

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 1183

Printer's No.: 1449

Sponsor: Senator Orie

Prepared by: Gregg Warner

Synopsis: This bill amends several titles of the Pennsylvania Consolidated Statutes to provide for Pennsylvania's management of its sex offender population. The bill re-writes Pennsylvania's Megan's Law in order to address certain court cases and to bring Pennsylvania into compliance with the federal Sex Offender Registration and Notification Act (SORNA), Title 1 of the Adam Walsh Child Protection and Safety Act of 2006.

Summary: Sections 9791 through 9799.9 of the Judicial Code, commonly referred to as Megan's Law, are repealed and replaced with sections 9799.11 through 9799.34.

Classifications

Sex offenders are classified as a Class 1 sexual offender, Class 2 sexual offender or Class 3 sexual offender based on the severity of their sexual offense. A Class 1 sexual offense includes any of the following offenses:

18 Pa.C.S. §2902 (relating to unlawful restraint) if the victim is a minor and the perpetrator is not the victim's parent.

18 Pa.C.S. §2903 (relating to false imprisonment) if the victim is a minor and the perpetrator is not the victim's parent.

18 Pa.C.S. §2904 (relating to interference with custody of children) if the victim is a minor and the perpetrator is not the victim's parent.

18 Pa.C.S. §2910 (relating to luring a child into a motor vehicle or structure).

18 Pa.C.S. §3124.2 (relating to institutional sexual assault) if the victim is not a minor.

18 Pa.C.S. §3126 (relating to indecent assault) if the offense is graded a misdemeanor of the first degree or higher and the punishment is less than one year.

18 Pa.C.S. §7507.1 (relating to invasion of privacy).

In the case of each offense, an attempt, solicitation or conspiracy to commit the offense also is included. A Class I sexual offender may petition the court of common pleas to be removed from the registration requirements if no less than 15 years have passed since the offender was convicted of the registrable offense, excluding any time that the offender was in custody or civilly committed.

A Class 2 sexual offense includes any of the following offenses:

18 Pa.C.S. §3126 (relating to indecent assault) if the offense is graded as a misdemeanor of the first degree or higher and the punishment is one year or more or if the individual was previously convicted of indecent assault.

18 Pa.C.S. §5902(b) (relating to prostitution and related offenses) if the actor promoted the prostitution of a minor.

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

18 Pa.C.S. §6312 (relating to sexual abuse of children).

18 Pa.C.S. §6318 (relating to unlawful contact with minors).

18 Pa.C.S. §6320 (relating to sexual exploitation of children).

In the case of each offense, an attempt, solicitation or conspiracy to commit the offense also is included. A Class 2 sexual offender may petition the court of common pleas to be removed from the registration requirements if no less than 25 years have passed since the offender was convicted of the registrable offense, excluding any time that the offender was in custody or civilly committed.

A Class 3 sexual offense includes any of the following offenses:

18 Pa.C.S. §2901 (relating to kidnapping) if the victim is a minor.

18 Pa.C.S. §3121 (relating to rape).

18 Pa.C.S. §3122.1 (relating to statutory sexual assault).

18 Pa.C.S. §3123 (relating to involuntary deviate sexual intercourse).

18 Pa.C.S. §3124.1 (relating to sexual assault).

18 Pa.C.S. §3124.2 (relating to institutional sexual assault) if the victim is a minor.

18 Pa.C.S. §3125 (relating to aggravated indecent assault).

18 Pa.C.S. §3126 (relating to indecent assault) if the offense is graded as a misdemeanor of the first degree or higher, the victim is less than 13 years of age, and the punishment is one year or more.

18 Pa.C.S. §4302 (relating to incest) if the victim is less than 13 years of age or the victim is 13 to 18 years of age and the offender is at least four years older than the victim.

In the case of each offense, an attempt, solicitation or conspiracy to commit the offense also is included. A Class 3 sexual offender must register for life.

Sexually violent predators

The bill continues the designation of certain offenders as sexually violent predators if the individual has been convicted of a registrable offense and is determined to be a sexually violent predator due to a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses. The term includes individuals determined to be a sexually violent predator in another jurisdiction and a sexually violent delinquent child under Chapter 64 (relating to court-ordered involuntary treatment of certain sexually violent persons), regardless of whether the individual has been subsequently discharged from involuntary treatment.

Juveniles

The registration requirements apply to an individual who before the effective date of the legislation was adjudicated delinquent following a determination by the court that the offender committed 18 Pa.C.S. §3121 (relating to rape) or 18 Pa.C.S. §3123 (relating to involuntary deviate sexual intercourse) or an attempt or conspiracy to commit one of these offenses.

The registration requirements also apply to an offender receiving involuntary treatment in a facility under Chapter 64.

Out-of-state offenders

An out-of-state offender is any individual required to register due to a conviction or adjudication of delinquency in another jurisdiction or to a court-martial. An out-of-state offender must appear in person at an approved registration site within 72 hours of the offender's arrival in Pennsylvania, submit to fingerprinting and photographing, and provide the required registration information. The Pennsylvania State Police shall classify an out-of-state offender as a Class 1, Class 2 or Class 3 sexual offender or sexual violent predator.

Registration information

When registering with the Pennsylvania State Police the following information must be provided:

- (1) Primary given name, including aliases, nicknames, ethnic or tribal names and any pseudonyms, regardless of the context in which they are used.
- (2) Valid and purported Social Security number.
- (3) Actual and purported date of birth.
- (4) Place of birth.
- (5) Physical description, including sex, height, weight, eye color, hair color, race and any scars, marks or tattoos.
- (6) Fingerprints, taken and submitted to the Integrated Automated Fingerprint Identification System (IAFIS).
- (7) Palm prints taken and submitted to the FBI Central Database.
- (8) DNA sample, taken and submitted to the State DNA Data Base for entry into the Combined DNA Index System (CODIS).
- (9) A digitized copy of a valid driver's license or identification card issued to the offender.
- (10) A digitized copy of the offender's passport and immigration documents.
- (11) A photograph of the offender's face and any scars, marks, tattoos or other unique features of the individual.
- (12) Any telephone numbers, including landline and cell phone numbers, and any other designations used by the offender for purposes of routing or self-identification in telephonic communications.
- (13) Any e-mail addresses, any instant message addresses or identifiers, and designations or monikers used by the offender for purposes of routing or self-identification in Internet communications or postings.
- (14) The address of each residence at which the offender resides or will reside or in the case of an offender who does not have a residence, the offender's habitual locale.
- (15) The location at which the offender receives delivery of mail, including a post office box or general delivery post office location.
- (16) The name and address of any place where the offender is employed or will be employed, including transient or day labor employment.
- (17) The name and address of any place where the offender attends school or will attend school.
- (18) The license plate number, registration number of any other identifier of all vehicles, including land vehicles, aircraft or watercraft.
- (19) Information concerning all licensing, authorizing the offender to engage in an occupation or carry out a trade or business.
- (20) The offenses requiring registration, including the text of the law defining the offense for which the offender is registered.
- (21) The dates of all arrests, convictions and outstanding arrest warrants, as well as the status of the offender's parole, probation, supervised release and registration.
- (22) The date or dates of incarceration and release from incarceration.

(23) Forms signed by the offender acknowledging that he was advised of his registration obligations.

Verification

Sexually violent predators, Class 3 sexual offenders, Class 3 out-of state sexual offenders, offenders subject to registration due to an adjudication of delinquency for a qualifying offense or a civil commitment and all transient offenders and transient out-of-state offenders must verify their registration information every 90 days after their registration start date by reporting in person to an approved registration site.

All Class 2 sexual offenders and Class 2 out-of state sexual offenders, except for transient offenders subject to quarterly verification, shall verify their registration information every 180 days.

All Class 1 sexual offenders and Class 1 out-of-state offenders shall verify their registration information annually.

The registration start date is defined as the date on which an offender or out-of-state offender's registration information is approved and entered into the State sexual offender registry by the Pennsylvania State Police.

Conforming amendments

Conforming amendments are made to Title 18, the Crimes Code, Title 23, the Domestic Relations Code, Title 44 (Law and Justice) and Title 61, the Prisons and Parole Code.

Effective date

This act takes effect in 60 days.

Background: This legislation brings Pennsylvania into compliance with the federal Sex Offender Registration and Notification Act, part of the Adam Walsh Act. Pennsylvania must bring its law into "substantial compliance" or suffer a 10% reduction in its Byrne Justice Assistance Grant program.

According to the sponsor, the legislation "makes the following changes to Pennsylvania's Megan's Law: (1) groups offenders into multiple classifications, depending on the severity of the offense; (2) increases the amount of information collected from each offender; (3) extends the registration requirement to juvenile offenders who commit rape, involuntary deviate sexual intercourse, aggravated indecent assault, or an attempt or conspiracy to commit these offenses; (4) expands the list of sexually violent offenses subject to the law; (5) recaptures back into Megan's Law offenders with prior convictions for sexual offenses but not currently subject to registration, if the offender re-enters the criminal justice system because of a crime punishable by a term of imprisonment of more than one year; (6) requires notification to the federal government if the offender intends to travel abroad; (7) increases the frequency with which an offender is required to verify his registration information; (8) requires that Pennsylvania include more information about offenders on its Internet website; (9) mandates that the Pennsylvania State Police communicate registration information with federal, state and local police departments more quickly than its currently required; and (10) requires transient sexual offenders to register and update their registration information, which will also solve the problem identified in Commonwealth v. Wilgus, 975 A.2d 1183 (Pa. 2009)."

While much of the legislation addresses Adam Walsh compliance, the legislation is more comprehensive because it maintains Pennsylvania's Sexual Offender Assessment Board, the designation of sexually violent predators, traditional door-to-door community notification for sexually violent predators, and written notification to victims of sexually violent predators unless the victim opts for electronic notification. The bill also addresses several Megan's Law court cases and Act 21 delinquent sexual offenders who are civilly committed for treatment under 42 Pa.C.S. Ch. 64.