

Act No. 237
Public Acts of 2004
Approved by the Governor
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**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Senators Hammerstrom and Johnson

ENROLLED SENATE BILL No. 1167

AN ACT to amend 1994 PA 295, entitled "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 penalties and sanctions," 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:

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

- (a) If the individual is on probation for the listed offense, the individual's probation officer.
- (b) If the individual is committed to jail for the listed offense, the sheriff or his or her designee.
- (c) If the individual is under the jurisdiction of the department of corrections for the listed offense, the department of corrections.
- (d) If the individual is on parole for the listed offense, the individual's parole officer.
- (e) If the individual is within the jurisdiction of the juvenile division of the probate court or the department of social services under an order of disposition for the listed offense, the juvenile division of the probate court or the department of social services.

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

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

(b) If the individual's probation or parole is transferred to this state after October 1, 1995, the probation or parole officer shall register the individual within 14 days after the transfer.

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

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

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

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

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

(d) If the individual is within the jurisdiction of the family division of circuit court or committed to the family independence agency or county juvenile agency on September 1, 1999 under an order of disposition for the listed offense, the family division of circuit court, the family independence agency, or the county juvenile agency not later than November 30, 1999.

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

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

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

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

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

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

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

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

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

(a) Regardless of whether he or she is financially compensated or receives any governmental or educational benefit, the individual is or becomes a full- or part-time employee, contractual provider, or volunteer with that institution of higher education and his or her position will require that he or she be present on that campus for 14 or more consecutive days or 30 or more total days in a calendar year.

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

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

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

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

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

(2) An individual required to be registered under this act who is a resident of this state shall report his or her status in person to the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post nearest to the individual's new residence or domicile, if any of the events described under subsection (1) occur.

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

(a) For an individual registered under this act before October 1, 2002 who is required to make his or her first report under subsections (1) and (2), not later than January 15, 2003.

(b) For an individual who is an employee, a contractual provider, an employee of a contractual provider, or a volunteer on that campus on October 1, 2002, or who is a student on that campus on October 1, 2002, who is subsequently required to register under this act, on the date he or she is required to register under this act.

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

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

(5) The local law enforcement agency, sheriff's department, or department post to which an individual reports under this section shall require the individual to pay the registration fee required under section 5a or section 7(1) and to present written documentation of employment status, contractual relationship, volunteer status, or student status. Written documentation under this subsection may include, but need not be limited to, any of the following:

(a) A W-2 form, pay stub, or written statement by an employer.

(b) A contract.

(c) A student identification card or student transcript.

Sec. 5a. (1) Not later than December 1, 2004, the department shall mail a notice to each individual registered under this act who is not in a state correctional facility explaining the individual's duties under this section and this act as amended and the procedure for registration, notification, and verification and paying the registration fee prescribed under subsection (6) or section 7(1).

(2) Upon the release of an individual registered under this act who is in a state correctional facility, the department of corrections shall provide written notice to that individual explaining his or her duties under this section and this act as amended and the procedure for registration, notification, verification, and payment of the registration fee prescribed under subsection (6) or section 7(1). The individual shall sign and date the notice. The department of corrections shall maintain a copy of the signed and dated notice in the individual's file. The department of corrections shall forward the original notice to the department within 30 days, regardless of whether the individual signs it.

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

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

(a) If the person is registered only for 1 or more misdemeanor listed offenses, not earlier than January 1 or later than January 15 of each year after the initial verification or registration. As used in this subdivision, "misdemeanor listed offense" means a listed offense that is any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) An individual required to be registered under this act shall maintain either a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, with the individual's current address. The license or card may be used as proof of domicile or residence under this section. In addition, the officer or authorized employee may require the individual to produce another document bearing his or her name and address, including but not limited to voter registration or a utility or other bill. The department may specify other satisfactory proof of domicile or residence.

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

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

(10) The department shall prescribe the form for the notices and verification procedures required under this section.

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

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

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

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

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

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

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

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

(c) A complete physical description of the individual.

(d) The photograph required under section 5a.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) An individual who willfully refuses or fails to pay the registration fee prescribed in section 5a(6) or section 7(1) within 90 days of the date the individual reports under section 4a or 5a is guilty of a misdemeanor punishable by imprisonment for not more than 90 days.

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

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

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

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

- (a) The individual's last registered address or residence.
- (b) The individual's actual address or residence.
- (c) Where the individual was arrested for the violation.

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

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 92nd Legislature are enacted into law:

- (a) House Bill No. 4920.
- (b) House Bill No. 5195.
- (c) House Bill No. 5240.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor