

# SENATE BILL No. 1167

April 27, 2004, Introduced by Senators HAMMERSTROM and JOHNSON and referred to the Committee on Appropriations.

A bill to amend 1994 PA 295, entitled "Sex offenders registration act," by amending the title and sections 4, 5a, 7, and 9 (MCL 28.724, 28.725a, 28.727, and 28.729), section 4 as amended by 1999 PA 85 and sections 5a, 7, and 9 as amended by 2002 PA 542, and by adding section 5b.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

TITLE

An act 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 **fees**, penalties, and sanctions.

Sec. 4. (1) Registration of an individual under this act shall proceed as provided in this section.

(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,

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**, verify his or  
22 her address, and provide notice of address changes, and accept  
23 the completed registration for processing under section 6. The  
24 court shall not impose sentence, enter the order of disposition,  
25 or assign the individual to youthful trainee status until it  
26 determines that the individual's registration was forwarded to  
27 the department as required under section 6.

1 (6) 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  
5 specified in section 3(1):

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

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

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

15 Sec. 5a. (1) Not later than ~~September 1, 1999~~ **December 1,**  
16 **2004**, the department shall mail a notice to each individual  
17 registered under this act who is not in a state correctional  
18 facility explaining the individual's duties under this section  
19 and this act as amended and the procedure for registration,  
20 notification, and verification **and paying the registration fee**  
21 **prescribed under subsection (5) or section 7(1).**

22 (2) Upon the release of an individual registered under this  
23 act who is in a state correctional facility, the department of  
24 corrections shall provide written notice to that individual  
25 explaining his or her duties under this section and this act as  
26 amended and the procedure for registration, notification, and  
27 verification **and paying the registration fee prescribed under**

1 subsection (5) or section 7(1). The individual shall sign and  
2 date the notice. The department of corrections shall maintain a  
3 copy of the signed and dated notice in the individual's file.  
4 The department of corrections shall forward the original notice  
5 to the department within 30 days, regardless of whether the  
6 individual signs it.

7 (3) Not later than January 15, 2000, an individual registered  
8 under this act who is not incarcerated shall report in person to  
9 the local law enforcement agency or sheriff's department having  
10 jurisdiction where he or she is domiciled or resides or to the  
11 department post in or nearest to the county where he or she is  
12 domiciled or resides. The individual shall present proof of  
13 domicile or residence and update any information that changed  
14 since registration, including information that is required to be  
15 reported under section 4a. An individual registered under this  
16 act who is incarcerated on January 15, 2000 shall report under  
17 this subsection not less than 10 days after he or she is  
18 released.

19 (4) Following initial verification under subsection (3), or  
20 registration under this act after January 15, 2000, an individual  
21 required to be registered under this act who is not incarcerated  
22 shall report in person to the local law enforcement agency or  
23 sheriff's department having jurisdiction where he or she is  
24 domiciled or resides or to the department post in or nearest to  
25 the county where he or she is domiciled or resides for  
26 verification of domicile or residence as follows:

27 (a) If the person is registered only for 1 or more

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.



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

19           (6) An individual required to be registered under this act  
20 shall maintain either a valid operator's or chauffeur's license  
21 issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to  
22 257.923, or an official state personal identification card issued  
23 under 1972 PA 222, MCL 28.291 to 28.300, with the individual's  
24 current address. The license or card may be used as proof of  
25 domicile or residence under this section. In addition, the  
26 officer or authorized employee may require the individual to  
27 produce another document bearing his or her name and address,

1 including but not limited to voter registration or a utility or  
2 other bill. The department may specify other satisfactory proof  
3 of domicile or residence.

4 (7) Not earlier than January 1, 2000 or later than January  
5 15, 2000, an individual registered under this act who is not  
6 incarcerated shall report in person to a secretary of state  
7 office and have his or her digitized photograph taken. An  
8 individual registered under this act who is incarcerated on  
9 January 15, 2000 shall report under this subsection not less than  
10 10 days after he or she is released. The individual is not  
11 required to report under this subsection if he or she had a  
12 digitized photograph taken for an operator's or chauffeur's  
13 license or official state personal identification card before  
14 January 1, 2000, or within 2 years before he or she is released.  
15 The photograph shall be used on the individual's operator's or  
16 chauffeur's license or official state personal identification  
17 card. The individual shall have a new photograph taken when he  
18 or she renews the license or identification card as provided by  
19 law. The secretary of state shall make the digitized photograph  
20 available to the department for a registration under this act.

21 (8) If an individual does not report under subsection (3) or  
22 (4) or section 4a, the department shall notify the local law  
23 enforcement agency, sheriff's department, or department post. An  
24 appearance ticket may be issued for the individual's failure to  
25 report as provided in sections 9a to 9g of chapter IV of the code  
26 of criminal procedure, 1927 PA 175, MCL 764.9a to 764.9g.

27 (9) The department shall prescribe the form for the notices

1 and verification procedures required under this section.

2       Sec. 5b. (1) Of the money collected by a court, local law  
3 enforcement agency, sheriff's department, or department post from  
4 each registration fee prescribed under this act, \$25.00 shall be  
5 forwarded to the department, which shall deposit the money in the  
6 sex offenders registration fund created under subsection (2), and  
7 \$10.00 shall be retained by the court, local law enforcement  
8 agency, sheriff's department, or department post.

9       (2) The sex offenders registration fund is created as a  
10 separate fund in the department of treasury. The state treasurer  
11 shall credit the money received from the payment of the  
12 registration fee prescribed under this act to the sex offenders  
13 registration fund. Money credited to the fund shall only be used  
14 by the department for training concerning, and the maintenance  
15 and automation of, the databases, compilation, and information  
16 required under section 8. Money in the sex offenders  
17 registration fund at the close of the fiscal year shall remain in  
18 the fund and shall not lapse to the general fund.

19       (3) If an individual required to pay a registration fee under  
20 this act is indigent, the registration fee shall be temporarily  
21 waived. The burden is on the individual claiming indigence to  
22 prove the fact of indigence to the satisfaction of the local law  
23 enforcement agency, sheriff's department, or department post  
24 where the individual is reporting.

25       (4) Payment of the registration fee prescribed under this act  
26 shall be made in the form and by means prescribed by the  
27 department. Upon payment of the registration fee prescribed

1 under this act, the officer or employee shall forward  
2 verification of the payment to the department by the law  
3 enforcement information network in the manner the department  
4 prescribes. The department shall revise the databases maintained  
5 under section 8 as necessary and shall indicate verification of  
6 payment in the compilation under section 8(2).

7       Sec. 7. (1) A registration under this act shall be made on  
8 a form provided by the department and shall be forwarded to the  
9 department in the format the department prescribes, **along with a**  
10 **\$35.00 registration fee for each original registration, except as**  
11 **otherwise provided in section 5b.** A registration shall contain  
12 all of the following:

13       (a) The individual's name, social security number, date of  
14 birth, and address or expected address. An individual who is in  
15 a witness protection and relocation program is only required to  
16 use the name and identifying information reflecting his or her  
17 new identity in a registration under this act. The registration  
18 and compilation databases shall not contain any information  
19 identifying the individual's prior identity or locale. The  
20 department shall request each individual to provide his or her  
21 date of birth if it is not included in the registration, and that  
22 individual shall comply with the request within 10 days.

23       (b) A brief summary of the individual's convictions for  
24 listed offenses regardless of when the conviction occurred,  
25 including where the offense occurred and the original charge if  
26 the conviction was for a lesser offense.

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

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

2 (e) The individual's fingerprints if not already on file with  
3 the department. An individual required to be registered on  
4 September 1, 1999 shall have his or her fingerprints taken not  
5 later than September 12, 1999 if not already on file with the  
6 department. The department shall forward a copy of the  
7 individual's fingerprints to the federal bureau of investigation  
8 if not already on file with that bureau.

9 (f) Information that is required to be reported under section  
10 4a.

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

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

19 (4) The individual shall sign a registration, notice, and  
20 verification. However, the registration, notice, or verification  
21 shall be forwarded to the department regardless of whether the  
22 individual signs it **or pays the registration fee required under**  
23 **subsection (1).**

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

27 (6) An individual shall not knowingly provide false or

1 misleading information concerning a registration, notice, or  
2 verification.

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

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

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

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

19 (b) If the individual has 1 prior conviction for a violation  
20 of this act, other than a failure to comply with section 5a, by  
21 imprisonment for not more than 7 years or a fine of not more than  
22 \$5,000.00, or both.

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

27 (2) An individual who fails to comply with section 5a, **other**

1 than payment of the fee required under section 5a(5), is guilty  
2 of a misdemeanor punishable by imprisonment for not more than 93  
3 days or a fine of not more than \$1,000.00, or both.

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

8 (4) An individual who willfully refuses or fails to pay the  
9 registration fee prescribed in section 5a(5) or section 7(1) is  
10 guilty of a misdemeanor punishable by imprisonment for not more  
11 than 90 days.

12 (5) ~~(4)~~ The court shall revoke the probation of an  
13 individual placed on probation who willfully violates this act.

14 (6) ~~(5)~~ The court shall revoke the youthful trainee status  
15 of an individual assigned to youthful trainee status who  
16 willfully violates this act.

17 (7) ~~(6)~~ The parole board shall rescind the parole of an  
18 individual released on parole who willfully violates this act.

19 (8) ~~(7)~~ An individual's failure to register as required by  
20 this act or a violation of section 5(1), (3), or (4) may be  
21 prosecuted in the judicial district of any of the following:

22 (a) The individual's last registered address or residence.

23 (b) The individual's actual address or residence.

24 (c) Where the individual was arrested for the violation.

25 Enacting section 1. This amendatory act takes effect  
26 October 16, 2004.