



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 959 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Michael J. Bouchard
Committee: Families, Mental Health and Human Services

Date Completed: 5-29-96

RATIONALE

Public Act 295 of 1994 created the Sex Offenders Registration Act to require a person convicted of a "listed offense" to register information about his or her identity, address, and conviction. (The definition of "listed offense" and an overview of the Act are in BACKGROUND, below.) Depending upon the person's status, he or she must register with a parole officer, probation officer, sheriff, local law enforcement agency, or juvenile court, the State Police, the Department of Corrections, or the Family Independence Agency (formerly the Department of Social Services), and the entity that accepts a registration must forward it to the Department of State Police. According to supporters of sex offender registration, these requirements contribute to public safety by assisting police investigations and deterring sex offenders from committing new offenses. The Act specifies that a registration is confidential and may not be open to inspection except for law enforcement purposes. Some people believe, however, that making the registrations available only to law enforcement personnel does not do enough to protect the public. It has been suggested that community safety would be enhanced if members of the public had access to a list of registered offenders.

CONTENT

The bill would amend the Sex Offenders Registration Act to require the Department of State Police to publish an annual compilation and monthly update of registered sex offenders, which would be available for public inspection; require the Department to notify the appropriate local law enforcement agency or sheriff's department if a registered individual notified the Department of an address change or if the Department received a registration or notification under the Act; and

require an individual registered under the Act before the effective date of the bill to provide the Department of State Police with his or her date of birth, if the Department requested it. The bill would take effect September 1, 1996.

Under the bill, the Department annually would have to prepare and publish a compilation of registered sex offenders that was indexed numerically by zip code area. Within each zip code area, the compilation would have to contain the name, aliases, address, physical description, and birth date of each registered offender who resided in that zip code area and any listed offense of which the individual had been convicted. The Department would have to provide a copy of the compilation to each local law enforcement agency and sheriff's department in printed form or by electronic, computerized, or other accessible means. The Department also would have to provide each local law enforcement agency and sheriff's department with a monthly update, in the same format as the compilation, of new individuals registered or deleted from registration or who had changed address to a new zip code area. The compilation and updates would have to be available for public inspection at a local law enforcement agency or sheriff's department during regular business hours.

If a court determined that a compilation of individuals including names and aliases, addresses, physical descriptions or dates of birth violated the U.S. or State Constitution, the Department would have to prepare annual compilations and updates that did not contain that information.

In addition, the Department annually would have to produce a report detailing the number of listed offenses committed in the State for the calendar

year, arrest numbers and rates for those offenses, and dispositions of those cases. The Department would have to transmit the report to the Secretary of the Senate and the Clerk of the House of Representatives, and make it available to each local law enforcement agency and sheriff's department. The reports to the law enforcement agencies and sheriff's departments would have to be available to the public.

The bill also specifies that if an individual registered or provided notice of an address change at a Michigan State Police post or if the Department received a registration or notification under the Act, the Department would have to forward a copy of the registration or notification with seven days to the local law enforcement agency or to the sheriff's department.

MCL 28.726 et al.

BACKGROUND

The Sex Offenders Registration Act applies to individuals convicted of a listed offense, juveniles for whom the juvenile court enters a disposition for a listed offense, and persons placed on youthful trainee status for a listed offense. Offenders must comply with the registration requirement for 25 years after the initial registration, and someone convicted of a second or subsequent offense must register for life. Within 10 days after moving, being paroled, or being released from the jurisdiction of the Department of Corrections, a person required to register must notify the local law enforcement agency, the State Police, or the sheriff's department of his or her new address. The entity that registers an individual or receives a change-of-address notice must forward the registration or notice to the Department of State Police. If a person registers with the State Police, that Department must forward a copy of the registration to the local law enforcement agency or sheriff's department. The Department of State Police also must maintain a computerized data base of registrations and change-of-address notices.

"Listed offense" means any of the following:

- Accosting, enticing, or soliciting a child for immoral purposes.
- Involvement in child sexually abusive activity or material.
- A third or subsequent violation of any combination of the following: engaging in indecent or obscene conduct in a public place, indecent exposure, or a local

ordinance substantially corresponding to either of those offenses.

- Criminal sexual conduct (CSC) in the first, second, third, or fourth degree.
- Assault with intent to commit CSC.
- An attempt or conspiracy to commit an offense described above.
- An offense substantially similar to a listed offense under the laws of the United States, any other state, or any country.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Citizens have a right to arm themselves with information about sexual offenders in their community. By requiring the State Police to compile a list of registered offenders and forward it to local law enforcement agencies, where the list would be available for public inspection, the bill would empower individuals to protect themselves and their families against known offenders who could present a potential danger. For example, a parent could learn whether his or her child's teacher or day care worker was a registered sex offender, and vulnerable adults could check on new neighbors or other unfamiliar members of the community. Employers, particularly those whose workers interact with children, would be able to find out whether employees or potential hires were on a list. The existing restrictions on access are excessive. Since the registration information exists, it should be available to communities and individuals who want to protect themselves.

Opposing Argument

The sex offender registry should be used strictly for law enforcement purposes, not as a mechanism to brand or ostracize particular members of the community. When the Sex Offenders Registration Act was first being debated, many people argued for wider access, while others expressed privacy concerns. The resulting Act struck a healthy balance between the need for the registry as a law enforcement tool and the need to protect the privacy of offenders who have been trusted to return to the community. Sex offenders who have been discharged from prison or who have successfully completed a term of parole or probation have paid their debt to society and should not be subject to unreasonable scrutiny.

Opposing Argument

As it was introduced, the bill would have required the proposed compilation to contain only the physical description and birth date of registered individuals. The substitute bill also would include an individual's name, aliases, and address. Reportedly, courts in other jurisdictions have struck down similar requirements that offenders be named. It is possible that courts in Michigan would rule the same.

Response: Including only an individual's physical description, without a name, could promote hysteria in a community, as well as cast suspicion on a large number of innocent people who physically resembled an offender. If a court did rule, however, that a compilation containing specific information was unconstitutional, the compilation could not contain that information.

Legislative Analyst: S. Margules

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the State. The bill would require the Department of State Police annually to publish or provide electronically or by other means a compilation of individuals registered under the Act and provide a copy to each of the several hundred law enforcement agencies in the State, and to provide a report to the Legislature on offenses and case dispositions. According to the Department, this would require the State Police to hire additional FTEs and incur printing or other costs at an amount that cannot be determined at this time.

Fiscal Analyst: B. Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.