



HOUSE BILL No. 5796

May 16, 2000, Introduced by Rep. DeHart and referred to the Committee on Criminal Law and Corrections.

A bill 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:

1 Sec. 1. This act shall be known and may be cited as the
2 "controlled substance offenders registration act".

3 Sec. 2. As used in this act:

4 (a) "Convicted" means 1 of the following:

5 (i) Having a judgment of conviction or a probation order
6 entered in any court having jurisdiction over criminal offenses,
7 including but not limited to, a tribal court or a military
8 court.

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

4 (iii) Having an order of disposition entered under section
5 18 of chapter XIIIA of 1939 PA 288, MCL 712A.18, that is open to
6 the general public under section 28 chapter XIIIA of of 1939 PA
7 288, MCL 712A.28.

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

10 (b) "Department" means the department of state police.

11 (c) "Local law enforcement agency" means the police depart-
12 ment of a municipality.

13 (d) "Listed controlled substance offense" means:

14 (i) A violation of section 7401, 7402, 7403, 7404, or 7410
15 of the public health code, 1978 PA 368, MCL 333.7401, 333.7402,
16 333.7403, 333.7404, and 333.7410.

17 (ii) An attempt or conspiracy to commit an offense described
18 in subparagraph (i).

19 (iii) An offense substantially similar to an offense
20 described in subparagraph (i) under a law of the United States,
21 any state, or any country or under tribal or military law.

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

24 (f) "Residence", as used in this act, for registration and
25 voting purposes means that place at which a person habitually
26 sleeps, keeps his or her personal effects, and has a regular
27 place of lodging. If a person has more than 1 residence, or if a

1 wife has a residence separate from that of the husband, that
2 place at which the person resides the greater part of the time
3 shall be his or her official residence for the purposes of this
4 act. This section shall not be construed to affect existing
5 judicial interpretation of the term residence.

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

10 Sec. 3. An individual who is convicted of a listed con-
11 trolled substance offense after the effective date of this act,
12 and who is domiciled or temporarily resides in this state for 14
13 days or more, is required to be registered under this act.

14 Sec. 4. (1) An individual convicted of a listed controlled
15 substance offense in this state after the effective date of this
16 act shall register before sentencing, entry of the order of dis-
17 position, or assignment to youthful trainee status. The proba-
18 tion officer or the family division of circuit court shall give
19 the individual the registration form after the individual is con-
20 victed, explain the duty to register, verify his or her address,
21 and provide notice of address changes, and accept the completed
22 registration for processing under section 6. The court shall not
23 impose sentence, enter the order of disposition, or assign the
24 individual to youthful trainee status until it determines that
25 the individual's registration was forwarded to the department as
26 required under section 6.

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

6 (a) An individual convicted in another state or country
7 after the effective date of this act of a listed controlled sub-
8 stance offense.

9 (b) An individual required to be registered as a controlled
10 substance offender in another state or country regardless of when
11 the conviction was entered.

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

18 (a) The individual changes his or her residence, domicile,
19 or place of work or education.

20 (b) The individual is paroled.

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

23 (2) Within 10 days after either of the following occurs, the
24 department of corrections shall notify the local law enforcement
25 agency or sheriff's department having jurisdiction over the area
26 to which the individual is transferred or the department of the

1 transferred residence or domicile of an individual required to be
2 registered under this act:

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

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

8 (3) An individual required to be registered under this act
9 shall notify the department on a form prescribed by the depart-
10 ment not later than 10 days before he or she changes his or her
11 domicile or residence to another state. The individual shall
12 indicate the new state and, if known, the new address. The
13 department shall update the registration and compilation data-
14 bases and promptly notify the appropriate law enforcement agency
15 and any applicable offender registration authority in the new
16 state.

17 (4) If the probation or parole of an individual required to
18 be registered under this act is transferred to another state or
19 an individual required to be registered under this act is trans-
20 ferred from a state correctional facility to any correctional
21 facility or probation or parole in another state, the department
22 of corrections shall promptly notify the department and the
23 appropriate law enforcement agency and any applicable offender
24 registration authority in the new state. The department shall
25 update the registration and compilation databases.

26 (5) An individual shall comply with this section for 25
27 years after the date of initially registering or, if the

1 individual is in a state correctional facility, for 10 years
2 after release from the state correctional facility, whichever is
3 longer.

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

9 (2) The officer, court, or agency registering an individual
10 or receiving or accepting a registration under section 4 or noti-
11 fied of an address change under section 5(1) shall forward the
12 registration or notification to the department by the law
13 enforcement information network within 3 business days after reg-
14 istration or notification.

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

19 (a) The individual's name, social security number, date of
20 birth, and address or expected address. An individual who is in
21 a witness protection and relocation program is only required to
22 use the name and identifying information reflecting his or her
23 new identity in a registration under this act. The registration
24 and compilation databases shall not contain any information iden-
25 tifying the individual's prior identity or locale. The depart-
26 ment shall request each individual to provide his or her date of

1 birth if it is not included in the registration, and that
2 individual shall comply with the request within 10 days.

3 (b) A brief summary of the individual's convictions for
4 listed controlled substance offenses regardless of when the con-
5 viction occurred, including where the offense occurred and the
6 original charge if the conviction was for a lesser offense.

7 (c) A complete physical description of the individual.

8 (d) A photograph of the individual.

9 (e) The individual's fingerprints if not already on file
10 with the department. The department shall forward a copy of the
11 individual's fingerprints to the federal bureau of investigation
12 if not already on file with that bureau.

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

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

22 (4) The officer, court, or an employee of the agency regis-
23 tering the individual or receiving or accepting a registration
24 under section 4 shall sign the registration form.

25 (5) An individual shall not knowingly provide false or mis-
26 leading information concerning a registration, notice, or
27 verification.

1 (6) The department shall prescribe the form for a
2 notification required under section 5 and the format for forward-
3 ing the notification to the department.

4 (7) The department shall promptly provide registration,
5 notice, and verification information to the federal bureau of
6 investigation and to local law enforcement agencies and agencies
7 of other states requiring the information, as provided by law.

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

10 (2) The department shall maintain a computerized data base
11 separate from that described in subsection (1) to implement
12 section 10(2) and (3). The data base shall consist of a compila-
13 tion of individuals registered under this act, but except as pro-
14 vided in this subsection, shall not include any individual regis-
15 tered solely because he or she had 1 or more dispositions for a
16 listed controlled substance offense entered under section 18 of
17 chapter XIIA of the probate code of 1939, 1939 PA 288,
18 MCL 712A.18, in a case that was not designated as a case in which
19 the individual was to be tried in the same manner as an adult
20 under section 2d of chapter XIIA of the probate code of 1939,
21 1939 PA 288, MCL 712A.2d. The compilation of individuals shall
22 be indexed numerically by zip code area. Within each zip code
23 area, the compilation shall contain the name and aliases,
24 address, physical description, and birth date of each individual
25 registered under this act who is included in the compilation and
26 who resides in that zip code area and any listed controlled
27 substance offense of which the individual has been convicted.

1 The department shall update the compilation with new
2 registrations, deletions from registrations, and address changes
3 at the same time those changes are made to the data base
4 described in subsection (1). The department shall make the com-
5 pilation available to each department post, local law enforcement
6 agency, and sheriff's department by the law enforcement informa-
7 tion network. Upon request by a department post, local law
8 enforcement agency, or sheriff's department, the department shall
9 provide to that post, agency, or sheriff's department the infor-
10 mation from the compilation in printed form for the zip code
11 areas located in whole or in part within the post's, agency's, or
12 sheriff's department's jurisdiction. The department shall make
13 the compilation or information from the compilation available to
14 a department post, local law enforcement agency, sheriff's
15 department, and the public by electronic, computerized, or other
16 similar means accessible to the post, agency, or sheriff's
17 department. The electronic, computerized, or other similar means
18 shall provide for both a search by name and by zip code.

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

26 Sec. 9. (1) An individual required to be registered under
27 this act who willfully violates this act is guilty of a felony

1 punishable by imprisonment for not more than 4 years or a fine of
2 not more than \$2,000.00, or both.

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

5 (3) The parole board shall rescind the parole of an individ-
6 ual released on parole who willfully violates this act.

7 Sec. 10. (1) Except as provided in this act, a registration
8 is confidential and shall not be open to inspection except for
9 law enforcement purposes. The registration and all included
10 materials and information are exempt from disclosure under sec-
11 tion 13 of the freedom of information act, 1976 PA 442, MCL
12 15.243.

13 (2) A department post, local law enforcement agency, or
14 sheriff's department shall make information from the compilation
15 described in section 8(2) for the zip code areas located in whole
16 or in part within the post's, agency's, or sheriff's department's
17 jurisdiction available for public inspection during regular busi-
18 ness hours. A department post, local law enforcement agency, or
19 sheriff's department is not required to make a copy of the infor-
20 mation for a member of the public.

21 (3) The department may make information from the compilation
22 described in section 8(2) available to the public through elec-
23 tronic, computerized, or other accessible means.

24 (4) Except as provided in this act, an individual other than
25 the registrant who knows of a registration under this act and who
26 divulges, uses, or publishes nonpublic information concerning the
27 registration in violation of this act is guilty of a misdemeanor

1 punishable by imprisonment for not more than 90 days or a fine of
2 not more than \$500.00, or both.

3 (5) An individual whose registration is revealed in viola-
4 tion of this act has a civil cause of action against the respon-
5 sible party for treble damages.

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