

SUBSTITUTE FOR
SENATE BILL NO. 1167
(As amended June 23, 2004)

[A bill to amend 1994 PA 295, entitled "Sex offenders registration act," 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:

1

TITLE

2

An act to require persons convicted of certain offenses to

3

register; to prescribe the powers and duties of certain

4

departments and agencies in connection with that registration;

5

and to prescribe **fees**, penalties, and sanctions.

6

Sec. 4. (1) Registration of an individual under this act

7

shall proceed as provided in this section.

8

(2) For an individual convicted of a listed offense on or

1 before October 1, 1995 who on or before October 1, 1995 is
2 sentenced for that offense, has a disposition entered for that
3 offense, or is assigned to youthful trainee status for that
4 offense, the following shall register the individual by
5 December 31, 1995:

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

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

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

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

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

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

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

26 (b) If the individual's probation or parole is transferred to
27 this state after October 1, 1995, the probation or parole officer

1 shall register the individual within 14 days after the transfer.

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

9 (4) For an individual convicted on or before September 1,
10 1999 of an offense that was added on September 1, 1999 to the
11 definition of listed offense, the following shall register the
12 individual:

13 (a) If the individual is on probation or parole on September
14 1, 1999 for the listed offense, the individual's probation or
15 parole officer not later than September 12, 1999.

16 (b) If the individual is committed to jail on September 1,
17 1999 for the listed offense, the sheriff or his or her designee
18 not later than September 12, 1999.

19 (c) If the individual is under the jurisdiction of the
20 department of corrections on September 1, 1999 for the listed
21 offense, the department of corrections not later than November
22 30, 1999.

23 (d) If the individual is within the jurisdiction of the
24 family division of circuit court or committed to the family
25 independence agency or county juvenile agency on September 1,
26 1999 under an order of disposition for the listed offense, the
27 family division of circuit court, the family independence agency,

Senate Bill No. 1167 (S-1) as amended June 23, 2004

1 or the county juvenile agency not later than November 30, 1999.

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

6 (f) If the individual's probation or parole for the listed
7 offense is transferred to this state after September 1, 1999, the
8 probation or parole officer shall register the individual within
9 14 days after the transfer.

10 (g) If the individual is placed within the jurisdiction of
11 the family division of circuit court or committed to the family
12 independence agency for the listed offense after September 1,
13 1999, the family division of circuit court shall register the
14 individual before the order of disposition is entered.

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

1 section 6.

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

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

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

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

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

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

1 30 or more total days in a calendar year.

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

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

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

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

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

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

1 described under subsection (1) occur.

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

4 (a) For an individual registered under this act before ~~the~~
5 ~~effective date of the amendatory act that added this section and~~
6 **October 1, 2002** who is required to make his or her first report
7 under subsections (1) and (2), not later than January 15, 2003.

8 (b) For an individual who is an employee, a contractual
9 provider, an employee of a contractual provider, or a volunteer
10 on that campus on ~~the effective date of the amendatory act that~~
11 ~~added this section~~ **October 1, 2002**, or who is a student on that
12 campus on ~~the effective date of the amendatory act that added~~
13 ~~this section~~ **October 1, 2002**, who is subsequently required to
14 register under this act, on the date he or she is required to
15 register under this act.

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

24 (4) The additional registration reports required under this
25 section shall be made in the time periods described in section
26 5a(4)(a) and (b) for reports under that section.

27 (5) The local law enforcement agency, sheriff's department,

1 misdemeanor listed offenses, not earlier than January 1 or later
2 than January 15 of each year after the initial verification or
3 registration. As used in this subdivision, "misdemeanor listed
4 offense" means a listed offense that is any of the following:

5 (i) A violation of section 145a of the Michigan penal code,
6 1931 PA 328, MCL 750.145a, committed before June 1, 2002.

7 (ii) A violation of section 145c(4), 167(1)(f), or 448 of the
8 Michigan penal code, 1931 PA 328, MCL 750.145c, 750.167, and
9 750.448.

10 (iii) A violation of section 335a of the Michigan penal code,
11 1931 PA 328, MCL 750.335a, other than a violation committed by a
12 person who was, at the time of the offense, a sexually delinquent
13 person as defined in section 10a of the Michigan penal code, 1931
14 PA 328, MCL 750.10a.

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

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

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

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

1 law.

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

8 (i) A violation of section 145a of the Michigan penal code,
9 1931 PA 328, MCL 750.145a, committed on or after June 1, 2002.

10 (ii) A violation of section 145b, 145c(2) or (3), 349, 350,
11 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code,
12 1931 PA 328, MCL 750.145b, 750.145c, 750.349, 750.350, 750.455,
13 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

14 (iii) A violation of section 335a of the Michigan penal code,
15 1931 PA 328, MCL 750.335a, committed by a person who was, at the
16 time of the offense, a sexually delinquent person as defined in
17 section 10a of the Michigan penal code, 1931 PA 328,
18 MCL 750.10a.

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

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

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

Senate Bill No. 1167 (S-1) as amended June 23, 2004

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

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

19 [

20

21

22

23

24 (7)] ~~-(6)-~~ An individual required to be registered under this
25 act shall maintain either a valid operator's or chauffeur's
26 license issued under the Michigan vehicle code, 1949 PA 300,
27 MCL 257.1 to 257.923, or an official state personal

Senate Bill No. 1167 (S-1) as amended June 23, 2004

1 identification card issued under 1972 PA 222, MCL 28.291 to
2 28.300, with the individual's current address. The license or
3 card may be used as proof of domicile or residence under this
4 section. In addition, the officer or authorized employee may
5 require the individual to produce another document bearing his or
6 her name and address, including but not limited to voter
7 registration or a utility or other bill. The department may
8 specify other satisfactory proof of domicile or residence.

9 **[(8)]** ~~-(7)-~~ Not earlier than January 1, 2000 or later than
10 January 15, 2000, an individual registered under this act who is
11 not incarcerated shall report in person to a secretary of state
12 office and have his or her digitized photograph taken. An
13 individual registered under this act who is incarcerated on
14 January 15, 2000 shall report under this subsection not less than
15 10 days after he or she is released. The individual is not
16 required to report under this subsection if he or she had a
17 digitized photograph taken for an operator's or chauffeur's
18 license or official state personal identification card before
19 January 1, 2000, or within 2 years before he or she is released.
20 The photograph shall be used on the individual's operator's or
21 chauffeur's license or official state personal identification
22 card. The individual shall have a new photograph taken when he
23 or she renews the license or identification card as provided by
24 law. The secretary of state shall make the digitized photograph
25 available to the department for a registration under this act.

26 **[(9)]** ~~-(8)-~~ If an individual does not report under subsection
27 (3) or (4) or section 4a, the department shall notify the local

Senate Bill No. 1167 (S-1) as amended June 23, 2004

1 law enforcement agency, sheriff's department, or department
 2 post. An appearance ticket may be issued for the individual's
 3 failure to report as provided in sections 9a to 9g of chapter IV
 4 of the code of criminal procedure, 1927 PA 175, MCL 764.9a to
 5 764.9g.

6 **[(10)]** ~~—(9)—~~ The department shall prescribe the form for the
 7 notices and verification procedures required under this section.

8 **Sec. 5b. (1)** Of the money collected by a court, local law
 9 enforcement agency, sheriff's department, or department post from
 10 each registration fee prescribed under this act, \$25.00 shall be
 11 forwarded to the department, which shall deposit the money in the
 12 sex offenders registration fund created under subsection **[(2)]**, and
 13 \$10.00 shall be retained by the court, local law enforcement
 14 agency, sheriff's department, or department post.

15 [

16

17

18

19

20

21

22 **(2)]** The sex offenders registration fund is created as a
 23 separate fund in the department of treasury. The state treasurer
 24 shall credit the money received from the payment of the
 25 registration fee [] prescribed under this
 26 act to the sex offenders registration fund. Money credited to
 27 the fund shall only be used by the department for training

Senate Bill No. 1167 (S-1) as amended June 23, 2004

1 concerning, and the maintenance and automation of, the databases,
 2 compilation, and information required under section 8. Money in
 3 the sex offenders registration fund at the close of the fiscal
 4 year shall remain in the fund and shall not lapse to the general
 5 fund.

6 [(3)] If an individual required to pay a registration fee [
 7] under this act is indigent, the registration
 8 fee[

9] shall be temporarily waived. The burden is on the
 10 individual claiming indigence to prove the fact of indigence to
 11 the satisfaction of the local law enforcement agency, sheriff's
 12 department, or department post where the individual is
 13 reporting.

14 [(4)] Payment of the registration fee []
 15 prescribed under this act shall be made in the form and by means
 16 prescribed by the department. Upon payment of the registration
 17 fee [] prescribed under this act, the officer
 18 or employee shall forward verification of the payment to the
 19 department by the law enforcement information network in the
 20 manner the department prescribes. The department shall revise
 21 the databases maintained under section 8 as necessary and shall
 22 indicate verification of payment in the compilation under section
 23 8(2).

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

24 Sec. 7. (1) A registration under this act shall be made on
 25 a form provided by the department and shall be forwarded to the
 26 department in the format the department prescribes, along with a
 27 \$35.00 registration fee for each original registration, except as

1 **otherwise provided in section 5b.** A registration shall contain
2 all of the following:

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

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

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

18 (d) The photograph required under section 5a.

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

26 (f) Information that is required to be reported under section
27 4a.

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

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

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

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

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

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

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

Senate Bill No. 1167 (S-1) as amended June 23, 2004

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

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

9 (b) If the individual has 1 prior conviction for a violation
10 of this act, other than a failure to comply with section 5a, by
11 imprisonment for not more than 7 years or a fine of not more than
12 \$5,000.00, or both.

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

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

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

25 (4) **An individual who willfully refuses or fails to pay the**
26 **registration fee prescribed in section 5a(6) or section 7(1)[**

27

