and treatment of missing and exploited children; to locate missing children; and to operate a cyber tip line as a means of reporting Internet-related sexual misconduct involving children, 42 U.S.C. 5773.

²³⁸ For a more extensive discussion, see CRS Report RL31242, *Child Welfare: Federal Program Requirements for States*, by (name redacted).

²³⁹ 42 U.S.C. 671 (a)(20) (2000 ed.).

prospective foster and adoptive parents regardless of the prospect of receiving assistance.²⁴⁰ They are obligated to check the child abuse and neglect registry in any state in which a prospective parent or an adult member of their household has lived in the previous five years as well.²⁴¹ And they must honor reciprocal registry requests from other states and take steps to prevent unauthorized dissemination of the information.²⁴² Moreover, *Section 152(b)* phases out (by October 1, 2008) the ability to opt out of the criminal records check responsibility for the states that had previously elected to do so.

Section 153 makes the FBI's national criminal information databases available for fingerprint-based background checks not only of prospective foster and adoptive parents, but also for employees or prospective employees of public and private schools or when sought in child abuse or child neglect investigation by state welfare officials.²⁴³

Law enforcement agencies that report missing children to the FBI's national criminal information databases have long been precluded from imposing a waiting period before they would accept a missing person report.²⁴⁴ *Section 154* precludes them from imposing a policy dictating removal from the system based solely on the age of the missing person.²⁴⁵

Record Keeping by Porn Producers

The producers of sexually explicit material must maintain records designed to ensure that they are not using children as subjects.²⁴⁶ They must keep detailed records, available for inspection, on the name, age, and means of verification of those whose performances are depicted in their material.²⁴⁷ The Attorney General has authority to issue implementing regulations and has done so.²⁴⁸

Enforcement of the regulations was preliminarily enjoined initially, however, on the grounds that while the statute covered only primary producers, the regulations purported to reach as well secondary producers who did not arrange for the appearance of the performers.²⁴⁹ Moreover, the prospects of enforcement were clouded by uncertainty over the implications of *Ashcroft v. Free Speech Coalition*,²⁵⁰ in which the Supreme Court held that inclusion of "virtual child

²⁴⁰ 42 U.S.C. 671(a)(20)(A).

²⁴¹ 42 U.S.C. 671(a)(20)(C)(i).

²⁴² 42 U.S.C. 671(a)(20)(C)(ii), (iii).

²⁴³ 42 U.S.C. 16962.

²⁴⁴ 42 U.S.C. 5780(1)(2000 ed.).

²⁴⁵ 42 U.S.C. 5780(2).

²⁴⁶ 18 U.S.C. 2257.

²⁴⁷ 18 U.S.C. 2257(b).

²⁴⁸ 28 C.F.R. pt. 75.

²⁴⁹ *Free Speech Coalition v. Gonzales*, 406 F.Supp.2d 1196, 1202 (D.Colo. 2005). Under the law in effect at the time, "the term 'produces' mean[t] to produce, manufacture, or publish any book, magazine, periodical, film, video tape, computer generated image, digital image or picture, or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution or any other activity which does not involve hiring, contracting for managing, or otherwise arranging for the participation of the performers depicted," 18 U.S.C. 2257(h)(3)(2000 ed. & Supp. III).

²⁵⁰ 535 U.S. 234 (2002).

pornography” within class of proscribed child pornography offended First Amendment principles.²⁵¹

Section 502 addresses those concerns by amending 18 U.S.C. 2257 to make it clear that it applies to secondary producers, and that it applies to the producers of digitally created or computer manipulated explicit sexual activities but only where those depicted are actually human beings.²⁵² The definitions of pornography regularly refer to “actual or simulated sexual” activity.²⁵³ In order distance itself from the difficulties the Court found in “virtual” sexual activity, Section 2257 refers only to “actual” activity.²⁵⁴ In order to deal with simulated sexual activity by human beings, Section 503 creates a companion recording keeping mandate for the producers of “simulated sexually explicit conduct.”²⁵⁵ The new section likewise applies only where there are human performers,²⁵⁶ and reaches the same kinds of producers that Section 2257 touches.²⁵⁷

Civil Liability and Immunity

At one time, child victims injured as a result of various federal sexual offenses had a cause of action against the offender for attorneys fees and the greater of actual damages or \$50,000.²⁵⁸ Section 707 increased the minimum to \$150,000.²⁵⁹ The underlying sex offenses are violations of 18 U.S.C. 2241(c) (aggravated sexual abuse), 2242 (sexual abuse), 2243 (sexual abuse of a minor or ward), 2251 (sexual exploitation of a child), 2251A (selling or buying a child for sexual purposes), 2252 (transporting, distributing or selling child sexually exploitive material), 2252A (transporting or distributing child pornography), 2260 (overseas production of child pornography), 2421 (interstate travel of illicit sexual purposes), 2422 (coercion or enticement for illicit sexual purposes), and 2423 (transportation of a minor of illicit sexual purposes).²⁶⁰ Section

²⁵¹ See generally, CRS Report 98-670, *Obscenity, Child Pornography, and Indecency: Recent Developments and Pending Issues*, by (name redacted); and CRS Report 95-800, *Obscenity and Indecency: Constitutional Principles and Federal Statutes*, by (name redacted).

²⁵² “(a) Whoever produces any book, magazine, periodical, film, videotape, digital image, digitally- or computer-manipulated image of an actual human being, picture, or other matter ... (h) In this section – (1) the term ‘actual sexually explicit conduct’ means *actual but not simulated conduct* as defined in clauses (i) through (v) of Section 2256(2)(A) of this title; (2) the term ‘produces’ – (A) means – (i) actually filming, videotaping, photographing, creating a picture, digital image, or digitally- or computer-manipulated image of an actual human being; (ii) digitizing an image, of a visual depiction of sexually explicit conduct; or, assembling, manufacturing, publishing, duplicating, reproducing, or reissuing a book, magazine, periodical, film, videotape, digital image, or picture, or other matter intended for commercial distribution, that contains a visual depiction of sexually explicit conduct; or (iii) inserting on a computer site or service a digital image of, or otherwise managing the sexually explicit content, of a computer site or service that contains a visual depiction of, sexually explicit conduct; and (B) does not include activities that are limited to ... (iii) any activity, *other than those activities identified in subparagraph (A)*, that does not involve the hiring, contracting for, managing, or otherwise arranging for the participation of the depicted performers ... 18 U.S.C. 2257(a), (h)(1), (2)(A), 2(B)(iii) (emphasis added).

²⁵³ See e.g., *Ashcroft v. American Civil Liberties Union*, 542 U.S. 656, 661 (2004); *New York v. Ferber*, 458 U.S. 747, 751 (1982).

²⁵⁴ 18 U.S.C. 2257(h)(1).

²⁵⁵ 18 U.S.C. 2257A.

²⁵⁶ 18 U.S.C. 2257A(a).

²⁵⁷ 18 U.S.C. 2257A(h)(1).

²⁵⁸ 18 U.S.C. 2255 (2000 ed.).

²⁵⁹ 18 U.S.C. 2255.

²⁶⁰ 18 U.S.C. 2255.

707 also amends Section 2255 to permit recovery even if the injury caused by the offense only occurs after the child is an adult.²⁶¹

Immunity

Federal law requires electronic service providers who discover evidence of child pornography to report the matter to law enforcement authorities by way of the Cyber Tip Line of the National Center for Missing and Exploited Children, a private nonprofit organization.²⁶² The provision affords service providers immunity from civil liability for good faith compliance.²⁶³ With an exception of intentional, malicious, or reckless misconduct, *Section 130* of the act affords the Center, its officers, employees and agents civil and criminal immunity for performance related to the provision.²⁶⁴ The new immunity is similar to that found in the PROTECT Act which, although it does not provide immunity from criminal liability, seems to grant more all encompassing civil immunity.²⁶⁵

Civil immunity for government officers, employees and their agents for conduct involving the sexual offender registration system established in Title I of the act is found in *Section 131*.²⁶⁶

Whether the safe harbor shields the Center and those associated with it from both federal and state liability under either provision remains to be seen. The same question may be asked of the immunity bath afforded government officers, employees and agents.

²⁶¹ 18 U.S.C. 2255.

²⁶² 42 U.S.C. 13032.

²⁶³ 42 U.S.C. 13032(c).

²⁶⁴ “(1) In general. Except as provided in paragraphs (2) and (3), the National Center for Missing and Exploited Children, including any of its directors, officers, employees, or agents, is not liable in any civil or criminal action arising from the performance of its Cyber Tipline responsibilities and functions, as defined by this section, or from its efforts to identify child victims.

“(2) Intentional, reckless, or other misconduct. Paragraph (1) does not apply in an action in which a party proves that the National Center for Missing and Exploited Children, or its officer, employee, or agent as the case may be, engaged in intentional misconduct or acted, or failed to act, with actual malice, with reckless disregard to a substantial risk of causing injury without legal justification, or for a purpose unrelated to the performance of responsibilities or functions under this section.

“(3) Ordinary business activities. Paragraph (1) does not apply to an act or omission related to an ordinary business activity, such as an activity involving general administration or operations, the use of motor vehicles, or personnel management,” 42 U.S.C. 13032(g).

²⁶⁵ “(a) Except as provided in subsection (b) of this section, the National Center for Missing and Exploited Children, including any of its officers, employees, or agents, shall not be liable for damages in any civil action for defamation, libel, slander, or harm to reputation arising out of any action or communication by the National Center for Missing and Exploited Children, its officers, employees, or agents, in connection with any clearinghouse, hotline or complaint intake or forwarding program or in connection with activity that is wholly or partially funded by the United States and undertaken in cooperation with, or at the direction of a Federal law enforcement agency. (b) The limitation in subsection (a) of this section does not apply in any action in which the plaintiff proves that the National Center for Missing and Exploited Children, its officers, employees, or agents acted with actual malice, or provided information or took action for a purpose unrelated to an activity mandated by Federal law. For purposes of this subsection, the prevention, or detection of crime, and the safety, recovery, or protection of missing or exploited children shall be deemed, per se, to be an activity mandated by Federal law,” 42 U.S.C. 1591d.

²⁶⁶ 42 U.S.C. 16929.

Department of Justice

The act includes several sections in which the Department of Justice is authorized, directed or encouraged to take action in the greater interest of child protection and safety.

Project Safe Childhood

Section 142 provides the legal foundation for Justice Department's Project Safe Childhood, established shortly before passage of the act.²⁶⁷ The Project directs the various United States Attorneys to coordinate federal, state, local and tribal efforts to investigate and prosecute Internet crimes against children.²⁶⁸ It features strategic planning, training, and information sharing at the judicial district level.²⁶⁹ Participants include the FBI (Innocent Images Unit); the Secret Service; the Postal Service (Child Exploitation Task Forces); Immigration and Customs Enforcement (Cyber Crime Center); the Justice Department's Criminal Division and Internet Crimes Against Children (ICAC) Task Forces;²⁷⁰ state, local and tribal law enforcement officials, and the National Center for Missing and Exploited Children.²⁷¹

Training to Combat Internet Abuse

Section 145 instructs the Attorney General to expand his efforts to prevent misuse of the Internet by sex offenders.²⁷² It asks that he expand training opportunities for federal, state and local law enforcement officials and prosecutors and that he involve members of the computer industry and other agencies in efforts to combat the sexual victimization of children through the Internet.²⁷³

Prison Programs

Section 622 authorizes the Bureau of Prisons to establish residential and nonresidential sex offender monitoring programs to treat and supervise sex offenders.²⁷⁴

Awareness Campaign

Section 629 authorizes the Attorney General, in consultation with the National Center for Missing and Exploited Children, to develop and execute public awareness programs relating to child-safe use of the Internet and to access to federal and state sexual offender registries.²⁷⁵

²⁶⁷ 42 U.S.C. 16942. See also, Department of Justice, *Fact Sheet: Department of Justice Project Safe Childhood Initiative* (Feb. 15, 2006), available on March 22, 2007 at http://www.usdoj.gov/opa/pr/2006/February/06_opa_081.html; Department of Justice, *Project Safe Childhood*, available on March 22, 2007 at <http://www.projectsafechildhood.gov/guide.htm>.

²⁶⁸ Id.

²⁶⁹ Id.

²⁷⁰ Section 706 authorizes creation of no less than 10 additional ICAC Task Forces in FY2007 to the extent that funds are appropriated for that purpose.

²⁷¹ Id.

²⁷² 42 U.S.C. 16944.

²⁷³ Id.

²⁷⁴ 18 U.S.C. 3621(f).

Fugitive Safe Surrender

Section 632 instructs the Marshals Service to establish and coordinate a Fugitive Safe Surrender program in designated cities for the capture of fugitives from federal, state and local justice.²⁷⁶ It authorizes appropriations for that purpose in the amounts of \$3 million (for FY2007), \$5 million (for FY2008), and \$8 million (for FY2009).²⁷⁷

More Prosecutors

Section 704 directs the Attorney General to increase by not less than 200 attorneys the number of prosecutors dedicated to child sexual exploitation cases and assigned to the various United States Attorneys offices – subject to the availability of appropriations.

Forensic Resources

Section 705 asks the Attorney General and the Secretary of Homeland Security to increase the number of computer forensic examiners devoted to the investigation of sexual exploitation of children and related offenses – by not fewer than 30 examiners in the case of the Department of Justice and not fewer than 15 in the Department of Homeland Security.

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(...continued)

²⁷⁵ 42 U.S.C. 16986.

²⁷⁶ 42 U.S.C. 16989.

²⁷⁷ 42 U.S.C. 16989(c).

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SORNA Extensions Granted

The following 237 registration jurisdictions have requested and received extensions until July 27, 2011, to substantially implement SORNA. Delaware, Florida, Ohio, the Confederated Tribes of the Umatilla Indian Reservation, and the Confederated Tribes and Bands of the Yakama Nation have substantially implemented SORNA.

States/Territories

- | | |
|-------------------------|------------------------------|
| 1. Alabama | 28. Nebraska |
| 2. Alaska | 29. Nevada |
| 3. American Samoa | 30. New Hampshire |
| 4. Arizona | 31. New Jersey |
| 5. Arkansas | 32. New Mexico |
| 6. California | 33. New York |
| 7. Colorado | 34. North Carolina |
| 8. Connecticut | 35. North Dakota |
| 9. District of Columbia | 36. Northern Mariana Islands |
| 10. Georgia | 37. Oklahoma |
| 11. Guam | 38. Oregon |
| 12. Hawaii | 39. Pennsylvania |
| 13. Idaho | 40. Puerto Rico |
| 14. Illinois | 41. Rhode Island |
| 15. Indiana | 42. South Carolina |
| 16. Iowa | 43. South Dakota |
| 17. Kansas | 44. Tennessee |
| 18. Kentucky | 45. Texas |
| 19. Louisiana | 46. Utah |
| 20. Maine | 47. Vermont |
| 21. Maryland | 48. Virgin Islands |
| 22. Massachusetts | 49. Virginia |
| 23. Michigan | 50. Washington |
| 24. Minnesota | 51. West Virginia |
| 25. Mississippi | 52. Wisconsin |
| 26. Missouri | 53. Wyoming |
| 27. Montana | |

Tribes

- | | |
|--|---|
| 1. Metlakatla Indian Community | 9. Hopi Tribe |
| 2. Poarch Band of Creek Indians | 10. Hualapai Tribe |
| 3. Ak Chin Indian Community | 11. Kaibab Band of Paiute Indians |
| 4. Cocopah Tribal Council | 12. Navajo Nation |
| 5. Colorado River Indian Tribe | 13. Pascua Yaqui Tribe |
| 6. Fort McDowell Yavapai Nation | 14. Quechan Indian Tribe |
| 7. Gila River Indian Community Council | 15. Salt River Pima-Maricopa Indian Community |
| 8. Havasupai Tribe | |

- | | |
|--|--|
| 16. San Carlos Apache Tribe | 55. Saginaw Chippewa Indian Tribe of Michigan |
| 17. Tohono O'odham Nation | 56. Sault Ste. Marie Tribe of Chippewa Indians of Michigan |
| 18. Tonto Apache Tribe | 57. Bois Forte Band of Chippewa Indians |
| 19. White Mountain Apache Tribe | 58. Red Lake Band of Chippewa Indians of Minnesota |
| 20. Yavapai-Apache Nation | 59. Mississippi Band of Choctaw Indians |
| 21. Yavapai-Prescott Indian Tribe | 60. Blackfeet Tribal Business Council |
| 22. Fort Mojave Indian Tribe | 61. Chippewa Cree Business Committee |
| 23. Southern Ute Indian Tribe | 62. Crow Tribe |
| 24. Ute Mountain Ute Tribe | 63. Fort Belknap Indian Community |
| 25. Mashantucket Pequot Tribe | 64. Fort Peck Assiniboiné and Sioux Tribes |
| 26. Miccosukee Indian Tribe | 65. Northern Cheyenne Tribal Council |
| 27. Seminole Indian Tribe | 66. Eastern Band of Cherokee Indians |
| 28. Sac & Fox Tribe of the Mississippi in Iowa | 67. Spirit Lake Tribe |
| 29. Coeur d'Alene Tribal Council | 68. Standing Rock Sioux Tribe |
| 30. Kootenai Tribal Council | 69. Three Affiliated Tribes |
| 31. Nez Perce Tribe | 70. Turtle Mountain Band of Chippewa |
| 32. Shoshone-Bannock Tribes (Fort Hall Council) | 71. Omaha Tribe of Nebraska and Iowa |
| 33. Iowa Tribe of Kansas & Nebraska | 72. Santee Sioux Nation |
| 34. Kickapoo Tribe in Kansas | 73. Winnebago Tribal Council |
| 35. Prairie Band of Potawatomi Nation | 74. Jicarilla Apache Nation |
| 36. Sac & Fox Nation of Missouri | 75. Mescalero Apache Tribe |
| 37. Chitimacha Tribe of Louisiana | 76. Nambe Pueblo |
| 38. Coushatta Tribe of Louisiana | 77. Ohkay Owingeh |
| 39. Jena Band of Choctaw Indians | 78. Pueblo of Acoma |
| 40. Tunica-Biloxi Tribe Of Louisiana | 79. Pueblo of Cochiti |
| 41. Wampanoag Tribe of Gay Head (Aquinnah) | 80. Pueblo of Isleta |
| 42. Aroostook Band of Micmacs | 81. Pueblo of Jemez |
| 43. Passamaquoddy Tribe - Pleasant Point Reservation | 82. Pueblo of Laguna |
| 44. Penobscot Indian Nation | 83. Pueblo of San Felipe |
| 45. Bay Mills Indian Community | 84. Pueblo of San Ildefonso |
| 46. Grand Traverse Band of Ottawa and Chippewa Indians | 85. Pueblo of Sandia |
| 47. Hannahville Indian Community | 86. Pueblo of Tesuque |
| 48. Keweenaw Bay Indian Community | 87. Pueblo of Zuni |
| 49. Lac Vieux Desert Band of Lake Superior Chippewa Indians | 88. Santa Ana Pueblo |
| 50. Little River Band of Ottawa Indians | 89. Santa Clara Pueblo |
| 51. Little Traverse Bay Bands of Odawa Indians | 90. Santo Domingo Pueblo |
| 52. Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan | 91. Taos Pueblo |
| 53. Nottawaseppi Huron Band of Potawatomi Indians | 92. Duckwater Tribal Council |
| 54. Pokagon Band of Potawatomi Indians | 93. Ely Shoshone Tribe |
| | 94. Fallon Paiute Shoshone Tribe |
| | 95. Pyramid Lake Paiute Tribe |
| | 96. Reno-Sparks Indian Colony |
| | 97. Shoshone-Paiute Tribes of Duck Valley Indian Reservation |
| | 98. Summit Lake Paiute Council |

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|--|---|
| 99. Te-Moak Tribe of Western Shoshone | 143. Confederated Tribes of the Warm Springs Reservation |
| 100. Walker River Paiute Tribe | 144. Narragansett Indian Tribe |
| 101. Washoe Tribe of Nevada and California | 145. Cheyenne River Sioux Tribe |
| 102. Yerington Paiute Tribe | 146. Flandreau Santee Sioux Tribe |
| 103. Cayuga Nation | 147. Lower Brule Sioux Tribe |
| 104. Oneida Indian Nation | 148. Oglala Sioux Tribe |
| 105. Onondaga Nation | 149. Rosebud Sioux Tribe |
| 106. Saint Regis Mohawk Tribe | 150. Sisseton - Wahpeton Oyate of the Lake Traverse Reservation |
| 107. Seneca Nation of Indians | 151. Yankton Sioux Tribe |
| 108. Tonawanda Seneca Nation | 152. Alabama-Coushatta Tribes of Texas |
| 109. Tuscarora Nation | 153. Goshute Tribal Council |
| 110. Absentee - Shawnee Tribe of Indians of Oklahoma | 154. Skull Valley Band of Goshute Indians |
| 111. Alabama-Quassarte Tribal Town | 155. Ute Indian Tribe |
| 112. Apache Tribe of Oklahoma | 156. Confederated Tribes of the Chehalis Reservation |
| 113. Caddo Nation of Oklahoma | 157. Confederated Tribes of the Colville Reservation |
| 114. Cherokee Nation | 158. Hoh Indian Tribe |
| 115. Cheyenne and Arapaho Tribes of Oklahoma | 159. Jamestown S'Klallam Tribe |
| 116. Chickasaw Nation | 160. Kalispel Tribe of Indians |
| 117. Citizen Potawatomi Nation | 161. Lower Elwha Klallam Tribe |
| 118. Comanche Nation | 162. Lummi Indian Nation |
| 119. Delaware Nation | 163. Makah Indian Tribal Council |
| 120. Eastern Shawnee Tribe of Oklahoma | 164. Muckleshoot Tribal Council |
| 121. Iowa Tribe of Oklahoma | 165. Nisqually Indian Tribe |
| 122. Kaw Nation | 166. Nooksack Indian Tribe |
| 123. Kickapoo Tribe of Oklahoma | 167. Port Gamble S'Klallam Tribe |
| 124. Kiowa Indian Tribe of Oklahoma | 168. Puyallup Tribe of Indians |
| 125. Miami Tribe of Oklahoma | 169. Quileute Tribe |
| 126. Modoc Tribe of Oklahoma | 170. Quinault Indian Nation |
| 127. Muscogee (Creek) Nation | 171. Samish Indian Nation |
| 128. Osage Nation | 172. Sauk-Suiattle Tribe |
| 129. Otoe-Missouria Tribe of Oklahoma | 173. Shoalwater Bay Indian Tribe |
| 130. Ottawa Tribe of Oklahoma | 174. Skokomish Indian Tribe |
| 131. Pawnee Nation of Oklahoma | 175. Snoqualmie Indian Tribe |
| 132. Peoria Tribe of Indians of Oklahoma | 176. Spokane Business Council |
| 133. Ponca Tribe of Indians of Oklahoma | 177. Squaxin Island Tribe |
| 134. Quapaw Tribe of Oklahoma | 178. Suquamish Tribe |
| 135. Sac and Fox Nation of Oklahoma | 179. Swinomish Indian Tribal Community |
| 136. Seminole Nation of Oklahoma | 180. Tulalip Tribes of Washington |
| 137. Seneca-Cayuga Tribe of Oklahoma | 181. Upper Skagit Indian Tribe |
| 138. Tonkawa Tribe of Indians of Oklahoma | 182. Menominee Indian Tribe of Wisconsin |
| 139. United Keetoowah Band of Cherokee Indians | 183. Eastern Shoshone Tribe |
| 140. Wichita and Affiliated Tribes | 184. Northern Arapaho Tribe of the Wind River Reservation |
| 141. Wyandotte Nation | |
| 142. Burns Paiute Tribe | |



SMART
Office of Sex Offender Sentencing, Monitoring,
Apprehending, Registering, and Tracking

Sex Offender Registration and Notification Act (SORNA) State and Territory Implementation Progress Check

December 17, 2018
SMART.gov

Enacted in 2006, Title I of the Adam Walsh Child Protection and Safety Act — the Sex Offender Registration and Notification Act (SORNA) — created a baseline standard for sex offender registration and public notification. SORNA replaced a patchwork of federal laws, including the Jacob Wetterling Act and Megan’s Law, to improve consistency among jurisdictions’ sex offender registration and notification laws. States and other jurisdictions that substantially implement SORNA’s requirements avoid a reduction in federal funding.

To verify compliance, the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) reviews jurisdictional laws, policies and procedures across 14 SORNA categories, detailing if a jurisdiction has or has not met the standards. These SORNA substantial implementation reviews are available at <https://smart.gov/sorna-map.htm>.

The following progress check summarizes where each state, territory and the District of Columbia has met the SORNA minimum requirements in five broad categories (I. SORNA Implementation Overview), followed by a more detailed summary of each jurisdiction (II. Individual State & Territory SORNA Implementation). This document is meant to summarize jurisdictions’ SORNA implementation status and is not a full account of each jurisdiction’s efforts to implement SORNA.

APPENDIX W

I. SORNA Implementation Overview

State/Territory	Offenses & Offenders Included	Tracking & Penalizing Absconders	Community Notification	Appearance & Verification	Information Sharing
Alabama	✓	✓	✓	✓	✓
Alaska	⚠	⚠	⚠	⚠	✓
American Samoa	✓	✓	✓	✓	✓
Arizona	⚠	⚠	⚠	⚠	⚠
Arkansas	⚠	✓	⚠	⚠	✓
California	⚠	⚠	⚠	⚠	✓
Commonwealth of the Northern Mariana Islands	✓	✓	✓	✓	✓
Colorado	✓	✓	✓	✓	✓
Connecticut	⚠	✓	✓	⚠	✓
Delaware	⚠	✓	✓	✓	✓
District of Columbia	⚠	⚠	⚠	⚠	✓
Florida	✓	✓	✓	✓	✓
Georgia	⚠	✓	⚠	⚠	⚠
Guam	✓	✓	✓	✓	✓
Hawaii	⚠	✓	✓	✓	✓
Idaho	✓	✓	⚠	⚠	✓
Illinois	✓	✓	⚠	⚠	⚠
Indiana	⚠	⚠	✓	⚠	⚠
Iowa	⚠	✓	✓	✓	✓
Kansas	✓	✓	✓	✓	✓
Kentucky	⚠	⚠	⚠	⚠	⚠
Louisiana	✓	✓	✓	✓	✓
Maine	⚠	✓	✓	⚠	✓
Maryland	✓	✓	✓	✓	✓
Massachusetts	⚠	✓	⚠	⚠	⚠
Michigan	✓	✓	✓	✓	✓
Minnesota	✓	✓	⚠	⚠	⚠
Mississippi	✓	✓	✓	✓	✓

Meets minimum
SORNA requirementsDoes not meet minimum
SORNA requirements

State/Territory	Offenses & Offenders Included	Tracking & Penalizing Absconders	Community Notification	Appearance & Verification	Information Sharing
Missouri	✓	✓	✓	✓	✓
Montana	⚠	✓	⚠	⚠	✓
Nebraska	⚠	✓	✓	✓	⚠
Nevada	✓	✓	✓	✓	✓
New Hampshire	⚠	✓	⚠	✓	⚠
New Jersey	⚠	✓	⚠	⚠	⚠
New Mexico	⚠	✓	⚠	✓	✓
New York	⚠	⚠	⚠	⚠	⚠
North Carolina	⚠	✓	⚠	⚠	⚠
North Dakota	⚠	✓	⚠	⚠	✓
Ohio	✓	✓	✓	✓	✓
Oklahoma	✓	✓	✓	✓	✓
Oregon	⚠	✓	⚠	⚠	✓
Pennsylvania	⚠	✓	✓	⚠	✓
Puerto Rico	⚠	✓	✓	✓	✓
Rhode Island	⚠	⚠	⚠	⚠	⚠
South Carolina	✓	✓	✓	✓	✓
South Dakota	✓	✓	✓	✓	✓
Tennessee	✓	✓	✓	✓	✓
Texas	✓	⚠	⚠	⚠	✓
U.S. Virgin Islands	✓	✓	✓	✓	✓
Utah	⚠	✓	⚠	⚠	✓
Vermont	⚠	✓	⚠	⚠	⚠
Virginia	✓	✓	✓	✓	✓
Washington	✓	✓	⚠	⚠	⚠
West Virginia	⚠	✓	⚠	⚠	⚠
Wisconsin	✓	✓	⚠	⚠	⚠
Wyoming	✓	✓	✓	✓	✓

II. Individual State & Territory SORNA Implementation

162b

Alabama



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	
Required juvenile offenses	
Retroactively apply requirements	
Required early registry removal standards	

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	
Notification to originating jurisdiction when offender fails to appear for registration	
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	

Community Notification	
Maintain public registry website; post all required offenders and offender information	
Immediate notation of changes in offender information on the public website	
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	
Register before release from prison or immediately after sentencing or relocating to state	
Offense-based tiering and required duration of registration and frequency of reporting	
Immediate reporting of registration information changes	
21-day advance notice of international travel	

Information Sharing	
Collect all identification and location information in registry	
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	
Immediate notification of changes in offenders' information to any affected jurisdiction	
Immediate notification to NCIC/NSOR of all new and updated registration information	

Alaska



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	
Required juvenile offenses	
Retroactively apply requirements	
Required early registry removal standards	

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	
Notification to originating jurisdiction when offender fails to appear for registration	
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	

Community Notification	
Maintain public registry website; post all required offenders and offender information	
Immediate notation of changes in offender information on the public website	
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	
Register before release from prison or immediately after sentencing or relocating to state	
Offense-based tiering and required duration of registration and frequency of reporting	
Immediate reporting of registration information changes	
21-day advance notice of international travel	

Information Sharing	
Collect all identification and location information in registry	
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	
Immediate notification of changes in offenders' information to any affected jurisdiction	
Immediate notification to NCIC/NSOR of all new and updated registration information	

Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

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American Samoa

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification

Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing

Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Arizona

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	!
Required juvenile offenses	!
Retroactively apply requirements	✓
Required early registry removal standards	!
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	!
Community Notification	
Maintain public registry website; post all required offenders and offender information	!
Immediate notation of changes in offender information on the public website	!
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification

Required if convicted, incarcerated, residing, working or attending school in the state	!
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	!
Immediate reporting of registration information changes	!
21-day advance notice of international travel	!

Information Sharing

Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	!
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	!	!
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Arkansas

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	⚠

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

California

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	⚠
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	⚠

Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	⚠

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	⚠
21-day advance notice of international travel	⚠

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Commonwealth of the Northern Mariana Islands

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Colorado

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Connecticut



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	⚠
Retroactively apply requirements	✓
Required early registry removal standards	✓
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	⚠
21-day advance notice of international travel	⚠
Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Delaware



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	⚠
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓
Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

District of Columbia



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	
Required juvenile offenses	
Retroactively apply requirements	
Required early registry removal standards	

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	
Notification to originating jurisdiction when offender fails to appear for registration	
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	

Community Notification	
Maintain public registry website; post all required offenders and offender information	
Immediate notation of changes in offender information on the public website	
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	
Register before release from prison or immediately after sentencing or relocating to state	
Offense-based tiering and required duration of registration and frequency of reporting	
Immediate reporting of registration information changes	
21-day advance notice of international travel	

Information Sharing	
Collect all identification and location information in registry	
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	
Immediate notification of changes in offenders' information to any affected jurisdiction	
Immediate notification to NCIC/NSOR of all new and updated registration information	

Florida



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	
Required juvenile offenses	
Retroactively apply requirements	
Required early registry removal standards	

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	
Notification to originating jurisdiction when offender fails to appear for registration	
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	

Community Notification	
Maintain public registry website; post all required offenders and offender information	
Immediate notation of changes in offender information on the public website	
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	
Register before release from prison or immediately after sentencing or relocating to state	
Offense-based tiering and required duration of registration and frequency of reporting	
Immediate reporting of registration information changes	
21-day advance notice of international travel	

Information Sharing	
Collect all identification and location information in registry	
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	
Immediate notification of changes in offenders' information to any affected jurisdiction	
Immediate notification to NCIC/NSOR of all new and updated registration information	

Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Georgia



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	⚠
Retroactively apply requirements	✓
Required early registry removal standards	⚠

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	⚠

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Guam



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Hawaii



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	⚠
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Idaho



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Illinois



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	⚠

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	⚠

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	⚠
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Indiana



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	⚠
Retroactively apply requirements	✓
Required early registry removal standards	⚠

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	⚠
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	⚠
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	⚠

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	⚠
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Iowa



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	⚠

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Kansas



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Kentucky



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	⚠
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	⚠
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	⚠

Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	⚠

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	⚠
21-day advance notice of international travel	⚠

Information Sharing	
Collect all identification and location information in registry	⚠
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	⚠
Immediate notification of changes in offenders' information to any affected jurisdiction	⚠
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Louisiana



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Maine



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	⚠
Retroactively apply requirements	⚠
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	⚠

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Maryland



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Massachusetts



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	
Required juvenile offenses	
Retroactively apply requirements	
Required early registry removal standards	

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	
Notification to originating jurisdiction when offender fails to appear for registration	
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	

Community Notification	
Maintain public registry website; post all required offenders and offender information	
Immediate notation of changes in offender information on the public website	
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	
Register before release from prison or immediately after sentencing or relocating to state	
Offense-based tiering and required duration of registration and frequency of reporting	
Immediate reporting of registration information changes	
21-day advance notice of international travel	

Information Sharing	
Collect all identification and location information in registry	
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	
Immediate notification of changes in offenders' information to any affected jurisdiction	
Immediate notification to NCIC/NSOR of all new and updated registration information	

Michigan



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	
Required juvenile offenses	
Retroactively apply requirements	
Required early registry removal standards	

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	
Notification to originating jurisdiction when offender fails to appear for registration	
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	

Community Notification	
Maintain public registry website; post all required offenders and offender information	
Immediate notation of changes in offender information on the public website	
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	
Register before release from prison or immediately after sentencing or relocating to state	
Offense-based tiering and required duration of registration and frequency of reporting	
Immediate reporting of registration information changes	
21-day advance notice of international travel	

Information Sharing	
Collect all identification and location information in registry	
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	
Immediate notification of changes in offenders' information to any affected jurisdiction	
Immediate notification to NCIC/NSOR of all new and updated registration information	

Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Minnesota



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	⚠

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	⚠

Information Sharing	
Collect all identification and location information in registry	⚠
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Mississippi



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Missouri

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓
Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Montana

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	!
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	!
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	!
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓
Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	!	!
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Nebraska



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	⚠
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	⚠
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Nevada



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

New Hampshire



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	⚠
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	⚠

Information Sharing	
Collect all identification and location information in registry	⚠
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

New Jersey



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	⚠
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	⚠

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	⚠
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	⚠

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	⚠
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	⚠

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	⚠
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

New Mexico



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	⚠
Retroactively apply requirements	✓
Required early registry removal standards	✓
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓
Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

New York



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	⚠
Retroactively apply requirements	✓
Required early registry removal standards	⚠
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	⚠
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	⚠
Register before release from prison or immediately after sentencing or relocating to state	⚠
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	⚠
21-day advance notice of international travel	⚠
Information Sharing	
Collect all identification and location information in registry	⚠
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	⚠
Immediate notification of changes in offenders' information to any affected jurisdiction	⚠
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

North Carolina



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	⚠
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	⚠
21-day advance notice of international travel	⚠
Information Sharing	
Collect all identification and location information in registry	⚠
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	⚠
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

North Dakota



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	⚠
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	⚠

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	⚠
Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Ohio

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Oklahoma

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Oregon

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	⚠
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	⚠

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	⚠
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	⚠
21-day advance notice of international travel	⚠
Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Pennsylvania

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	⚠
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓
Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Puerto Rico



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	⚠
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Rhode Island



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	⚠
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	⚠
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	⚠

Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	⚠

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	⚠
21-day advance notice of international travel	⚠

Information Sharing	
Collect all identification and location information in registry	⚠
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	⚠
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

South Carolina

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

South Dakota

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Tennessee

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓
Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Texas

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	⚠
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	⚠
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	⚠
21-day advance notice of international travel	⚠
Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

U.S. Virgin Islands

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓
Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

Utah

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	⚠
Retroactively apply requirements	✓
Required early registry removal standards	✓
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓
Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Vermont



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	
Required juvenile offenses	
Retroactively apply requirements	
Required early registry removal standards	

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	
Notification to originating jurisdiction when offender fails to appear for registration	
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	

Community Notification	
Maintain public registry website; post all required offenders and offender information	
Immediate notation of changes in offender information on the public website	
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	
Register before release from prison or immediately after sentencing or relocating to state	
Offense-based tiering and required duration of registration and frequency of reporting	
Immediate reporting of registration information changes	
21-day advance notice of international travel	

Information Sharing	
Collect all identification and location information in registry	
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	
Immediate notification of changes in offenders' information to any affected jurisdiction	
Immediate notification to NCIC/NSOR of all new and updated registration information	

Virginia



Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	
Required juvenile offenses	
Retroactively apply requirements	
Required early registry removal standards	

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	
Notification to originating jurisdiction when offender fails to appear for registration	
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	

Community Notification	
Maintain public registry website; post all required offenders and offender information	
Immediate notation of changes in offender information on the public website	
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	
Register before release from prison or immediately after sentencing or relocating to state	
Offense-based tiering and required duration of registration and frequency of reporting	
Immediate reporting of registration information changes	
21-day advance notice of international travel	

Information Sharing	
Collect all identification and location information in registry	
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	
Immediate notification of changes in offenders' information to any affected jurisdiction	
Immediate notification to NCIC/NSOR of all new and updated registration information	

Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Washington

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓
Information Sharing	
Collect all identification and location information in registry	⚠
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

West Virginia

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	⚠
Retroactively apply requirements	✓
Required early registry removal standards	✓
Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓
Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	⚠
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	⚠

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	⚠
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	⚠
21-day advance notice of international travel	⚠
Information Sharing	
Collect all identification and location information in registry	⚠
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	⚠
Immediate notification to NCIC/NSOR of all new and updated registration information	⚠

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements

Wisconsin

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	⚠
Immediate notation of changes in offender information on the public website	⚠
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	⚠
Offense-based tiering and required duration of registration and frequency of reporting	⚠
Immediate reporting of registration information changes	⚠
21-day advance notice of international travel	⚠

Information Sharing	
Collect all identification and location information in registry	⚠
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	⚠
Immediate notification of changes in offenders' information to any affected jurisdiction	⚠
Immediate notification to NCIC/NSOR of all new and updated registration information	⚠

Wyoming

Offenses and Offenders Included	
Required state, tribe, territory, federal and military offenses	✓
Required juvenile offenses	✓
Retroactively apply requirements	✓
Required early registry removal standards	✓

Tracking and Penalizing Absconders	
Requisite criminal penalty for Failure to Register	✓
Notification to originating jurisdiction when offender fails to appear for registration	✓
Investigation procedures for suspected absconders; jurisdictional referral of suspected absconders to local and/or federal law enforcement and prosecutors	✓

Community Notification	
Maintain public registry website; post all required offenders and offender information	✓
Immediate notation of changes in offender information on the public website	✓
Email notification system alerting public when offenders relocate into or out of a particular ZIP code or geographic radius	✓

Offender Appearance and Verification	
Required if convicted, incarcerated, residing, working or attending school in the state	✓
Register before release from prison or immediately after sentencing or relocating to state	✓
Offense-based tiering and required duration of registration and frequency of reporting	✓
Immediate reporting of registration information changes	✓
21-day advance notice of international travel	✓

Information Sharing	
Collect all identification and location information in registry	✓
Provide registration information to law enforcement and prosecution agencies within the jurisdiction	✓
Immediate notification of changes in offenders' information to any affected jurisdiction	✓
Immediate notification to NCIC/NSOR of all new and updated registration information	✓

✓	⚠	⚠
Meets minimum requirements	Does not meet minimum requirements	Does not meet any requirements



May 9, 2011

SORNA Substantial Implementation Review State of Michigan

The U.S. Department of Justice, Office of Justice Program, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) would like to thank the State of Michigan for the extensive work that has gone into its effort to substantially implement Title I of the Adam Walsh Act, the Sex Offender Registration and Notification Act (SORNA). The SMART Office has completed its review of Michigan's SORNA substantial implementation packet and has found the State of Michigan to have substantially implemented SORNA.

On April 19, 2011, the Michigan Department of State Police submitted a substantial implementation package that included a completed Substantial Implementation Checklist, relevant state statutes, Criminal Justice Information Center Sex Offender Registry and Enforcement Unit policy, current and planned sex offender registry system documentation, current and planned public sex offender registry website documentation, and Michigan State Police memorandum of agreements with Indian tribes located within the state.

Our review of these materials follows the outline of the SMART Office Substantial Implementation Checklist—Revised. We have highlighted those areas that are not in conformity with the SORNA guidelines. This is an exhaustive review and meant to detail every area in which the state has not met SORNA standards. We encourage you to review the information below, share it with relevant stakeholders in the state, and get back in touch with us to develop a strategy to address these remaining issues.

I. Immediate Transfer of Information

Michigan is presently enhancing its Criminal Justice Information Network to ensure that initial sex offender registration records and updated registration information is immediately (within 24 hours) transmitted to the appropriate entities identified in SORNA. Additionally, these enhancements will ensure participation with the SORNA Exchange Portal and timely record submission to NSOR. These enhancements are reflected in Sex Offender Registry and Enforcement Unit (SORE) Policies 301 to 305, which were revised in March 2011. With these enhancements, Michigan meets the SORNA requirements of this section.

II. Offenses that Must Be Included in the Registry

With the exception of youth sentenced under the Holmes Youthful Trainee Act, Michigan includes in its registration scheme juveniles, 14 years of age or older, who are adjudicated for Tier III offenses. This provision meets SORNA requirements.

The Holmes Youthful Trainee Act allows the court to place a youth between 17 and 20 who is alleged to have committed a crime and who has pleaded guilty to that crime to be placed in prison or on probation without a conviction to avoid a criminal record. Excluded from this program are youth who are charged with a felony for which the maximum punishment is life imprisonment, a major controlled substance offense or a traffic offense. This action protects the privacy of the offender while on trainee status. If the youth successfully completes the program, there is no criminal record. Imprisonment or probation cannot exceed three years. Michigan does not require registration for individuals sentenced under the Act for a sex offense unless the individual is convicted of another felony, was previously convicted of or adjudicated for a sex offense, or fails to carry the burden of proving by clear and convincing evidence that he/she is not likely to engage in further sex offenses. Because this statute applies to a narrow class of offenders and requires judicial determination to waive the registration requirement, the SMART Office has determined that this exception does not substantially disserve SORNA requirements.

Regarding federal offenses, Michigan uses "catch all" language to capture individuals convicted of offenses substantially similar to an offense described in M.C.L. 28.722 under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law. This language meets SORNA requirements.

Michigan meets all other SORNA offense requirements under this section.

III. Tiering of Offenses

The SMART Office has reviewed all statutes identified in the substantial implementation submission package and has identified Michigan's placement of these statutes within the SORNA three tier levels. Michigan correctly places its statutes within at least the minimum appropriate SORNA tiers, with the following exception:

Michigan incorrectly lists M.C.L. 750.158, Crime against nature or sodomy, with a victim under the age of 18 as a Tier II offense. This offense includes sexual acts with minors and is considered Tier III under SORNA.

The SMART Office has considered this deviation from SORNA's requirement, and has determined that it does not substantially disserve the purposes of this requirement.

IV. Required Registration Information

SORNA requires sex offender registration information in 20 primary categories. With the enhancements to the Criminal Justice Information Network Sex Offender Registry System, reflected in SORE-P-301 to 305, targeted for completion June 30, 2011, Michigan will correctly capture information under all of these categories.

V. Where Registration is Required

Meets SORNA requirements.

VI. Initial Registration: Generally

Meets SORNA requirements.

VII. Initial Registration: Retroactive Classes of Offenders

M.C.L. 28.723 applies to any individual convicted of a listed offense, was on probation or parole, committed to jail, committed to the DOC, or under the jurisdiction of the juvenile division of the probate court or DHS on or after October 1, 1995. Under Michigan's prior registration scheme, sex offenders were required to register for either 25 years or life, with no possibility for removal.

Michigan SORE-P-306 addresses retroactive application to three classes of sex offenders, effective July 1, 2011:

1. Those individuals currently incarcerated or under supervision, either for a predicate sex offense or for some other crime and had a prior sex offense conviction;
2. Those individuals already registered or subject to a pre-existing sex offender registration requirement under Michigan law; and
3. Those individuals who have a prior sex offense conviction and after July 1, 2011 were convicted of any new felony.

Further, SORE-P-306 addresses timing of recapture in accordance with SORNA. Michigan's statute and policy meets SORNA's retroactive requirements.

VIII. Keeping the Registration Current

Michigan's statutes and policies meet SORNA requirements in this section, including usage of the SORNA Exchange Portal and 21 day advance notice of international travel.

IX. Verification/Appearance Requirements

Michigan's frequency of reporting and registration duration provisions meet SORNA requirements. Michigan allows for Tier I offenders and Tier III offenders who were adjudicated delinquent to petition the court for an order allowing discontinuance of registration. This reduction in registration period process is in accordance with SORNA requirements.

Additionally, under M.C.L. 28.728c subsection (14) and (15) Michigan allows a registered sex offender to petition for discontinuance of registration if the court determines that a conviction (or disposition) for a specified listed offense was the result of a consensual sexual act between the petitioner and the victim. These allowances correspond to the exception in 42 U.S.C. 16911(5)(c) and therefore to not disserve the purposes of SORNA.

X. Public Registry Website Requirements

Michigan's public sex offender registry meets most of the provisions required by SORNA at present. Michigan is currently implementing the necessary changes to the website needed to meet all of SORNA's requirements, including:

- Creating geographic radius search capacity
- Displaying employer address
- Displaying vehicle description and license plate number
- Updating automated email notification system

Michigan has ensured the SMART Office that these changes will be made by July 2011, and will notify the office upon completion. This delay in implementation does not disserve the purposes of SORNA.

SORNA provides for discretionary exemptions from public sex offender registry posting, including certain Tier I sex offenders that did not commit a specified offense against a minor. Michigan exempts all Tier I sex offenders from its public registry, including offenders convicted of offenses against minors. This includes M.C.L. 750.145c(4) (possession of child sexually abusive material), M.C.L. 750.349b (unlawful imprisonment of a minor), and M.C.L. 750.539j (surveillance of or distribution, dissemination, or transmission of recording, photograph, or visual image of a minor). The SMART Office has considered these deviations from SORNA's requirements, and has determined that they do not substantially disserve the purposes of this requirement.

XI. Community Notification

As noted previously, Michigan is presently enhancing its Criminal Justice Information Network to ensure that initial sex offender registration records and updated registration information is immediately (within 24 hours) transmitted to the appropriate entities identified in SORNA. Additionally, these enhancements will ensure participation with the SORNA Exchange Portal and timely record submission to NSOR. These enhancements are reflected in Sex Offender Registry and Enforcement Unit (SORE) Policies 301 to 305, which were revised in March 2011.

Further, Michigan is presently implementing the necessary changes to its automated email notification system to meet SORNA's general community notification requirements. With these enhancements, Michigan meets the SORNA requirements of this section.

XII. Failure to Register as a Sex Offender: State Penalty

Meets SORNA requirements.

XIII. When a Sex Offender Fails to Appear for Registration

Meets SORNA requirements.

XIV. When a Jurisdiction has Information that a Sex Offender may have Absconded

Meets SORNA requirements.

XV. Tribal Considerations

Michigan has provided Memoranda of Agreement for Indian tribes located within the state and the Michigan Department of State Police in order to facilitate satisfying the tribes' responsibilities under SORNA. MOAs have been submitted to the SMART Office for the following Indian tribes:

- Grand Traverse Band of Ottawa and Chippewa Indians
- Hannahville Indian Community
- Little River Band of Ottawa Indians
- Little Traverse Bay Bands of Odawa Indians
- Saginaw Chippewa Indian Tribe of Michigan
- Sault Ste Marie Tribe Chippewa Indians

The SMART Office is working closely with remaining tribes and the State to navigate this portion of SORNA implementation (and any possible MOU's or MOA's) through the existing primary State contact, Karen Johnson, who is the Manager of the Michigan Sex Offender Registry and Enforcement Unit.

The contact office for these tribes regarding SORNA implementation is the Michigan State Police. The contact information is:

Director, Statistical Records Division
106 West Allegan Street
Lansing, Michigan 48933

As we continue to work towards implementation with the State we will find out what, if any, resources Michigan can bring to bear to facilitate the sharing of criminal justice information by the tribes.

Conclusion

Michigan has put forth exceptional work and effort in adopting SORNA and enhancing its sex offender registration and notification system. However, there are a few provisions identified in this report, namely the exclusion of Tier I registrants convicted of offenses involving minors from the public sex offender registry, that should be addressed in order for Michigan to fully implement SORNA. Additionally, Michigan is presently enhancing its

Criminal Justice Information Network and public sex offender registry to meet all of SORNA's information sharing requirements. We request that Michigan keep the SMART Office informed on the progress of these enhancements and notify us upon completion.

We encourage you to contact the SMART Office once you have had the opportunity to review and discuss our findings and have developed a strategy for addressing and fully adopting the remaining provisions of SORNA.

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Recidivism of Sex Offenders Released from State Prison: A 9-Year Follow-Up (2005-14)

Mariel Alper, Ph.D., and Matthew R. Durose, *BJS Statisticians*

Among persons released from state prisons in 2005 across 30 states after serving a sentence for rape or sexual assault, 8% were arrested for rape or sexual assault during the 9 years after their release. Overall, 67% of sex offenders released in 2005 were arrested at least once for any type of crime during the 9-year follow-up period.¹

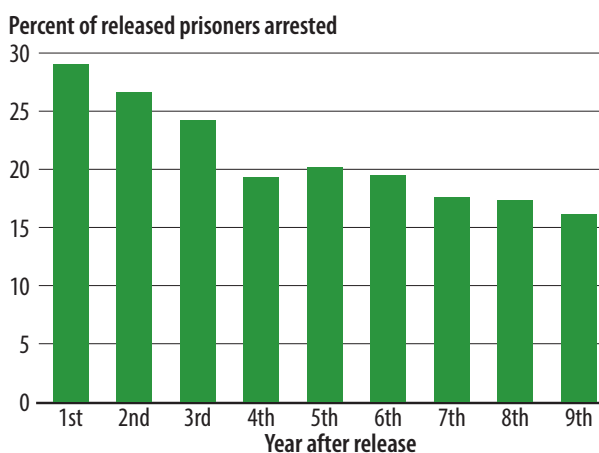
About 3 in 10 (29%) sex offenders released in 2005 were arrested during their first year after release (**figure 1**). About 1 in 5 (20%) were arrested during their fifth year after release, and nearly 1 in 6 (16%) were arrested during their ninth year.

The Bureau of Justice Statistics (BJS) used criminal-history data and prisoner records to analyze the post-release offending patterns of former prisoners both within and outside of the state where they were imprisoned. This is BJS's first recidivism study on sex offenders with a 9-year follow-up period.

¹For this report, "sex offenders" refers to released prisoners whose most serious commitment offense was rape or sexual assault.

FIGURE 1

Annual arrest percentage of prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault



Note: The denominator is the 20,195 prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault. See table 7 for estimates and appendix table 9 for standard errors.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

HIGHLIGHTS

Within 9 years of their release from prison in 2005—

- Rape and sexual assault offenders were less likely than other released prisoners to be arrested, but they were more likely than other released prisoners to be arrested for rape or sexual assault.
- Released sex offenders were more than three times as likely as other released prisoners to be arrested for rape or sexual assault (7.7% versus 2.3%).
- About two-thirds (67%) of released sex offenders were arrested for any crime, compared to about five-sixths (84%) of other released prisoners.
- Half of released sex offenders had a subsequent arrest that led to a conviction.
- Released sex offenders accounted for 5% of releases in 2005 and 16% of arrests for rape or sexual assault during the 9-year follow-up period.
- Less than half of released sex offenders were arrested for any crime within the first 3 years, while more than two-thirds were arrested within 9 years.
- Eleven percent of released sex offenders were arrested at least once for any crime outside the state of release.
- Among released prisoners who had a prior arrest for a sex offense but were serving time for an offense other than a sex offense, 6.7% were subsequently arrested for rape or sexual assault.

This study compares released prisoners whose most serious commitment offense was rape or sexual assault to all other released prisoners, in terms of their characteristics and recidivism patterns. It also compares the characteristics and recidivism patterns of released sex offenders to those of released prisoners whose most serious commitment offense was assault.

Prisoners whose most serious commitment offense was a violent crime of rape, sexual assault, or assault (whether aggravated or simple) were involved in a generally nonfatal attack upon a person, whereas homicide involves a fatality, and robbery involves an attack with the aim of taking property. So, in addition to comparisons with other released prisoners as a whole, this report examines how the recidivism patterns of sex offenders compare to the recidivism patterns of prisoners released after serving time for a non-sexual assault. (See Methodology for offense definitions.)

Separate recidivism rates for prisoners released after serving time for rape or sexual assault against a child were unavailable because a large number of prison records did not distinguish between crimes against children and crimes against adults. Prisoners released after serving time for rape or sexual assault against a child are included with all other rape and sexual assault offenders. Released prisoners whose most serious commitment offense was a non-violent sex offense, such as prostitution or pornography, are included with public-order offenders.

This study was based on a sample of 67,966 released prisoners who were randomly sampled to represent the 401,288 state prisoners released in 30 states in 2005. These 30 states were responsible for 77% of all persons released from state prisons nationwide. (See map on page 15.) A total of 358,398 male prisoners and 42,890 female prisoners were released in the study's 30 states in 2005. These persons may have been serving time for more than one offense and were categorized by the offense with the longest maximum sentence. For instance, prisoners released after serving time for homicide and rape or sexual assault were categorized as homicide offenders if the sentence length for the homicide was longer.

Males accounted for 19,871 (98%) of the 20,195 prisoners released after serving time for rape or sexual assault in 2005 in the study's 30 states (table 1). This report examines the recidivism rates of male and female sex offenders separately in tables 10 to 13.

TABLE 1

Characteristics of prisoners released in 30 states in 2005, by most serious commitment offense

Characteristic	All prisoners	Most serious commitment offense		
		Rape/sexual assault	Assault	Offense other than rape/sexual assault
Sex				
Male	89.3%	98.4%	93.0%	88.8%
Female	10.7	1.6	7.0	11.2
Race/Hispanic origin				
White ^a	39.7%	52.1%	36.1%	39.1%
Black/African American ^a	40.1	27.2	38.0	40.8
Hispanic/Latino	17.7	17.2	22.5	17.7
Other ^{a,b}	2.4	3.5	3.4	2.4
Age at release				
24 or younger	17.7%	12.3%	19.4%	18.0%
25–29	19.4	15.9	21.3	19.6
30–34	16.0	14.1	17.1	16.1
35–39	15.7	14.0	14.9	15.8
40 or older	31.2	43.8	27.3	30.6
Median	34 yrs.	38 yrs.	32 yrs.	34 yrs.
Mean	35.0	38.8	34.0	34.8
Type of prison release				
Conditional	74.1%	67.9%	75.3%	74.4%
Unconditional	25.9	32.1	24.7	25.6
Maximum sentence length^c				
1–<2 years	19.2%	10.5%	12.9%	19.6%
2–<5 years	44.7	34.2	56.3	45.3
5–<10 years	22.1	28.0	20.4	21.8
10 years or more	14.0	27.3	10.4	13.3
Median	36 mos.	60 mos.	36 mos.	36 mos.
Number of prior arrests per released prisoner^d				
4 or fewer	24.8%	52.4%	25.0%	23.4%
5–9	30.3	26.6	30.2	30.5
10 or more	44.9	21.0	44.8	46.2
Median	9 arsts.	4 arsts.	9 arsts.	9 arsts.
Mean	11.0	6.3	10.8	11.3
At least one prior arrest for—				
Drug offense	70.7%	30.5%	57.9%	72.8%
Property offense	81.3	55.8	78.0	82.6
Number of released prisoners	401,288	20,195	38,468	381,093

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. Percentages exclude missing data. Data on prisoners' age at release were reported for 100% of cases; race/Hispanic origin, for 99.86%; type of prison release, for 98.19%; and maximum sentence length, for 99.72%. See appendix table 3 for standard errors.

^aExcludes persons of Hispanic/Latino origin (e.g., "white" refers to non-Hispanic whites and "black" refers to non-Hispanic blacks).

^bIncludes Asians, Native Hawaiians, and Other Pacific Islanders; American Indians and Alaska Natives; and persons of two or more races.

^cBased on the released prisoners' total maximum sentence length for all commitment offenses. Study excludes prisoners sentenced to less than one year.

^dIncludes arrests for any type of crime prior to the prisoners' date of release in 2005.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

Sex offenders were more likely than other released prisoners to receive longer sentences and to be granted unconditional releases

Rape or sexual assault was the most serious commitment offense for 5% of the 401,288 prisoners released in 30 states in 2005. (See appendix table 1.) In comparison, assault was the most serious commitment offense of 10% (38,468) of released prisoners.

The median sentence length among prisoners released in 30 states in 2005 after serving time for rape or sexual assault (60 months) was longer than the median sentence length among all prisoners (36 months) or prisoners released after serving time for assault (36 months). Twenty-seven percent of prisoners released after serving time for rape or sexual assault were serving a maximum sentence length of 10 years or more, compared to 10% of prisoners released after serving time for assault.

Sex offenders were more likely to be given unconditional releases than other offenders. About 1 in 3 (32%) sex offenders were granted an unconditional release and not placed on parole, probation, or some other form of community supervision, compared to about 1 in 4 (26%) offenders overall and 1 in 4 (25%) assault offenders. Among prisoners who were granted an unconditional release, 96% were released for an expiration of sentence, and the remaining 4% were commutations or other types of unconditional releases (not shown in tables).

The median age at release for sex offenders was 38

The demographic composition of prisoners released after serving time for rape or sexual assault differed from those released after serving time for other offenses. About half (52%) of sex offenders were white, compared to 36% of assault offenders and 40% of all offenders.

Criminal-history data were used to measure recidivism outcomes of former prisoners

This study uses several measures to examine the post-release offending patterns of former state prisoners, including new arrests and returns to prison. The recidivism patterns were examined in terms of post-release arrests for any type of offense and for the same type of offense for which the former prisoner had been serving time. These estimates do not include crimes that were not reported to the police or that did not result in an arrest.

Prisoners released in 2005 may not have been able to commit certain types of crimes for a portion of the 9-year period following their release because they were re-incarcerated. Data on the amount of time that the prisoners released in 30 states in 2005 spent in prison or jail during the 9-year follow-up period were not available for this study. The recidivism estimates include offenses that the released prisoners were charged with while incarcerated during the follow-up period.

The **cumulative arrest percentage** is the percentage of former prisoners who were arrested at least once during the follow-up period. For example, the cumulative arrest percentage for year-3 is the percentage of prisoners who had at least one arrest during the first, second, or third years following their release. This report also examines the cumulative percentage of prisoners who had a subsequent arrest that led to a court conviction and the cumulative percentage who returned to prison following release. Because not all arrests result in a conviction or reimprisonment, recidivism rates based on these measures are lower than those based on an arrest.

The **annual arrest percentage** is the percentage of released prisoners who were arrested at least once during a particular year within the follow-up period. The denominator for each percentage from years 1 through 9 is the total number of prisoners released in the 30 states during 2005. The numerator is the number of former prisoners arrested during the particular year, regardless of whether they had been arrested during a prior year.

The **annual percentage of first arrests** is the percentage of prisoners who had their first arrest following release during a specific year during the follow-up period. The denominator for each annual first-arrest percentage from years 1 through 9 is the total number of prisoners released in the 30 states in 2005. The numerator is the number of former prisoners arrested for the first time during each of those years (i.e., they had not been arrested during a prior year during the follow-up period). The sum of the annual first-arrest percentages during a follow-up period equals the cumulative arrest percentage for the same period.

The **volume of arrest offenses** is the total number of arrest offenses among the released prisoners during the follow-up period. A former prisoner may have had multiple arrests during the follow-up period, and a single arrest may have involved charges for more than one crime.

The median age at the time of release was older for sex offenders (age 38) than for all released prisoners (age 34) and for assault offenders (age 34). Forty-four percent of sex offenders were age 40 or older at release, compared to 27% of assault offenders and 31% of all offenders.

About half of sex offenders had 5 or more prior arrests and about a third had at least 1 prior drug arrest

About half (52%) of prisoners released after serving a sentence for rape or sexual assault had four or fewer arrests for any type of crime in their criminal history prior to their release in 2005, and about half (48%) had five or more prior arrests. On average, sex offenders had fewer prior arrests in their criminal history than assault offenders. The median number of prior arrests among sex offenders was four, compared to nine for assault offenders. Prior to their release, 31% of sex offenders had been arrested at least once for a drug offense and 56% for a property offense.

Sex offenders were less likely than other released prisoners to be arrested during the 9 years following release

An estimated 83% of the 401,288 prisoners released in 30 states in 2005 were arrested for a new crime within 9 years of release (table 2). The percentage of released prisoners arrested within 9 years for any type of crime after serving time for rape or sexual assault was 67%. That was higher than for prisoners released after serving time for homicide (60%) and lower than for prisoners released after serving time for robbery (84%) or assault (83%). Sex offenders (67%) were also less likely to be arrested following release than prisoners released after serving time for property (88%), drug (84%), or public-order (82%) offenses. Among released prisoners who were arrested during the 9-year follow-up period, 96% of sex offenders and 99% of all offenders were arrested for an offense other than a probation or parole violation (not shown in tables).

Among all 401,288 prisoners released in 30 states in 2005, 381,093 (95%) were serving time for offenses other than rape or sexual assault (i.e., their most serious commitment offense was not a violent sex offense). An estimated 84% of prisoners released after serving time for an offense other than rape or sexual assault were arrested for any type of offense during the 9-year follow-up period.

TABLE 2

Percent of prisoners released in 30 states in 2005 who were arrested within 9 years following release, by most serious commitment offense and types of post-release arrest charges

Most serious commitment offense	Post-release arrest offense								
	Any offense	Violent					Property	Drug	Public order
		Total violent ^a	Homicide	Rape/sexual assault	Robbery	Assault			
All prisoners	83.3%	39.1%	1.2%	2.6%	7.8%	31.3%	48.0%	48.0%	68.4%
Violent^a	78.1%	43.4%	1.4%	4.0%	9.2%	34.1%	39.6%	36.7%	65.0%
Homicide	60.0	29.5	2.7	1.9	4.3	23.1	24.4	26.1	45.8
Rape/sexual assault	66.9	28.1	0.2	7.7	3.8	18.7	24.2	18.5	58.9
Robbery	84.1	47.2	1.5	3.4	16.8	34.3	47.7	45.3	67.1
Assault	82.9	50.7	1.4	2.8	7.7	44.2	44.3	43.2	69.6
Property	87.8%	40.3%	1.0%	2.5%	9.1%	31.9%	63.5%	48.4%	72.4%
Drug	83.7%	34.0%	1.1%	1.6%	5.8%	28.0%	42.4%	60.4%	66.9%
Public order	81.8%	39.8%	1.3%	2.4%	6.7%	32.5%	42.5%	38.8%	70.1%
Rape/sexual assault*	66.9%	28.1%	0.2%	7.7%	3.8%	18.7%	24.2%	18.5%	58.9%
Offense other than rape/sexual assault^b	84.1% †	39.6% †	1.2% †	2.3% †	8.0% †	31.9% †	49.2% †	49.6% †	68.9% †

Note: The numerator for each percentage is the number of persons arrested for that offense during the 9-year follow-up period, and the denominator is the number released after serving time for each type of commitment offense. Persons could have been in prison for more than one offense, the most serious of which is reported. Details may not sum to totals because a person may be arrested more than once for different types of offenses and each arrest may involve more than one offense. See appendix table 4 for standard errors.

*Comparison group.

†Difference with comparison group (rape/sexual assault) is significant at the 95% confidence level.

^aIncludes other miscellaneous violent offenses that are not shown separately.

^bIncludes the 381,093 prisoners whose most serious commitment offense was an offense other than rape or sexual assault.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

Sex offenders were three times as likely as other offenders to be arrested for rape or sexual assault during the 9 years following release

Among all prisoners released across 30 states in 2005, 2.6% were arrested for rape or sexual assault during the 9-year follow-up period. Among prisoners released after serving time for rape or sexual assault, 7.7% were arrested for rape or sexual assault within 9 years of release. Prisoners released after serving time for rape or sexual assault (7.7%) were more than twice as likely to be arrested for rape or sexual assault during the 9-year follow-up period than prisoners released after serving time for robbery (3.4%), assault (2.8%), or homicide (1.9%). Overall, prisoners released after serving time for rape or sexual assault (7.7%) were more than three times as likely as other released prisoners (2.3%) to be arrested for rape or sexual assault during the 9 years following release.

Sex offenders were more likely to be arrested for an assault or a drug, property, or public-order offense than for rape or sexual assault during the 9 years after release. During the 9-year follow-up period, approximately 1 in 5 (19%) sex offenders were arrested at least once for assault, 1 in 4 (24%) were arrested for a property offense, and 1 in 5 (18%) were arrested for a drug offense, while 1 in 13 (7.7%) were arrested for a rape or sexual assault. The majority (59%) of prisoners released after serving time for rape or sexual assault were arrested for a public-order offense within 9 years.

In addition to the 20,195 prisoners released in 30 states in 2005 after serving time for rape or sexual assault, other prisoners released that year had prior arrests for rape or sexual assault in their criminal-history records.

Of the 381,093 prisoners released in 2005 after serving time for offenses other than rape or sexual assault, 25,948 (6.5%) had been arrested at least once for rape or sexual assault in their criminal history prior to being released in 2005 (not shown in tables).

Among the 25,948 prisoners released in 2005 whose most serious commitment offense was not rape or sexual assault but who had at least one prior arrest for rape or sexual assault, 6.7% were arrested for rape or sexual assault during the 9 years following release (not shown in tables). Of those prisoners released after serving time for offenses other than rape or sexual assault who had no prior arrests for rape or sexual assault, 2.0% were arrested for rape or sexual assault during the 9-year follow-up period.

Overall, a combined total of 46,144 prisoners released in 2005 either had been serving time for rape or sexual assault (20,195) or had been serving time for another type offense but had previously been arrested for rape or sexual assault (25,948). Of these 46,144 released prisoners, 7.2% were arrested for rape or sexual assault during the 9 years following release.

18% of sex offenders were arrested for the first time during years 4 through 9 after release

The cumulative arrest percentage among released sex offenders increased 18 percentage points when the follow-up period was extended from 3 to 9 years. About half (49%) of prisoners released after serving time for rape or sexual assault were arrested within 3 years, while 62% were arrested within 6 years (table 3). By the end of the 9-year follow-up period, the percentage

TABLE 3

Cumulative percent of prisoners released in 30 states in 2005 who were arrested following release, by year following release and most serious commitment offense

Year after release	Most serious commitment offense							
	All prisoners		Rape/sexual assault		Assault		Offense other than rape/sexual assault	
	Year of first arrest	Cumulative arrest percentage	Year of first arrest	Cumulative arrest percentage	Year of first arrest	Cumulative arrest percentage	Year of first arrest	Cumulative arrest percentage
1	43.8%	43.8%	29.0%	29.0%	43.2%	43.2%	44.5%	44.5%
2	16.2	60.0	12.9	41.9	16.2	59.4	16.4	60.9
3	8.3	68.3	7.0	48.9	8.5	67.9	8.4	69.3
4	5.1	73.4	4.9	53.8	5.6	73.5	5.2	74.4
5	3.5	76.9	4.4	58.2	4.1	77.5	3.5	77.9
6	2.3	79.3	3.6	61.8	2.1	79.6	2.3	80.2
7	1.7	80.9	2.0	63.8	1.5	81.2	1.7	81.8
8	1.3	82.3	1.9	65.7	1.1	82.3	1.3	83.1
9	1.0	83.3	1.2	66.9	0.7	82.9	1.0	84.1

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. See appendix table 5 for standard errors.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

of sex offenders arrested after release had increased to 67%. Released sex offenders were less likely (49%) than other released prisoners (69%) to be arrested within 3 years but more likely to be arrested for the first time in years 4 through 9 (18% versus 15%).

Among prisoners released after serving time for rape or sexual assault who were arrested during the 9-year follow-up period, 63% were arrested for the first time during the first 2 years. Among prisoners released after serving time for an offense other than rape or sexual assault who were arrested during the 9-year follow-up period, 72% were arrested for the first time during the first 2 years (not shown in tables).

Sex offenders had a lower cumulative arrest percentage than assault offenders. During year-1, 29% of sex offenders were arrested, compared to 43% of assault offenders. By the end of year-9, 67% of sex offenders had been arrested, compared to 83% of assault offenders.

As with released prisoners as a whole, the longer sex offenders went without being arrested after release, the less likely they were to be arrested during the 9-year follow-up period. While 13% of sex offenders were arrested following release for the first time in year-2, that constituted 18% of the 71% who were not arrested in year-1 (not shown in tables). For those not arrested by the end of year-2, 12% were arrested by the end of year-3. Nine percent of those not arrested in years 1 through 5 were arrested in year-6. In year-9, 4% of the released sex offenders who went 8 years without an arrest were arrested.

Half of prisoners released after serving time for rape or sexual assault had an arrest within 9 years that led to a conviction

This study also examines the percentage of prisoners who had an arrest during the 9 years following release that resulted in a conviction. This measure was based on prisoners released from the 29 states in the study (all but Louisiana) that had the necessary data. (See *Methodology*.)

Sex offenders were less likely than all prisoners released in 2005 to have had a new arrest that resulted in a conviction after release. During the first 3 years after release, 28% of prisoners released after serving time for rape or sexual assault had a new arrest that led to a conviction, compared to 49% of all prisoners (table 4). At the end of the 9-year follow-up period, 50% of prisoners released after serving time for rape or sexual assault had a new arrest that led to a conviction, compared to 69% of all prisoners.

The percentage of sex offenders who had an arrest that led to a conviction within 9 years of release (50%) was about three-quarters of the percentage of sex offenders who were arrested within 9 years of release (67%).

TABLE 4
Cumulative arrest percentage of prisoners released in 29 states in 2005 after serving a sentence for rape/sexual assault or assault who had an arrest that led to a conviction after release

Year after release	All prisoners	Most serious commitment offense	
		Rape/sexual assault	Assault
1	25.4%	12.8%	22.4%
2	39.6	22.3	37.7
3	49.0	28.4	46.4
4	55.3	34.2	53.5
5	59.8	38.5	58.3
6	63.1	42.2	62.1
7	65.7	45.2	65.1
8	67.8	48.1	67.7
9	69.2	49.6	68.8

Note: Estimates based on time from release to first arrest that led to a conviction among prisoners released in 29 of the study's 30 states (all but Louisiana). Persons could have been in prison for more than one offense, the most serious of which is reported. See appendix table 6 for standard errors.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

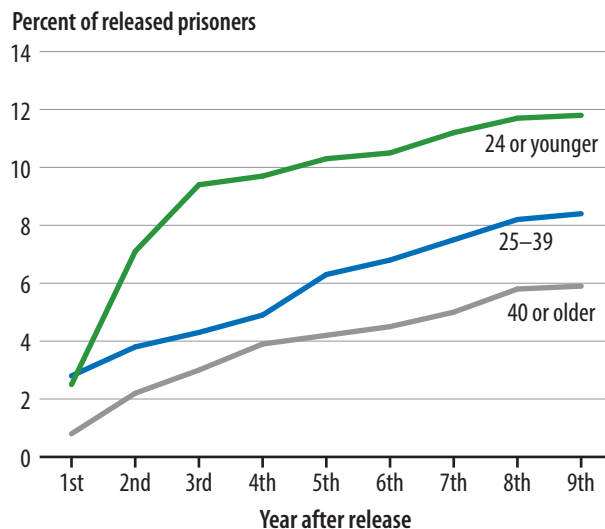
Younger sex offenders were more likely than older sex offenders to be arrested for another sex offense post-release

Overall, 4.4% of sex offenders were arrested for another sex offense within 3 years following release (table 5). After 9 years following release, the percentage rose to 7.7%. Younger sex offenders (those age 24 or younger at the time of release) were more likely to be arrested for rape or sexual assault following release than older sex offenders (age 40 or older at the time of release).

Nearly 10% (9.4%) of sex offenders age 24 or younger at the time of their release were arrested for rape or sexual assault within 3 years of release, compared to 3.0% of those age 40 or older (figure 2). About half of those age 24 or younger who were arrested within 3 years of release for rape or sexual assault were arrested in year-2 alone (4.6%). Overall, within 9 years of release, sex offenders age 24 or younger were twice as likely to be arrested for rape or sexual assault (11.8%) as sex offenders age 40 or older (5.9%).

FIGURE 2

Cumulative percent of prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault who were arrested for rape/sexual assault after release, by age and year after release



Note: Age groups are based on prisoners' age at time of release after serving a sentence for rape or sexual assault. See table 5 for estimates and appendix table 7 for standard errors.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

TABLE 5

Cumulative percent of prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault who were arrested for rape/sexual assault after release, by age and year after release

Most serious commitment offense	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
All prisoners	0.5%	0.9%	1.2%	1.5%	1.8%	2.0%	2.2%	2.4%	2.6%
Prisoners released after serving a sentence for rape/sexual assault	1.9	3.5	4.4	5.1	5.9	6.3	6.9	7.6	7.7%
Age at release									
24 or younger	2.5	7.1	9.4	9.7	10.3	10.5	11.2	11.7	11.8
25–39	2.8	3.8	4.3	4.9	6.3	6.8	7.5	8.2	8.4
40 or older	0.8	2.2	3.0	3.9	4.2	4.5	5.0	5.8	5.9
Race/Hispanic origin									
White ^a	1.6	2.6	3.2	3.9	4.6	5.1	5.5	5.8	6.2
Black/African American ^a	1.7	4.4	4.6	6.0	6.5	6.8	7.7	9.7	9.7
Hispanic/Latino	3.3	4.9	7.5	7.5	8.1	8.1	8.6	8.6	8.6
Other ^{a,b}	1.0	2.6	3.8	4.1	4.5	4.7	6.7	6.7	6.9

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. Data on prisoners' sex and age at release were known for 100% of cases, and race/Hispanic origin was known for 99.86%. See appendix table 7 for standard errors.

^aExcludes persons of Hispanic/Latino origin (e.g., "white" refers to non-Hispanic whites and "black" refers to non-Hispanic blacks).

^bIncludes Asians, Native Hawaiians, and Other Pacific Islanders; American Indians and Alaska Natives; and persons of two or more races.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

Measuring recidivism as a return to prison

In addition to arrests, returns to prison are another measure that can be used when studying prisoner recidivism. The Bureau of Justice Statistics (BJS) relies on a combination of criminal-history records from the Federal Bureau of Investigation and state repositories, along with prisoner records obtained from state departments of corrections through the National Corrections Reporting Program (NCRP), to estimate the percentage of released state prisoners who returned to prison.

BJS published a report in 2014 on state prisoners released in 2005 that used a 5-year follow-up period to examine offending patterns based on other recidivating events, including a conviction and return to prison.² The return-to-prison analysis for that report was based on prisoners released from the 23 states that could provide the necessary data. (See *Methodology*.) BJS used the annual 2005-10 NCRP files to supplement the criminal-history records with information on released prisoners who returned to prison for a probation or parole violation or a sentence for a new crime.

When BJS extended the follow-up period from 5 to 9 years, only 17 states could provide the

prison-admission data needed to identify returns to prison for the entire time frame. As a result, this report provides return-to-prison rates for only the first 5 years following release for the prisoners released in the 23 states with the necessary data. The 5-year return-to-prison rates of released sex offenders were not included in prior reports on prisoners released in 2005.

Prisoners released after serving time for rape or sexual assault had a lower 5-year return-to-prison rate than released prisoners overall. Among prisoners serving time for rape or sexual assault who were released in 2005 in the 23 states with available data on returns to prison, 35% had a parole or probation violation or an arrest for a new offense that led to imprisonment within 3 years, while 40% had one within 5 years. In comparison, 55% of all prisoners released in 2005 had a parole or probation violation or an arrest for a new offense that led to imprisonment within 5 years.

Due to limitations with the prison-admission data used for this study, it is not possible to distinguish between returns to prison for parole or probation violations and returns to prison for sentences for new crimes. It is also not possible to determine how many of the returns to prison were for rape or sexual assault (or other types of crimes).

²*Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010*, NCJ 244205, BJS web, April 2014.

Within 3 years of release, sex offenders with 10 or more prior arrests for any crime (5.7%) were not statistically significantly more likely to be arrested for rape or sexual assault than those with 5 to 9 prior arrests (4.5%) and those with 4 or fewer prior arrests (3.7%) (not shown in tables). Within 9 years of release, sex offenders with 10 or more prior arrests for any crime (10.4%) were not statistically significantly more likely to be arrested for rape or sexual assault than those with 5 to 9 prior arrests (8.3%) and those with 4 or fewer prior arrests (6.4%) (not shown in tables).

11% of prisoners released after serving time for rape or sexual assault were arrested at least once outside the state that released them

Five percent of prisoners released after serving time for rape or sexual assault were arrested outside of the state that released them, for any type of crime, during the first 3 years after release (table 6). During years 4 through 9, the out-of-state cumulative arrest rate increased to 11%. Among prisoners released after serving time for assault, 8% were arrested in another state within 3 years and 17% were arrested within 9 years. Fewer than 1% of sex offenders were arrested in another state for rape or sexual assault during the

9 years following release (not shown in tables). Of the released sex offenders arrested for a new crime during the 9-year follow-up period, 17% had been arrested out-of-state and 83% had been arrested only within the state that released them (not shown in tables).

TABLE 6

Cumulative percent of prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault who were arrested outside the state of release, by year after release

Year after release	All prisoners	Most serious commitment offense	
		Rape/sexual assault	Assault
1	3.3%	2.1%	3.6%
2	5.7	3.4	6.4
3	7.7	5.2	8.4
4	9.3	6.7	10.2
5	10.8	8.2	11.9
6	12.1	9.4	13.1
7	13.3	10.1	14.4
8	14.4	10.6	15.6
9	15.4	11.4	16.7

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. See appendix table 8 for standard errors.

Source: Bureau of Justice Statistics, *Recidivism of State Prisoners Released in 2005* data collection, 2005–2014.

Annual arrest percentages among sex offenders declined during the 9 years following their release

Overall, 84% of sex offenders who were age 24 or younger at release were arrested for any type of crime within 9 years after release, compared to 72% of those ages 25 to 39 and 57% of those age 40 or older (table 7). Twenty-nine percent of all sex offenders were arrested during their first year after release, compared to 16% during their ninth year. Among sex offenders who were age 24 or younger at release, the annual arrest percentage declined from 43% in year-1 to 19%

in year-9. Roughly a third (33%) of sex offenders ages 25 to 39 were arrested during their first year after release, compared to about a sixth (17.5%) during their ninth year.

Thirty-five percent of sex offenders who were Hispanic were arrested in year-1, while the annual arrest rate declined by more than two-thirds to 11% in year-9. This decrease was larger than the decrease between years 1 and 9 for sex offenders who were white (from 24% to 13%) or who were black (from 35% to 26%).

TABLE 7

Annual arrest percentage of prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault, by prisoner characteristics

Characteristic	Number of released prisoners	Total arrested within 9 years	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
All prisoners	401,288	83.3%	43.8%	37.6%	34.2%	31.9%	30.0%	27.9%	27.2%	25.9%	24.0%
Prisoners released after serving a sentence for rape/sexual assault	20,195	66.9%	29.0%	26.6%	24.2%	19.3%	20.2%	19.5%	17.6%	17.3%	16.1%
Age at release											
24 or younger	2,486	83.8	42.9	37.5	29.7	21.2	26.9	21.9	25.5	27.5	18.7
25–39	8,867	72.0	32.7	30.4	27.5	21.7	23.1	22.5	19.3	17.5	17.5
40 or older	8,842	57.1	21.3	19.7	19.2	16.3	15.3	15.7	13.7	14.3	14.0
Race/Hispanic origin											
White ^a	10,499	61.3	23.8	22.0	20.1	16.7	16.4	17.2	14.0	15.9	12.8
Black/African American ^a	5,482	78.6	35.0	34.1	30.1	24.8	27.4	21.6	26.0	25.3	25.7
Hispanic/Latino	3,459	64.9	34.9	26.6	27.1	16.4	20.9	22.4	15.1	9.2	11.2
Other ^{a,b}	713	66.9	25.4	31.7	19.7	24.3	11.6	17.2	13.6	11.5	9.8
Prisoners released after serving a sentence for assault	38,468	82.9%	43.2%	38.1%	34.0%	32.4%	31.3%	29.0%	29.0%	28.4%	24.8%
Age at release											
24 or younger	7,468	87.3	50.9	43.5	35.4	31.0	35.5	29.1	25.8	29.1	27.4
25–39	20,511	85.2	44.1	39.1	36.1	33.8	32.2	30.0	32.1	30.8	26.7
40 or older	10,489	75.4	35.9	32.4	28.9	30.7	26.5	27.1	25.3	23.4	19.2
Race/Hispanic origin											
White ^a	13,841	80.3	38.8	34.5	32.5	29.7	30.9	29.7	27.5	26.6	23.1
Black/African American ^a	14,562	86.4	45.2	41.4	35.7	35.0	31.2	30.3	29.9	28.9	25.6
Hispanic/Latino	8,629	80.6	46.0	37.5	32.8	33.0	31.7	24.9	28.8	28.7	25.4
Other ^{a,b}	1,312	85.0	47.0	44.6	34.6	29.5	34.0	32.6	33.1	37.6	24.8

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. Percentages exclude missing data. Data on prisoners' age at release were reported for 100% of cases, and race/Hispanic origin was known for 99.86%. See appendix table 9 for standard errors.

^aExcludes persons of Hispanic/Latino origin (e.g., "white" refers to non-Hispanic whites and "black" refers to non-Hispanic blacks).

^bIncludes Asians, Native Hawaiians, and Other Pacific Islanders; American Indians and Alaska Natives; and persons of two or more races.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

During the first year following release, 7% of sex offenders were arrested for a violent offense, 6% for a property offense, 4% for a drug offense, and 23% for a public-order offense (**table 8**). During the ninth year, these percentages fell to 3% each for a violent, property, or drug offense, and 13% for a public-order offense. During the 9 years after release, 28% of prisoners released after serving time for rape or sexual

assault were arrested for a violent crime at least once, compared to 59% arrested for a public-order crime, 24% for a property crime, and 18% for a drug crime. Sex offenders were arrested for a violent offense less often than assault offenders during each year after release. This pattern was also observed for arrests for property, drug, and public-order offenses.

TABLE 8

Annual arrest percentage of prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault, by types of post-release arrest offenses

Most serious commitment offense and type of post-release arrest offense	Total arrested within 9 years	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
Commitment offense: Rape or sexual assault										
Post-release arrest offense										
Violent	28.1%	6.6%	6.4%	5.3%	5.4%	5.3%	3.7%	4.1%	3.0%	2.6%
Property	24.2	5.7	5.7	4.7	4.0	4.7	3.8	4.2	4.5	3.1
Drug	18.5	4.2	4.5	3.8	1.9	3.3	3.0	3.1	3.1	3.3
Public order	58.9	23.4	20.9	19.5	15.3	14.7	14.7	13.9	13.4	13.0
Commitment offense: Assault										
Post-release arrest offense										
Violent	50.7%	12.9%	13.1%	10.4%	11.1%	11.6%	8.1%	8.6%	8.6%	7.5%
Property	44.3	12.5	10.7	11.1	8.8	7.9	8.0	8.7	8.9	8.3
Drug	43.2	11.5	12.1	7.8	9.2	8.7	8.1	8.7	9.0	8.0
Public order	69.6	30.9	25.1	23.2	22.4	20.0	19.3	19.2	19.6	16.3

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. See appendix table 10 for standard errors.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

Prisoners released after serving time for rape or sexual assault accounted for 16% of arrests for rape or sexual assault during the follow-up period

Prisoners released in 30 states in 2005 were arrested an estimated 2 million times during the 9 years after release. An arrest may involve charges for more than one offense. For instance, one arrest could include charges for a violent crime and a drug crime. These arrests included an estimated 2.9 million different types of offenses (table 9).

The majority of arrests for a specific type of crime did not involve those who had been in prison for the same type of offense. During the 9-year follow-up period, prisoners released after serving time for rape or sexual assault made up 16% of the approximately 12,000

arrests for rape or sexual assault that occurred among all prisoners released in 2005 in the study's 30 states. Prisoners released after serving time for other offenses accounted for the remaining 84% of the arrests for rape or sexual assault during the 9-year follow-up period. Although sex offenders accounted for 16% of the post-release arrests for rape or sexual assault, they represented 5% of all those released from prison in 30 states in 2005. (See appendix table 1.)

During the 9 years after release, prisoners released after serving time for assault made up 15% of the 232,000 arrests for assault, and prisoners released after serving time for other offenses accounted for the remaining 85% of the assault arrests. Prisoners released after serving time for assault accounted for 10% of all released prisoners.

TABLE 9

Types of offenses for which prisoners were arrested within 9 years following release in 30 states in 2005, by most serious commitment offense

Post-release arrest offense	Number of post-release arrest offenses	Most serious commitment offense								
		Total	Violent					Property	Drug	Public order
			Homicide	Rape/sexual assault	Robbery	Assault	Other violent			
Any offense	2,900,000	100%	0.9%	2.8%	6.6%	9.8%	1.9%	35.1%	31.8%	11.2%
Violent										
Total*	347,000	100%	1.3%	3.3%	8.8%	14.2%	2.8%	30.0%	26.5%	13.2%
Homicide	5,000	100%	4.5	1.2	8.2	10.6	5.4	27.6	28.1	14.5
Rape/sexual assault	12,000	100%	1.4	15.6	10.4	10.1	3.0	27.7	19.9	11.9
Robbery	40,000	100%	1.0	2.2	16.3	9.4	1.8	35.1	23.8	10.4
Assault	232,000	100%	1.3	2.7	7.5	15.5	2.6	29.9	27.1	13.6
Property	688,000	100%	0.7%	1.8%	7.0%	7.4%	1.5%	47.0%	24.6%	10.0%
Drug	673,000	100%	0.8%	1.5%	5.7%	7.7%	1.1%	29.4%	44.6%	9.2%
Public order	1,193,000	100%	1.0%	3.9%	6.1%	11.1%	2.3%	33.0%	30.3%	12.3%
Percent of all released prisoners		100%	1.9%	5.0%	7.2%	9.6%	2.1%	29.7%	31.9%	12.7%

Note: An arrest may involve charges for more than one type of offense. Each unique offense category included in an arrest is counted once. There were an estimated 1,990,000 post-release arrests of the 401,288 prisoners released in 30 states in 2005, and these included approximately 2,900,000 different offenses. Persons could have been in prison for more than one offense, the most serious of which is reported. Number of post-release arrest offenses for each sub-category was rounded to the nearest 1,000. See appendix table 11 for standard errors.

*Includes other miscellaneous violent offenses, not shown separately.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

Almost 6% of male prisoners released in 30 states in 2005 were serving time for rape or sexual assault

Rape or sexual assault was the most serious commitment offense for 5.5% (19,871) of the 358,398 male prisoners released in 30 states in 2005 (table 10). The median age at the time of release in 2005 was older for male sex offenders (age 38) than for all male prisoners released in the 30 states (age 34) and male assault offenders (age 32). Forty-four percent of male sex offenders were age 40 or older at release, compared to 27% of male assault offenders and 31% of all male offenders.

TABLE 10

Characteristics of male prisoners released in 30 states in 2005, by most serious commitment offense

Characteristic	All male prisoners	Most serious commitment offense		Offense other than rape/sexual assault
		Rape/sexual assault	Assault	
Total	100%	100%	100%	100%
Race/Hispanic origin				
White ^a	38.4%	51.7%	36.1%	37.6%
Black/African American ^a	40.9	27.4	37.2	41.7
Hispanic/Latino	18.4	17.3	23.2	18.4
Other ^{a,b}	2.4	3.6	3.4	2.3
Age at release				
24 or younger	18.3%	12.3%	19.6%	18.7%
25–29	19.7	15.9	21.7	20.0
30–34	15.9	14.0	17.1	16.0
35–39	15.2	13.9	14.7	15.3
40 or older	30.8	44.0	26.9	30.1
Median	34 yrs.	38 yrs.	32 yrs.	34 yrs.
Mean	34.9	38.9	34.0	34.6
Type of prison release				
Conditional	74.3%	68.0%	76.0%	74.7%
Unconditional	25.7	32.0	24.0	25.3
Maximum sentence length^c				
1–<2 years	18.1%	10.4%	12.4%	18.6%
2–<5 years	44.6	34.4	56.4	45.2
5–<10 years	22.5	27.8	20.5	22.2
10 years or more	14.7	27.4	10.7	14.0
Median	39 mos.	60 mos.	36 mos.	36 mos.
Number of prior arrests per released prisoner^d				
4 or fewer	24.5%	52.0%	24.2%	22.8%
5–9	30.4	26.8	30.2	30.6
10 or more	45.2	21.2	45.6	46.6
Median	9 arsts.	4 arsts.	9 arsts.	9 arsts.
Mean	11.0	6.4	10.9	11.3
At least one prior arrest for—				
Drug offense	70.5%	30.6%	58.5%	72.9%
Property offense	81.2	56.1	78.6	82.7
Number of released prisoners	358,398	19,871	35,771	338,527

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. Percentages exclude missing data. Data on male prisoners' age at release were reported for 100% of cases; race/Hispanic origin, for 99.85%; type of prison release, for 98.21%; and maximum sentence length, for 99.72%. See appendix table 12 for standard errors.

^aExcludes persons of Hispanic/Latino origin (e.g., "white" refers to non-Hispanic whites and "black" refers to non-Hispanic blacks).

^bIncludes Asians, Native Hawaiians, and Other Pacific Islanders; American Indians and Alaska Natives; and persons of two or more races.

^cBased on the released prisoners' total maximum sentence length for all commitment offenses. Study excludes prisoners sentenced to less than one year.

^dIncludes arrests for any type of crime prior to the prisoners' date of release in 2005.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

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Fewer than 1% of female prisoners released in 30 states in 2005 were serving time for rape or sexual assault

Fewer than 1% (324) of the 42,890 female prisoners released in 30 states in 2005 were serving time for rape or sexual assault (**table 11**). The median age at release for female sex offenders was 34, four years younger than the median age for male sex offenders. The median maximum sentence length for female sex offenders was 5 years, the same as for male sex offenders. Seventy-six percent of female sex offenders were white, compared to 52% of male sex offenders.

On average, female sex offenders had fewer prior arrests in their criminal history than male sex offenders. The median number of prior arrests among male sex offenders was four, compared to two for female sex offenders.

Nearly 8 in 10 (79%) female sex offenders had fewer than five arrests for any type of crime prior to their release in 2005, compared to about half (52%) of male sex offenders.

TABLE 11

Characteristics of female prisoners released in 30 states in 2005, by most serious commitment offense

Characteristic	All female prisoners	Most serious commitment offense	
		Rape/sexual assault	Assault
Total	100%	100%	100%
Race/Hispanic origin			
White ^a	51.0%	75.9%	35.5%
Black/African American ^a	33.9	14.3	47.9
Hispanic/Latino	12.3	8.6	13.0
Other ^{a,b}	2.9	1.2	3.6
Age at release			
24 or younger	12.0%	15.0%	17.2%
25–29	16.6	15.9	16.0
30–34	17.1	20.1	17.4
35–39	19.7	16.1	17.6
40 or older	34.6	32.8	31.8
Median	36 yrs.	34 yrs.	35 yrs.
Mean	36.0	35.7	34.8
Type of prison release			
Conditional	71.9%	62.7%	66.8%
Unconditional	28.1	37.3	33.2
Maximum sentence length^c			
1–<2 years	27.8%	17.8%	19.8%
2–<5 years	45.8	21.6	55.2
5–<10 years	18.3	36.6	18.3
10 years or more	8.1	24.0	6.7
Median	36 mos.	60 mos.	36 mos.
Number of prior arrests per released prisoner^d			
4 or fewer	28.0%	78.9%	35.5%
5–9	29.3	12.6	30.7
10 or more	42.7	8.5	33.8
Median	8 arsts.	2 arsts.	6 arsts.
Mean	10.8	3.8	9.0
At least one prior arrest for—			
Drug offense	72.0%	27.4%	49.8%
Property offense	81.8	36.4	69.8
Number of released prisoners	42,890	324	2,697

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. Percentages exclude missing data. Data on female prisoners' age at release were reported for 100% of cases; race/Hispanic origin, for 99.97%; and maximum sentence length, for 99.68%. See appendix table 13 for standard errors.

^aExcludes persons of Hispanic/Latino origin (e.g., "white" refers to non-Hispanic whites and "black" refers to non-Hispanic blacks).

^bIncludes Asians, Native Hawaiians, and Other Pacific Islanders; American Indians and Alaska Natives; and persons of two or more races.

^cBased on the released prisoners' total maximum sentence length for all commitment offenses. Study excludes prisoners sentenced to less than one year.

^dIncludes arrests for any type of crime prior to the prisoners' date of release in 2005.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

67% of male prisoners released after serving time for rape or sexual assault were arrested within 9 years

About half (49%) of male prisoners released after serving time for rape or sexual assault were arrested for any type of crime within 3 years, while 62% were arrested within 6 years (**table 12**). By the end of the 9-year follow-up period, the percentage of male sex offenders arrested after release had increased to 67%. At the end of the 9-year follow-up period, male sex offenders had a lower cumulative arrest percentage than all male prisoners (84%).

Four percent of male prisoners released after serving time for rape or sexual assault were arrested for rape or sexual assault within 3 years, while 8% were arrested for rape or sexual assault within 9 years (appendix table 18). Additional recidivism statistics on male sex offenders are available in appendix tables 16 to 22.

Among the 324 females released from state prisons after serving time for rape or sexual assault in 30 states in 2005, an estimated 29% were arrested for any type of crime at least once during the first year after release (**table 13**). Forty percent were arrested within 3 years of their release, while 50% were arrested within 6 years. By the end of the 9-year follow-up period, 54% of female sex offenders had been arrested after release. Female sex offenders had a lower 9-year cumulative arrest percentage than all female prisoners (77%). The sample of female sex offenders in this study included too few cases to provide reliable estimates on the percentage arrested for rape or sexual assault following release.

TABLE 12

Cumulative arrest percentage of male prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault who were arrested after release, by year after release

Year after release	All male prisoners	Most serious commitment offense	
		Rape/sexual assault	Assault
1	44.8%	29.0%	44.1%
2	61.1	42.0	60.3
3	69.4	49.1	68.9
4	74.4	53.9	74.5
5	77.9	58.4	78.5
6	80.2	62.0	80.6
7	81.8	64.0	82.1
8	83.1	65.9	83.1
9	84.0	67.1	83.8

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. See appendix table 14 for standard errors.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

TABLE 13

Cumulative arrest percentage of female prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault who were arrested after release, by year after release

Year after release	All female prisoners	Most serious commitment offense	
		Rape/sexual assault	Assault
1	35.1%	28.8%	31.5%
2	50.8	38.1	47.0
3	59.2	40.2	54.9
4	64.7	44.6	60.3
5	68.9	47.0	64.4
6	71.4	50.0	67.1
7	73.6	53.8	69.0
8	75.3	53.8	70.9
9	76.7	54.4	71.7

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. See appendix table 15 for standard errors.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

Methodology

Sampling

This study estimates the recidivism patterns of persons released in 2005 from state prisons in 30 states. States were included in this study if the state departments of corrections (DOCs) could provide the prisoner records and the Federal Bureau of Investigation (FBI) or state identification numbers on persons released from prison during 2005, through the National Corrections Reporting Program (NCRP), which is administered by the Bureau of Justice Statistics (BJS).

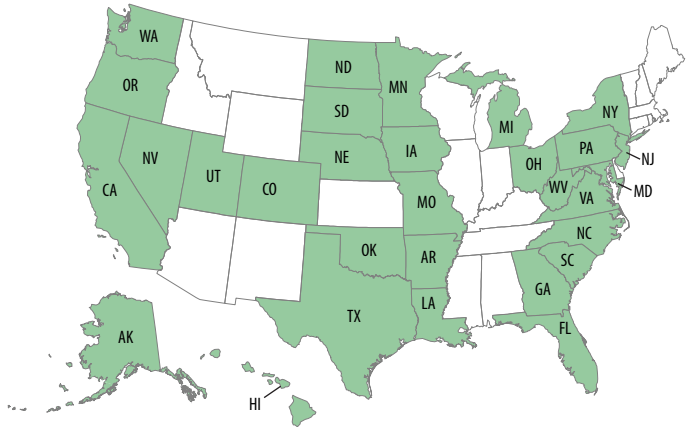
The fingerprint-based identification numbers were required to obtain the criminal-history records on released prisoners. Prisoner records also included each prisoner's sex, race, Hispanic origin, date of birth, confinement offenses, sentence length, type of prison release, and date of release. The 30 states with DOCs that submitted the NCRP data on prisoners released in 2005 were Alaska, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Iowa, Louisiana, Maryland, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Virginia, Washington, and West Virginia ([map 1](#)).

Across the 30 states in 2005, a total of 412,731 prisoners were released and were eligible for this study. That number excludes 131,997 prisoners (for a total of 544,728) who were sentenced to less than one year, were transferred to the custody of another authority, died in prison, were released on bond, were released to seek or participate in an appeal of a case, or escaped from prison or were absent without official leave. When a prisoner was released multiple times during the year, the first release during 2005 was used.

From the universe of prisoners released in 30 states in 2005 in this study, all males and females who were in prison for homicide were selected with certainty into the study. Analyses were completed to determine the number of prisoners released after serving time for non-homicide offenses that would be needed from each state's universe of released prisoners to yield a statistically sound estimate of that state's recidivism rates.

MAP 1

States included in the BJS recidivism study of prisoners released in 2005



Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

As a result, states contributed different numbers of records to the final sample. To achieve the desired state-level samples, lists of all males and females imprisoned for a non-homicide offense were sorted separately by race, Hispanic origin, age, most serious commitment offense, and the country in which the sentence was imposed. The within-state sampling rate for female prisoners was double that of males to improve the precision of female recidivism estimates. The combined number of persons in the 30 state samples totaled 70,878 individuals. (This number dropped to 67,966 after accounting for those who died during the subsequent 9 years, lacked criminal-history records, or had invalid release records.) Each prisoner in the sample was assigned a weight based on the probability of selection within the state.

Collecting and processing criminal-history data for recidivism research

BJS used the state and FBI identification numbers to collect the criminal-history records on the released prisoners through the FBI's Interstate Identification Index (III) via the International Justice and Public Safety Network (Nlets). These records contained arrests, from state and federal criminal-justice agencies across the 50 states and the District of Columbia, prior to and following prison releases in 2005. Nlets parsed

fields from individual criminal-history records into a relational database with a uniform record layout consisting of state- and federal-specific numeric codes and text descriptions (e.g., criminal statutes and case-outcome information).

NORC at the University of Chicago helped BJS standardize the content of the relational database into a uniform coding structure to support the national-level recidivism research. With the exception of vehicular manslaughter, driving under the influence or driving while intoxicated (DUI/DWI), and hit-and-run offenses, BJS excluded traffic violations from the study due to the variation in coverage of these events in state criminal-history records.

This study used the death information from the FBI's III and the Social Security Administration's public Death Master File to identify individuals who died during the 9-year follow-up period. BJS documented that 2,173 of the 70,878 sampled prisoners died during the 9-year follow-up period and removed these cases from the recidivism analysis along with four additional cases that were determined to be invalid release records.

Missing criminal-history records

Among the 68,701 sampled prisoners not identified as deceased during the follow-up period, BJS did not receive criminal-history records on a total of 735 prisoners (involving 27 of the study's 30 states) because either the state DOCs were unable to provide the prisoners' FBI or state identification number or the prisoner had an identification number that did not link to a criminal-history record either in the FBI or a state record repository. To account for the missing criminal-history records and to ensure the recidivism statistics were representative of all 68,701 prisoners in the analysis, BJS developed weighting-class adjustments to account for those prisoners without criminal-history information to reduce non-response bias.

To create the statistical adjustments, the 68,701 sampled prisoners were stratified into groups by crossing two categories of sex (male or female), five categories of age at release (24 or younger, 25 to 29, 30 to 34, 35 to 39, or 40 or older), four categories of race and Hispanic origin (non-Hispanic white, non-Hispanic black, Hispanic, or other race), and four categories of the most serious commitment offense (violent, property,

drug, or public order). Within each subgroup, statistical weights were applied to the data of the 67,966 prisoners with criminal-history information to allow their data to represent the 735 prisoners without criminal-history information.

Conducting tests of statistical significance

This study was based on a sample, not a complete enumeration, so the estimates are subject to sampling error. One measure of the sampling error associated with an estimate is the standard error. The standard error can vary from one estimate to the next. In general, an estimate with a smaller standard error provides a more accurate approximation of the true value than an estimate with a larger standard error. Estimates with relatively large standard errors should be interpreted with caution. BJS conducted tests to determine whether differences in the estimates were statistically significant once the sampling error was taken into account.

All differences discussed in this report are statistically significant at the 95% confidence level unless otherwise stated. Standard errors were generated using Stata, a statistical software package that calculates sampling errors for data from complex sample surveys.

Other measures of recidivism

In addition to new arrests, this study examined the recidivism patterns of former prisoners based on arrests within 9 years of exiting prison in 2005 that resulted in a subsequent court conviction. This measure is based on the time from release to the first date of arrest that led to a conviction, not the date of the conviction. The arrests that occurred within the follow-up period were tracked for 6 more months after year-9 to determine whether the case outcomes led to a subsequent conviction. This measure included prisoners released in 29 of the study's 30 states. Prisoners released in Louisiana were excluded because the disposition information from that state was generally not linked to the associated arrest.

The return-to-prison rates were based on prisoners released from 23 of the 30 states. The criminal-history data provided information on arrests that resulted in imprisonment during the follow-up period either within or outside of the state that released the prisoner, while the NCRP data provided

information on returns to prison for probation or parole violations or sentences for new crimes within the state that released them. Prisoners released in Maryland, Nebraska, Nevada, Ohio, Pennsylvania, and Virginia were excluded from the return-to-prison analysis because the complete prison-admission data needed to locate returns to prison during the first 5 years following release were unavailable. Prisoners released in Louisiana were also excluded from the return-to-prison analysis because the sentencing information in the criminal-history records was generally not linked to the associated arrest.

Comparing recidivism rates in this report to those from prior BJS studies

Given the increases in the number of states in the study and the length of the follow-up period, as well as improvements to the nation's criminal-history records over time, direct comparisons of the recidivism estimates from this study should not be made to those from BJS recidivism studies of previously released cohorts of prisoners.

Direct comparisons of the 9-year recidivism rates from this study on prisoners released in 30 states in 2005 to the 3-year rates from the previous BJS recidivism study on prisoners released in 15 states in 1994 should not be made due to differences in the two samples of prisoners. To control for the differences in the number of states in the studies and follow-up period lengths, BJS conducted analyses that limited the comparison to the 3-year cumulative arrest percentages among the prisoners released in the 11 states that provided the data for both studies (California, Florida, Michigan, Minnesota, New Jersey, New York, North Carolina, Ohio, Oregon, Texas, and Virginia).

Among the prisoners released in these 11 states in 1994 after serving time for rape or sexual assault, 5% of the prisoners were arrested for rape or sexual assault within 3 years. Of those released in these 11 states in 2005 after serving time for rape or sexual assault, 4% of the prisoners were arrested for rape or sexual assault within 3 years. The difference between these percentages was not statistically significant.

Due to efforts by the FBI and individual states to improve their criminal-history record systems, national criminal-history data may now capture more information on offenders' criminal activities than in the past. However, the potential effects of these improvements of the nation's criminal-history records on the observed recidivism rates are difficult to quantify.

For the 2005 study, BJS first used the prisoner records and criminal-history data to analyze the 5-year recidivism patterns. BJS extended the original 5-year follow-up period to 9 years to assess how recidivism patterns change with longer follow-up periods. Findings from this study were published in *2018 Update on Prisoner Recidivism: A 9-Year Follow-up Period (2005-2014)* (NCJ 250975, BJS web, May 2018). Recidivism estimates in this report may differ slightly from previously published estimates on prisoners released in 2005 based on updates to the data used for the study.

Offense definitions

Violent offenses include homicide, rape or sexual assault, robbery, assault, and other miscellaneous or unspecified violent offenses.

Homicide includes murder, non-negligent and negligent manslaughter, and unspecified homicide offenses.

Rape or sexual assault includes (1) forcible intercourse (vaginal, anal, or oral) with a female or male; (2) forcible sodomy or penetration with a foreign object (sometimes called "deviate sexual assault"); (3) forcible or violent sexual acts not involving intercourse; (4) non-forcible sexual acts with a minor (such as statutory rape or incest with a minor); and (5) non-forcible sexual acts with someone unable to give legal or factual consent due to mental or physical defect or intoxication.

Robbery is the unlawful taking of property that is in the immediate possession of another, by force or the threat of force. Includes forcible purse-snatching but excludes non-forcible purse-snatching.

Assault includes aggravated, simple, and unspecified assault. Aggravated assault includes (1) intentionally and without legal justification causing serious bodily injury, with or without a deadly weapon; or (2) using a deadly or dangerous weapon to threaten, attempt, or cause bodily injury, regardless of the degree of injury, if any. It also includes attempted murder, aggravated battery, felonious assault, and assault with a deadly weapon. Simple assault includes intentionally and without legal justification causing less-than-serious bodily injury without a deadly or dangerous weapon, or attempting or threatening bodily injury without a dangerous or deadly weapon.

Property offenses include burglary, fraud or forgery, larceny, motor vehicle theft, and other miscellaneous or unspecified property offenses.

Drug offenses include possession, trafficking, and other miscellaneous or unspecified drug offenses.

Public-order offenses include violations of the peace or order of the community or threats to the public health or safety through unacceptable conduct, interference with a governmental authority, or the violation of civil rights or liberties. This category includes weapons offenses, DUI/DWI, probation and parole violations, obstruction of justice, commercialized vice, disorderly conduct, and other miscellaneous or unspecified offenses.

Arrests for probation and parole violations

In this report, arrests for probation and parole violations were included as public-order offenses. Excluding arrests for probation and parole violations from the analysis would have had only a small impact on the recidivism rates. Excluding arrests for probation and parole violations, 64.2% of state prisoners released in 2005 in 30 states after serving time for rape or sexual assault were arrested at least once within 9 years. By comparison, 66.9% of such released offenders were arrested within 9 years when including these arrests. In other words, 96% of the released sex offenders who were arrested during the 9-year follow-up period were arrested for an offense other than a probation or parole violation.

APPENDIX TABLE 1**Most serious commitment offense of prisoners released in 30 states in 2005, by sex of offender**

Most serious commitment offense	All prisoners		Male		Female	
	Number	Percent	Number	Percent	Number	Percent
Total	401,288	100%	358,398	100%	42,890	100%
Violent	103,197	25.7%	96,879	27.0%	6,317	14.7%
Homicide	7,569	1.9	6,869	1.9	700	1.6
Rape/sexual assault	20,195	5.0	19,871	5.5	324	0.8
Robbery	28,717	7.2	27,046	7.5	1,671	3.9
Assault	38,468	9.6	35,771	10.0	2,697	6.3
Other violent	8,247	2.1	7,323	2.0	924	2.2
Property	119,323	29.7%	103,013	28.7%	16,310	38.0%
Drug	127,890	31.9%	111,565	31.1%	16,325	38.1%
Public order	50,879	12.7%	46,940	13.1%	3,939	9.2%

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. See appendix table 2 for standard errors.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 2**Standard errors for appendix table 1: Most serious commitment offense of prisoners released in 30 states in 2005, by sex of offender**

Most serious commitment offense	All prisoners		Male		Female	
	Number	Percent	Number	Percent	Number	Percent
Total	44	~	42	~	13	~
Violent	1,053	0.26%	1,043	0.29%	149	0.35%
Homicide	1	--	3	--	3	0.01
Rape/sexual assault	535	0.13	534	0.15	36	0.08
Robbery	592	0.15	587	0.16	81	0.19
Assault	781	0.19	773	0.22	109	0.25
Other violent	361	0.09	354	0.10	68	0.16
Property	1,108	0.28%	1,086	0.30%	215	0.50%
Drug	1,116	0.28%	1,096	0.31%	214	0.50%
Public order	740	0.18%	732	0.20%	107	0.25%

--Less than 0.005%.

~Not applicable.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 3**Standard errors for table 1: Characteristics of prisoners released in 30 states in 2005, by most serious commitment offense**

Characteristic	All prisoners	Most serious commitment offense		
		Rape/sexual assault	Assault	Offense other than rape/sexual assault
Sex				
Male	0.003%	0.18%	0.30%	0.02%
Female	0.003	0.18	0.30	0.02
Race/Hispanic origin				
White	0.28%	1.37%	1.02%	0.29%
Black/African American	0.27	1.17	0.99	0.28
Hispanic/Latino	0.27	1.28	1.07	0.27
Other	0.09	0.52	0.41	0.09
Age at release				
24 or younger	0.22%	0.83%	0.84%	0.23%
25–29	0.24	0.98	0.90	0.24
30–34	0.22	0.93	0.83	0.23
35–39	0.22	0.95	0.78	0.23
40 or older	0.28	1.37	0.96	0.28
Mean	0.06 yrs.	0.32 yrs.	0.20 yrs.	0.06 yrs.
Type of prison release				
Conditional	0.17%	1.11%	0.74%	0.17%
Unconditional	0.17	1.11	0.74	0.17
Maximum sentence length				
1–<2 years	0.23%	0.86%	0.61%	0.24%
2–<5 years	0.29	1.38	1.02	0.29
5–<10 years	0.22	1.21	0.80	0.23
10 years or more	0.14	1.06	0.45	0.13
Number of prior arrests per released prisoner				
4 or fewer	0.20%	1.37%	0.80%	0.20%
5–9	0.26	1.23	0.97	0.27
10 or more	0.28	1.31	1.10	0.28
Mean	0.06 arsts.	0.22 arsts.	0.21 arsts.	0.06 arsts.
At least one prior arrest for—				
Drug offense	0.25%	1.36%	1.04%	0.25%
Property offense	0.20	1.34	0.80	0.20
Number of released prisoners	44	535	781	537

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 4

Standard errors for table 2: Percent of prisoners released in 30 states in 2005 who were arrested within 9 years following release, by most serious commitment offense and types of post-release arrest charges

Most serious commitment offense	Post-release arrest offense								
	Violent								Public order
	Any offense	Total violent	Homicide	Rape/sexual assault	Robbery	Assault	Property	Drug	
All prisoners	0.20%	0.29%	0.07%	0.10%	0.18%	0.28%	0.30%	0.30%	0.24%
Violent	0.45%	0.59%	0.13%	0.24%	0.36%	0.57%	0.59%	0.59%	0.52%
Homicide	0.06	0.06	0.02	0.02	0.02	0.05	0.05	0.05	0.06
Rape/sexual assault	1.24	1.25	0.06	0.72	0.61	1.07	1.21	1.12	1.30
Robbery	0.74	1.07	0.18	0.44	0.80	1.01	1.07	1.08	0.93
Assault	0.76	1.09	0.25	0.36	0.62	1.08	1.09	1.09	0.91
Property	0.33%	0.56%	0.12%	0.18%	0.36%	0.53%	0.54%	0.56%	0.45%
Drug	0.35%	0.51%	0.12%	0.14%	0.28%	0.48%	0.53%	0.51%	0.45%
Public order	0.56%	0.76%	0.20%	0.19%	0.46%	0.72%	0.77%	0.77%	0.66%
Rape/sexual assault	1.24%	1.25%	0.06%	0.72%	0.61%	1.07%	1.21%	1.12%	1.30%
Offense other than rape/sexual assault	0.20%	0.30%	0.07%	0.09%	0.18%	0.29%	0.31%	0.30%	0.24%

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 5

Standard errors for table 3: Cumulative percent of prisoners released in 30 states in 2005 who were arrested following release, by year following release and most serious commitment offense

Year after release	Most serious commitment offense							
	All prisoners		Rape/sexual assault		Assault		Offense other than rape/sexual assault	
	Year of first arrest	Cumulative arrest percentage	Year of first arrest	Cumulative arrest percentage	Year of first arrest	Cumulative arrest percentage	Year of first arrest	Cumulative arrest percentage
1	0.29%	0.29%	1.36%	1.36%	1.10%	1.10%	0.29%	0.29%
2	0.21	0.27	0.90	1.38	0.78	1.02	0.22	0.27
3	0.15	0.25	0.64	1.37	0.57	0.95	0.15	0.25
4	0.11	0.23	0.47	1.35	0.45	0.88	0.12	0.23
5	0.09	0.22	0.57	1.31	0.38	0.82	0.09	0.22
6	0.07	0.21	0.49	1.28	0.24	0.80	0.07	0.21
7	0.06	0.21	0.32	1.26	0.17	0.78	0.06	0.21
8	0.05	0.20	0.26	1.25	0.17	0.77	0.06	0.20
9	0.05	0.20	0.28	1.24	0.12	0.76	0.05	0.20

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 6

Standard errors for table 4: Cumulative arrest percentage of prisoners released in 29 states in 2005 after serving a sentence for rape/sexual assault or assault who had an arrest that led to a conviction after release

Year after release	All prisoners	Most serious commitment offense	
		Rape/sexual assault	Assault
1	0.28%	1.00%	0.94%
2	0.30	1.18	1.08
3	0.31	1.25	1.09
4	0.30	1.32	1.08
5	0.29	1.34	1.05
6	0.29	1.36	1.03
7	0.28	1.36	1.00
8	0.28	1.36	0.97
9	0.27	1.36	0.96

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 8

Standard errors for table 6: Cumulative percent of prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault who were arrested outside the state of release, by year after release

Year after release	All prisoners	Most serious commitment offense	
		Rape/sexual assault	Assault
1	0.09%	0.27%	0.38%
2	0.11	0.37	0.49
3	0.13	0.54	0.56
4	0.15	0.62	0.62
5	0.16	0.69	0.67
6	0.17	0.74	0.70
7	0.18	0.75	0.73
8	0.19	0.76	0.76
9	0.19	0.79	0.79

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 7

Standard errors for table 5 and figure 2: Cumulative percent of prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault who were arrested for rape/sexual assault after release, by age and year after release

Most serious commitment offense	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
All prisoners	0.04%	0.06%	0.07%	0.07%	0.08%	0.09%	0.09%	0.09%	0.10%
Prisoners released after serving a sentence for rape/sexual assault	0.37%	0.47%	0.56%	0.63%	0.67%	0.67%	0.69%	0.72%	0.72%
Age at release									
24 or younger	0.75	1.92	2.44	2.45	2.46	2.46	2.46	2.50	2.50
25–39	0.77	0.82	0.85	0.87	1.01	1.02	1.04	1.06	1.07
40 or older	0.27	0.43	0.64	0.90	0.90	0.91	0.93	1.04	1.04
Race/Hispanic origin									
White	0.46	0.52	0.56	0.68	0.71	0.72	0.74	0.75	0.76
Black/African American	0.48	0.78	0.80	1.11	1.13	1.14	1.19	1.41	1.41
Hispanic/Latino	1.47	1.87	2.44	2.44	2.46	2.46	2.48	2.48	2.48
Other	0.39	0.95	1.16	1.19	1.25	1.28	1.67	1.67	1.69

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 9

Standard errors for table 7: Annual arrest percentage of prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault, by prisoner characteristics

Characteristic	Number of released prisoners	Total arrested within 9 years	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
All prisoners	44	0.20%	0.29%	0.29%	0.29%	0.29%	0.28%	0.28%	0.28%	0.27%	0.27%
Prisoners released after serving a sentence for rape/sexual assault	535	1.24%	1.36%	1.31%	1.30%	1.12%	1.14%	1.17%	1.12%	1.09%	1.10%
Age at release											
24 or younger	176	2.25	3.61	3.55	3.34	2.71	3.41	2.92	3.41	3.31	2.67
25–39	355	1.75	2.08	2.05	1.99	1.70	1.78	1.78	1.71	1.62	1.71
40 or older	374	2.07	2.01	1.88	1.98	1.77	1.59	1.80	1.62	1.62	1.67
Race/Hispanic origin											
White	356	1.63	1.68	1.56	1.57	1.38	1.32	1.45	1.30	1.35	1.26
Black/African American	267	1.79	2.48	2.46	2.46	2.16	2.31	2.05	2.34	2.37	2.45
Hispanic/Latino	295	4.01	4.24	4.13	4.08	3.26	3.55	3.78	3.35	2.63	2.85
Other	106	7.03	6.97	7.81	5.53	7.05	2.67	5.46	2.70	2.32	1.85
Prisoners released after serving a sentence for assault	781	0.76%	1.10%	1.09%	1.06%	1.05%	1.05%	1.03%	1.04%	1.04%	1.01%
Age at release											
24 or younger	351	1.49	2.37	2.40	2.31	2.20	2.35	2.18	2.06	2.22	2.23
25–39	599	1.01	1.53	1.51	1.50	1.48	1.46	1.45	1.49	1.49	1.43
40 or older	425	1.66	2.10	2.04	1.95	2.02	1.96	1.98	1.94	1.90	1.78
Race/Hispanic origin											
White	465	1.27	1.75	1.69	1.67	1.67	1.67	1.69	1.63	1.64	1.56
Black/African American	435	0.89	1.55	1.55	1.52	1.51	1.49	1.47	1.51	1.50	1.45
Hispanic/Latino	483	2.16	2.89	2.85	2.76	2.75	2.73	2.58	2.67	2.72	2.66
Other	159	4.28	6.07	6.17	5.80	5.15	5.80	5.79	5.79	6.01	5.01

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 10

Standard errors for table 8: Annual arrest percentage of prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault, by types of post-release arrest offenses

Most serious commitment offense and type of post-release arrest offense	Total arrested within 9 years	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
Commitment offense: Rape or sexual assault										
Post-release arrest offense										
Violent	1.25%	0.76%	0.69%	0.67%	0.71%	0.65%	0.46%	0.53%	0.42%	0.41%
Property	1.21	0.72	0.65	0.65	0.59	0.66	0.56	0.62	0.65	0.47
Drug	1.12	0.67	0.66	0.59	0.30	0.49	0.53	0.56	0.54	0.55
Public order	1.30	1.31	1.26	1.25	1.06	1.02	1.08	1.08	1.00	1.06
Commitment offense: Assault										
Post-release arrest offense										
Violent	1.09%	0.74%	0.76%	0.66%	0.70%	0.73%	0.57%	0.61%	0.64%	0.60%
Property	1.09	0.75	0.69	0.71	0.62	0.57	0.61	0.66	0.68	0.66
Drug	1.09	0.77	0.78	0.58	0.68	0.68	0.65	0.71	0.72	0.71
Public order	0.91	1.09	1.03	1.00	0.99	0.96	0.95	0.95	0.97	0.90

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 11

Standard errors for table 9: Types of offenses for which prisoners were arrested within 9 years following release in 30 states in 2005, by most serious commitment offense

Post-release arrest offense	Number of post-release arrest offenses	Most serious commitment offense							
		Violent					Property	Drug	Public order
		Homicide	Rape/sexual assault	Robbery	Assault	Other violent			
Any offense	24,074	0.01%	0.17%	0.25%	0.39%	0.16%	0.57%	0.55%	0.34%
Violent									
Total	4,212	0.02%	0.24%	0.34%	0.57%	0.28%	0.65%	0.60%	0.44%
Homicide	335	0.29	0.32	1.08	1.87	2.04	3.25	2.75	2.28
Rape/sexual assault	504	0.06	1.53	1.38	1.20	0.66	1.86	1.80	1.25
Robbery	1,086	0.03	0.37	0.91	0.86	0.30	1.38	1.27	0.81
Assault	3,082	0.02	0.21	0.32	0.64	0.34	0.68	0.63	0.47
Property	7,651	0.01%	0.18%	0.30%	0.34%	0.15%	0.65%	0.55%	0.33%
Drug	8,728	0.01%	0.16%	0.30%	0.42%	0.13%	0.73%	0.77%	0.45%
Public order	12,873	0.01%	0.26%	0.30%	0.54%	0.22%	0.68%	0.68%	0.44%
Percent of all released prisoners		--	0.13	0.15	0.19	0.09	0.28	0.28	0.18

--Less than 0.005%.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 12

Standard errors for table 10: Characteristics of male prisoners released in 30 states in 2005, by most serious commitment offense

Characteristic	All male prisoners	Most serious commitment offense		Offense other than rape/sexual assault
		Rape/sexual assault	Assault	
Race/Hispanic origin				
White	0.31%	1.39%	1.09%	0.32%
Black/African American	0.30	1.18	1.06	0.31
Hispanic/Latino	0.29	1.30	1.14	0.30
Other	0.10	0.52	0.43	0.10
Age at release				
24 or younger	0.25%	0.84%	0.89%	0.26%
25–29	0.26	1.00	0.96	0.27
30–34	0.24	0.94	0.89	0.25
35–39	0.24	0.96	0.83	0.25
40 or older	0.31	1.38	1.02	0.31
Mean	0.07 yrs.	0.33 yrs.	0.21 yrs.	0.07 yrs.
Type of prison release				
Conditional	0.18%	1.12%	0.78%	0.19%
Unconditional	0.18	1.12	0.78	0.19
Maximum sentence length				
1–<2 years	0.25%	0.88%	0.64%	0.26%
2–<5 years	0.32	1.40	1.09	0.32
5–<10 years	0.25	1.23	0.86	0.25
10 years or more	0.15	1.07	0.48	0.15
Number of prior arrests per prisoner				
4 or fewer	0.23%	1.39%	0.84%	0.22%
5–9	0.29	1.25	1.03	0.30
10 or more	0.31	1.33	1.17	0.31
Mean	0.07 arsts.	0.23 arsts.	0.23 arsts.	0.07 arsts.
At least one prior arrest for—				
Drug offense	0.28%	1.38%	1.11%	0.28%
Property offense	0.23	1.35	0.85	0.22
Number of released prisoners	42	534	773	536

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 13

Standard errors for table 11: Characteristics of female prisoners released in 30 states in 2005, by most serious commitment offense

Characteristic	All female prisoners	Most serious commitment offense	
		Rape/sexual assault	Assault
Race/Hispanic origin			
White	0.50%	4.64%	1.95%
Black/African American	0.47	3.29	2.07
Hispanic/Latino	0.41	3.77	1.78
Other	0.15	0.36	0.69
Age at release			
24 or younger	0.32%	4.17%	1.46%
25–29	0.38	3.25	1.56
30–34	0.38	4.28	1.62
35–39	0.41	4.24	1.61
40 or older	0.49	5.40	1.95
Mean	0.09 yrs.	1.04 yrs.	0.36 yrs.
Type of prison release			
Conditional	0.30%	5.29%	1.79%
Unconditional	0.30	5.29	1.79
Maximum sentence length			
1–<2 years	0.46%	4.14%	1.44%
2–<5 years	0.50	3.80	2.00
5–<10 years	0.34	5.70	1.48
10 years or more	0.17	4.56	0.73
Number of prior arrests per released prisoner			
4 or fewer	0.35%	4.96%	1.85%
5–9	0.45	3.87	1.94
10 or more	0.47	3.73	2.09
Mean	0.11 arsts.	0.50 arsts.	0.38 arsts.
At least one prior arrest for—			
Drug offense	0.40%	5.96%	2.08%
Property offense	0.34	5.19	1.78
Number of released prisoners	13	36	109

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 14

Standard errors for table 12: Cumulative arrest percentage of male prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault who were arrested after release, by year after release

Year after release	All male prisoners	Most serious commitment offense	
		Rape/sexual assault	Assault
1	0.32%	1.37%	1.17%
2	0.29	1.40	1.09
3	0.27	1.38	1.00
4	0.26	1.36	0.93
5	0.24	1.33	0.87
6	0.23	1.30	0.84
7	0.23	1.28	0.83
8	0.22	1.27	0.81
9	0.22	1.25	0.81

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 15

Standard errors for table 13: Cumulative arrest percentage of female prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault who were arrested after release, by year after release

Year after release	All female prisoners	Most serious commitment offense	
		Rape/sexual assault	Assault
1	0.49%	5.64%	2.04%
2	0.49	5.68	2.09
3	0.47	5.66	2.04
4	0.45	5.62	1.98
5	0.43	5.58	1.92
6	0.42	5.53	1.87
7	0.41	5.49	1.83
8	0.40	5.49	1.79
9	0.39	5.48	1.78

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 16

Percent of male prisoners released in 30 states in 2005 who were arrested within 9 years following release, by most serious commitment offense and types of post-release arrest offenses

Most serious commitment offense	Post-release arrest offense								
	Any offense	Violent					Property	Drug	Public order
		Total violent ^a	Homicide	Rape/sexual assault	Robbery	Assault			
All male prisoners	84.0%	40.9%	1.3%	2.9%	8.3%	32.8%	48.0%	48.6%	69.6%
Violent ^a	78.8%	44.2%	1.4%	4.3%	9.5%	34.7%	39.6%	37.2%	65.8%
Homicide	61.9	30.7	2.9	2.1	4.5	23.9	25.2	27.3	47.6
Rape/sexual assault	67.1	28.4	0.2	7.9	3.9	18.8	24.4	18.7	59.0
Robbery	84.5	48.1	1.5	3.6	17.1	34.8	47.4	45.6	67.6
Assault	83.8	51.9	1.4	3.0	8.1	45.1	44.4	44.2	70.8
Property	88.8%	43.1%	1.1%	2.9%	9.8%	34.2%	64.1%	49.5%	74.0%
Drug	84.9%	36.1%	1.2%	1.8%	6.3%	29.8%	42.6%	61.5%	68.4%
Public order	82.3%	41.0%	1.4%	2.6%	7.0%	33.3%	42.5%	39.1%	71.0%
Rape/sexual assault*	67.1%	28.4%	0.2%	7.9%	3.9%	18.8%	24.4%	18.7%	59.0%
Offense other than rape/sexual assault ^b	85.0% †	41.7% †	1.3% †	2.6% †	8.5% †	33.6% †	49.3% †	50.3% †	70.2% †

Note: The numerator for each percentage is the number of persons arrested for that offense during the 9-year follow-up period, and the denominator is the number released after serving time for each type of commitment offense. Persons could have been in prison for more than one offense, the most serious of which is reported. Details may not sum to totals because a person may be arrested more than once for different types of offenses and each arrest may involve more than one offense. See appendix table 1 for the number of released male prisoners by most serious commitment offense. See appendix table 23 for standard errors.

*Comparison group.

†Difference with comparison group (rape/sexual assault) is significant at the 95% confidence level.

^aIncludes other miscellaneous violent offenses, not shown separately.

^bIncludes the 338,527 male prisoners whose most serious commitment offense was an offense other than rape or sexual assault.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 17

Cumulative percent of male prisoners released in 29 states in 2005 after serving a sentence for rape/sexual assault or assault who had an arrest that led to a conviction after release

Year after release	All male prisoners	Most serious commitment offense	
		Rape/sexual assault	Assault
1	26.0%	12.9%	23.1%
2	40.3	22.4	38.7
3	49.9	28.7	47.5
4	56.2	34.5	54.7
5	60.8	38.9	59.4
6	64.1	42.5	63.4
7	66.7	45.3	66.4
8	68.7	48.3	69.1
9	70.1	49.7	70.0

Note: Estimates based on time from release to first arrest that led to a conviction among prisoners released in 29 of the study's 30 states (all but Louisiana). Persons could have been in prison for more than one offense, the most serious of which is reported. See appendix table 24 for standard errors.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 18

Cumulative percent of male prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault who were arrested for rape/sexual assault after release, by age and year after release

Most serious commitment offense	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
All male prisoners	0.6%	1.0%	1.4%	1.7%	1.9%	2.2%	2.5%	2.7%	2.9%
Male prisoners released after serving a sentence for rape/sexual assault	1.9%	3.5%	4.4%	5.1%	6.0%	6.4%	7.0%	7.7%	7.9%
Age at release									
24 or younger	2.5	7.2	9.5	9.9	10.4	10.6	11.4	11.9	12.0
25–39	2.9	3.9	4.4	5.0	6.4	7.0	7.6	8.3	8.6
40 or older	0.8	2.2	3.0	4.0	4.3	4.6	5.0	5.9	6.0
Race/Hispanic origin									
White ^a	1.6	2.7	3.3	4.0	4.7	5.2	5.6	6.0	6.3
Black/African American ^a	1.7	4.4	4.6	6.0	6.6	6.9	7.8	9.7	9.7
Hispanic/Latino	3.4	5.0	7.6	7.6	8.2	8.2	8.6	8.7	8.7
Other ^{a,b}	0.8	2.4	3.7	3.9	4.3	4.6	6.5	6.5	6.8

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. Data on prisoners' sex and age at release were known for 100% of cases; and race/Hispanic origin, for 99.96%. See appendix table 25 for standard errors.

^aExcludes persons of Hispanic/Latino origin (e.g., "white" refers to non-Hispanic whites and "black" refers to non-Hispanic blacks).

^bIncludes Asians, Native Hawaiians, and Other Pacific Islanders; American Indians and Alaska Natives; and persons of two or more races.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 19

Cumulative percent of male prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault who were arrested outside the state of release, by year after release

Year after release	All male prisoners	Most serious commitment offense	
		Rape/sexual assault	Assault
1	3.4%	2.1%	3.8%
2	5.9	3.5	6.5
3	7.9	5.3	8.6
4	9.6	6.8	10.4
5	11.1	8.3	12.2
6	12.5	9.5	13.4
7	13.7	10.2	14.7
8	14.8	10.8	15.9
9	15.8	11.5	17.1

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. See appendix table 26 for standard errors.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 20

Annual arrest percentage of male prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault, by prisoner characteristics

Characteristic	Number of released prisoners	Total arrested within 9 years	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
All male prisoners	358,398	84.0%	44.8%	38.2%	34.7%	32.3%	30.4%	28.3%	27.6%	26.3%	24.3%
Male prisoners released after serving a sentence for rape/sexual assault	19,871	67.1%	29.0%	26.6%	24.3%	19.4%	20.4%	19.6%	17.7%	17.5%	16.3%
Age at release											
24 or younger	2,437	83.7	42.4	37.4	29.7	21.2	27.1	22.1	25.8	27.8	18.9
25–39	8,698	72.3	32.8	30.5	27.8	21.9	23.4	22.6	19.4	17.7	17.7
40 or older	8,736	57.3	21.5	19.7	19.3	16.4	15.4	15.9	13.8	14.4	14.1
Race/Hispanic origin											
White ^a	10,253	61.5	23.7	21.9	20.2	16.9	16.6	17.5	14.2	16.1	13.0
Black/African American ^a	5,435	78.9	35.2	34.1	30.3	24.9	27.6	21.6	26.0	25.5	25.8
Hispanic/Latino	3,431	65.1	34.8	26.7	27.3	16.2	21.0	22.4	15.1	9.2	11.3
Other ^{a,b}	709	66.7	25.2	31.7	19.7	24.1	11.3	17.1	13.5	11.4	9.7
Male prisoners released after serving a sentence for assault	35,771	83.8%	44.1%	38.7%	34.4%	32.8%	31.9%	29.7%	29.7%	29.0%	25.2%
Age at release											
24 or younger	7,005	88.2	52.2	45.2	36.3	31.0	36.1	29.8	25.9	29.9	28.0
25–39	19,134	85.9	44.7	39.3	36.3	34.3	32.8	30.5	32.8	31.1	27.1
40 or older	9,631	76.3	36.9	32.6	29.5	31.3	27.2	28.0	26.3	24.1	19.5
Race/Hispanic origin											
White ^a	12,884	81.1	39.5	34.7	32.9	29.8	31.5	30.3	27.9	26.9	23.3
Black/African American ^a	13,270	87.6	46.4	42.5	36.4	36.0	32.0	31.1	30.9	29.6	26.3
Hispanic/Latino	8,278	81.2	46.5	37.8	33.0	33.1	32.0	25.4	29.5	29.1	25.9
Other ^{a,b}	1,215	86.1	48.6	45.6	35.7	29.7	35.3	33.9	34.4	39.4	25.0

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. Percentages exclude missing data. Data on male prisoners' age at release were reported for 100% of cases; and race/Hispanic origin, for 99.85%. See appendix table 27 for standard errors.

^aExcludes persons of Hispanic/Latino origin (e.g., "white" refers to non-Hispanic whites and "black" refers to non-Hispanic blacks).

^bIncludes Asians, Native Hawaiians, and Other Pacific Islanders; American Indians and Alaska Natives; and persons of two or more races.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 21**Annual arrest percentage of male prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault, by types of post-release arrest offenses**

Most serious commitment offense and type of post-release arrest offense	Total arrested within 9 years	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
Male prisoners released after serving a sentence for rape/sexual assault										
Violent	28.4%	6.7%	6.4%	5.4%	5.4%	5.3%	3.8%	4.1%	3.0%	2.6%
Property	24.4	5.7	5.7	4.7	4.0	4.7	3.9	4.3	4.5	3.1
Drug	18.7	4.3	4.6	3.9	1.9	3.3	3.0	3.1	3.2	3.3
Public order	59.0	23.4	20.9	19.6	15.3	14.8	14.8	14.0	13.5	13.1
Male prisoners released after serving a sentence for assault										
Violent	51.9%	13.3%	13.6%	10.7%	11.5%	12.1%	8.3%	8.9%	8.9%	7.5%
Property	44.4	12.6	10.7	11.1	8.9	7.8	7.9	8.7	8.8	8.5
Drug	44.2	11.9	12.3	7.9	9.4	9.0	8.3	8.9	9.2	8.2
Public order	70.8	31.6	25.6	23.6	22.7	20.4	19.9	19.8	20.2	16.7

Note: Persons could have been in prison for more than one offense, the most serious of which is reported. See appendix table 28 for standard errors.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 22**Types of offenses for which male prisoners were arrested within 9 years following release in 30 states in 2005, by most serious commitment offense**

Most serious commitment offense	Arrest offense								
	Any offense	Violent							
		Total*	Homicide	Rape/sexual assault	Robbery	Assault	Property	Drug	Public order
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%
Violent	22.9%	30.9%	29.9%	40.7%	31.4%	29.9%	19.3%	17.7%	25.3%
Homicide	0.9	1.3	4.4	1.4	1.1	1.3	0.7	0.8	1.0
Rape/sexual assault	3.0	3.4	1.2	15.8	2.3	2.8	2.0	1.6	4.2
Robbery	6.8	8.9	8.2	10.4	16.5	7.6	7.4	6.0	6.3
Assault	10.2	14.4	10.6	10.1	9.7	15.6	7.7	8.2	11.5
Other violent	1.9	2.8	5.5	3.0	1.8	2.6	1.5	1.1	2.3
Property	34.5%	29.6%	27.5%	27.5%	34.5%	29.6%	46.2%	28.8%	32.5%
Drug	31.2%	26.2%	28.0%	19.8%	23.5%	26.9%	24.1%	43.9%	29.6%
Public order	11.5%	13.4%	14.7%	12.0%	10.6%	13.6%	10.4%	9.6%	12.6%
Number of arrest offenses during the 9 years following release	2,644,000	329,000	5,000	12,000	38,000	219,000	613,000	606,000	1,096,000

Note: An arrest may involve charges for more than one type of offense. Each unique offense category included in an arrest is counted once. There were an estimated 1,809,000 post-release arrests of male prisoners released in 30 states in 2005, and these included approximately 2,644,000 different offenses. Persons could have been in prison for more than one offense, the most serious of which is reported. Number of post-release arrest offenses was rounded to the nearest 1,000. See appendix table 29 for standard errors.

*Includes other miscellaneous violent offenses, not shown separately.

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 23

Standard errors for appendix table 16: Percent of male prisoners released in 30 states in 2005 who were arrested within 9 years following release, by most serious commitment offense and types of post-release arrest offenses

Most serious commitment offense	Post-release arrest offense								
	Any offense	Violent					Property	Drug	Public order
		Total violent	Homicide	Rape/sexual assault	Robbery	Assault			
All male prisoners	0.22%	0.32%	0.08%	0.11%	0.20%	0.31%	0.33%	0.33%	0.26%
Violent	0.47%	0.63%	0.14%	0.26%	0.38%	0.60%	0.62%	0.62%	0.55%
Homicide	0.19	0.18	0.06	0.06	0.08	0.17	0.17	0.17	0.19
Rape/sexual assault	1.25	1.27	0.06	0.74	0.62	1.09	1.22	1.14	1.32
Robbery	0.78	1.12	0.19	0.47	0.84	1.06	1.12	1.13	0.98
Assault	0.81	1.16	0.26	0.39	0.66	1.15	1.16	1.16	0.97
Property	0.37%	0.63%	0.14%	0.21%	0.41%	0.60%	0.61%	0.63%	0.50%
Drug	0.39%	0.57%	0.14%	0.16%	0.32%	0.54%	0.60%	0.57%	0.50%
Public order	0.59%	0.82%	0.22%	0.20%	0.50%	0.78%	0.83%	0.82%	0.70%
Rape/sexual assault	1.25%	1.27%	0.06%	0.74%	0.62%	1.09%	1.22%	1.14%	1.32%
Offense other than rape/sexual assault	0.22%	0.33%	0.08%	0.11%	0.20%	0.32%	0.34%	0.33%	0.27%

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 24

Standard errors for appendix table 17: Cumulative percent of male prisoners released in 29 states in 2005 after serving a sentence for rape/sexual assault or assault who had an arrest that led to a conviction after release

Year after release	All male prisoners	Most serious commitment offense	
		Rape/sexual assault	Assault
1	0.31%	1.03%	1.01%
2	0.33	1.21	1.16
3	0.34	1.29	1.17
4	0.33	1.36	1.15
5	0.32	1.38	1.13
6	0.32	1.40	1.10
7	0.31	1.40	1.07
8	0.30	1.41	1.04
9	0.30	1.40	1.03

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 26

Standard errors for appendix table 19: Cumulative percent of male prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault who were arrested outside the state of release, by year after release

Year after release	All male prisoners	Most serious commitment offense	
		Rape/sexual assault	Assault
1	0.10%	0.27%	0.41%
2	0.13	0.38	0.52
3	0.15	0.55	0.60
4	0.16	0.63	0.66
5	0.18	0.70	0.71
6	0.19	0.75	0.75
7	0.20	0.76	0.78
8	0.20	0.77	0.81
9	0.21	0.80	0.85

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 25

Standard errors for appendix table 18: Cumulative percent of male prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault who were arrested for rape/sexual assault after release, by age and year after release

Most serious commitment offense	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
All male prisoners	0.05%	0.06%	0.07%	0.08%	0.09%	0.10%	0.10%	0.10%	0.11%
Male prisoners released after serving a sentence for rape/sexual assault	0.38%	0.48%	0.57%	0.64%	0.68%	0.68%	0.70%	0.73%	0.74%
Age at release									
24 or younger	0.76	1.95	2.49	2.50	2.50	2.51	2.51	2.55	2.55
25–39	0.78	0.83	0.86	0.89	1.03	1.04	1.06	1.08	1.09
40 or older	0.28	0.44	0.64	0.91	0.92	0.92	0.94	1.05	1.05
Race/Hispanic origin									
White	0.47	0.54	0.57	0.70	0.72	0.74	0.76	0.77	0.78
Black/African American	0.49	0.79	0.80	1.12	1.14	1.15	1.20	1.42	1.42
Hispanic/Latino	1.48	1.88	2.46	2.46	2.48	2.48	2.50	2.50	2.50
Other	0.37	0.94	1.16	1.18	1.24	1.27	1.66	1.66	1.69

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 27**Standard errors for appendix table 20: Annual arrest percentage of male prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault, by prisoner characteristics**

Characteristic	Number of released prisoners	Total arrested within 9 years	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
All male prisoners	42	0.22%	0.32%	0.32%	0.32%	0.32%	0.31%	0.31%	0.31%	0.30%	0.30%
Male prisoners released after serving a sentence for rape/sexual assault	534	1.25%	1.37%	1.33%	1.32%	1.14%	1.16%	1.18%	1.14%	1.11%	1.11%
Age at release											
24 or younger	176	2.29	3.68	3.61	3.40	2.76	3.48	2.97	3.47	3.37	2.72
25–39	354	1.78	2.11	2.09	2.02	1.73	1.82	1.82	1.74	1.65	1.74
40 or older	373	2.09	2.03	1.90	2.00	1.79	1.61	1.82	1.64	1.64	1.69
Race/Hispanic origin											
White	354	1.66	1.71	1.59	1.60	1.41	1.35	1.48	1.33	1.38	1.29
Black/African American	267	1.80	2.50	2.48	2.48	2.17	2.33	2.07	2.36	2.38	2.47
Hispanic/Latino	295	4.04	4.27	4.16	4.11	3.29	3.58	3.81	3.37	2.66	2.87
Other	106	7.07	7.01	7.85	5.56	7.10	2.66	5.49	2.70	2.32	1.85
Male prisoners released after serving a sentence for assault	773	0.81%	1.17%	1.16%	1.13%	1.12%	1.12%	1.10%	1.11%	1.11%	1.07%
Age at release											
24 or younger	348	1.57	2.50	2.53	2.45	2.33	2.48	2.32	2.18	2.35	2.37
25–39	593	1.07	1.62	1.61	1.59	1.57	1.55	1.54	1.58	1.59	1.52
40 or older	420	1.78	2.26	2.19	2.10	2.18	2.11	2.13	2.09	2.05	1.92
Race/Hispanic origin											
White	461	1.34	1.85	1.79	1.77	1.78	1.78	1.80	1.73	1.75	1.66
Black/African American	429	0.95	1.66	1.68	1.64	1.63	1.61	1.59	1.64	1.62	1.57
Hispanic/Latino	480	2.24	2.99	2.95	2.86	2.85	2.83	2.68	2.77	2.82	2.76
Other	157	4.54	6.50	6.59	6.23	5.51	6.23	6.22	6.22	6.44	5.38

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 28**Standard errors for appendix table 21: Annual arrest percentage of male prisoners released in 30 states in 2005 after serving a sentence for rape/sexual assault or assault, by types of post-release arrest offenses**

Most serious commitment offense and type of post-release arrest offense	Total arrested within 9 years	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9
Male prisoners released after serving a sentence for rape/sexual assault										
Violent	1.27%	0.78%	0.70%	0.68%	0.72%	0.66%	0.47%	0.54%	0.43%	0.42%
Property	1.22	0.73	0.66	0.66	0.60	0.67	0.57	0.63	0.66	0.48
Drug	1.14	0.68	0.67	0.60	0.30	0.50	0.54	0.57	0.55	0.55
Public order	1.32	1.33	1.28	1.27	1.08	1.03	1.10	1.09	1.01	1.08
Male prisoners released after serving a sentence for assault										
Violent	1.16%	0.79%	0.81%	0.71%	0.75%	0.79%	0.61%	0.66%	0.69%	0.64%
Property	1.16	0.80	0.74	0.75	0.66	0.61	0.64	0.70	0.72	0.71
Drug	1.16	0.83	0.83	0.62	0.73	0.73	0.70	0.76	0.76	0.75
Public order	0.97	1.16	1.10	1.07	1.05	1.02	1.01	1.01	1.04	0.96

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.

APPENDIX TABLE 29

Standard errors for appendix table 22: Types of offenses for which male prisoners were arrested within 9 years following release in 30 states in 2005, by most serious commitment offense

Most serious commitment offense	Arrest offense									
	Any offense	Violent				Robbery	Assault	Property	Drug	Public order
		Total	Homicide	Rape/sexual assault						
Violent	0.52%	0.70%	2.82%	2.07%	1.29%	0.75%	0.53%	0.59%	0.69%	
Homicide	0.01	0.02	0.31	0.07	0.04	0.02	0.01	0.01	0.01	
Rape/sexual assault	0.19	0.25	0.33	1.55	0.39	0.23	0.21	0.18	0.28	
Robbery	0.27	0.35	1.10	1.39	0.95	0.34	0.33	0.33	0.33	
Assault	0.42	0.60	1.91	1.21	0.90	0.67	0.37	0.46	0.58	
Other violent	0.17	0.30	2.09	0.67	0.31	0.35	0.17	0.14	0.23	
Property	0.61%	0.68%	3.34%	1.88%	1.44%	0.72%	0.72%	0.79%	0.73%	
Drug	0.60%	0.63%	2.82%	1.82%	1.32%	0.66%	0.60%	0.84%	0.74%	
Public order	0.38%	0.46%	2.34%	1.26%	0.85%	0.50%	0.37%	0.49%	0.47%	
Number of arrest offenses during the 9 years following release	23,699	4,181	334	504	1,075	3,053	7,501	8,551	12,707	

Source: Bureau of Justice Statistics, Recidivism of State Prisoners Released in 2005 data collection, 2005–2014.



The Bureau of Justice Statistics of the U.S. Department of Justice is the principal federal agency responsible for measuring crime, criminal victimization, criminal offenders, victims of crime, correlates of crime, and the operation of criminal and civil justice systems at the federal, state, tribal, and local levels. BJS collects, analyzes, and disseminates reliable statistics on crime and justice systems in the United States, supports improvements to state and local criminal justice information systems, and participates with national and international organizations to develop and recommend national standards for justice statistics. Jeffrey H. Anderson is the director.

This report was written by Mariel Alper and Matthew R. Durose. Joshua Markman, a former BJS statistician, assisted with developing this study. Stephanie Mueller verified the report.

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