



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 959 (as enrolled)
 Sponsor: Senator Michael J. Bouchard
 Senate Committee: Families, Mental Health and Human Services
 House Committee: Judiciary and Civil Rights

PUBLIC ACT 494 of 1996

Date Completed: 1-10-97

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 was suggested that community safety would be enhanced if members of the public had access to a list of registered offenders.

CONTENT

The bill amends the Sex Offenders Registration Act to require the Department of State Police to maintain a computerized data base of registered individuals. The compilation must be indexed by zip code area and contain the name, aliases, address, physical description, birth date, and listed offenses of each individual residing within a zip code area. The Department must make the compilation available to State Police posts,

local law enforcement agencies, and sheriff's departments, which must make information from the compilation available for public inspection. The bill will take effect April 1, 1997.

Compilation/Public Availability

Currently, the Department of State Police must maintain a computerized data base of registrations and notices required under the Act. The bill also requires the Department to maintain a separate computerized data base that consists of a compilation of individuals registered under the Act (except an individual who registered solely because he or she had one or more dispositions for a listed offense entered under the juvenile code, in a case that was not designated as a case in which the individual was to be tried as an adult for a "specified juvenile violation" pursuant to the code).

The compilation must be indexed numerically by zip code area. Within each zip code area, the compilation must contain the name and aliases, address, physical description, and birth date of each registered individual who is included in the compilation and who resides in the zip code area, and any listed offense of which the individual has been convicted. The Department must update the compilation with new registrations, deletions from registrations, and address changes at the same time those changes are made to the data base that is currently required.

The Department must make the compilation available to each State Police post, local law enforcement agency, or sheriff's department by the Law Enforcement Information Network. Upon request by a State Police post, local law enforcement agency, or sheriff's department, the

Department must provide that post, agency, or sheriff's department with the information from the compilation in printed form for the zip code areas located wholly or partly within the post's, agency's, or department's jurisdiction. Alternatively, the Department may make the compilation or information from it available to a post, agency, or sheriff's department by electronic, computerized, or other means accessible to the post, agency, or department.

A State Police post, local law enforcement agency, or sheriff's department must make information from the compilation for the zip code areas located wholly or partly within the post's, agency's, or department's jurisdiction available for public inspection during regular business hours. A State Police 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. The State Police may make information from the compilation available to the public through electronic, computerized, or other accessible means.

If a court determines that the public availability under these provisions of any information concerning registered individuals, including names and aliases, addresses, physical descriptions, or dates of birth, violates the U.S. or State Constitution, the Department must revise the compilation so that it does not contain that information.

Currently, it is a misdemeanor to divulge, use, or publish information concerning a registration in violation of the Act, and an individual whose registration is revealed in violation of the Act has a civil cause of action against the responsible party for treble damages. The bill specifies that these provisions do not apply to the compilation described in the bill or information from that compilation that is provided or made available under the bill.

Registration and Notification Requirements

The Act provides that a registration must be made on a form provided by the Department and must contain the individual's name, Social Security number, and address; a brief summary of the individual's convictions for listed offenses; a complete physical description of the individual; the individual's blood type and whether a DNA identification profile of the individual is available; and a recent photograph of the individual. Under

the bill, a registration also must contain the individual's date of birth; an individual registered before the bill's effective date must provide the Department with his or her date of birth upon the Department's request. A registration may, but is not required to, contain the individual's blood type, whether a DNA identification profile is available, and a recent photograph. The bill also permits, rather than requires, the individual to sign the registration or notice.

Under the Act, the officer, court, or agency registering an individual or receiving or accepting a registration or notified of an address change, must forward the registration or notification to the Department within seven days after registration or notification. The bill requires the officer, court, or agency to forward the registration or notification to the Department by the Law Enforcement Information Network within three business days after registration or notification.

Currently, if an individual registers at a State Police post, the Department must forward a copy of the registration within seven 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. The bill deletes that requirement.

The bill provides that a registration must be forwarded to the Department in the format the Department prescribes.

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.

“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 create a data base of registered offenders and make it available to local law enforcement agencies, where information from the compilation will be available for public inspection, the bill will empower individuals to protect themselves and their families against known offenders who might present a potential danger. For example, a parent will be able to learn whether his or her child’s teacher or day care worker is a registered sex offender, and vulnerable adults can check on new neighbors or other unfamiliar members of the community. Employers, particularly those whose workers interact with children, will be able to find out whether employees or potential hires are in the compilation. 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 compilation to contain only the physical description and birth date of registered individuals. The enacted bill also includes 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 will 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 does rule, however, that the public availability of specific information is unconstitutional, the compilation may not contain that information.

Legislative Analyst: S. Margules

FISCAL IMPACT

The bill will have a minimal fiscal impact on the State and local law enforcement agencies. The bill requires the Department of State Police to make available either by print or electronic means, a compilation of individuals registered under the Act to law enforcement agencies in the State. The requirements under the bill can be accomplished by law enforcement agencies within existing resources.

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.