

HOUSE BILL No. 5163

October 9, 2001, Introduced by Rep. McConico and referred to the Committee on Criminal Justice.

A bill to amend 1994 PA 295, entitled "Sex offenders registration act," by amending section 8 (MCL 28.728), as amended by 1999 PA 85, and by adding section 8c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (2) The department shall maintain a computerized data base
4 separate from that described in subsection (1) to implement
5 section 10(2) and (3). The data base shall consist of a compila-
6 tion of individuals registered under this act, but except as pro-
7 vided in this subsection, shall not include any individual regis-
8 tered solely because he or she had 1 or more dispositions for a
9 listed offense entered under section 18 of chapter XIIA of the
10 probate code of 1939, 1939 PA 288, MCL 712A.18, in a case that

1 was not designated as a case in which the individual was to be
2 tried in the same manner as an adult under section 2d of chapter
3 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d.
4 ~~The~~ EXCEPT AS PROVIDED IN SECTION 8C, THE exclusion for juve-
5 nile dispositions does not apply to a disposition for a violation
6 of section 520b or 520c of the Michigan penal code, 1931 PA 328,
7 MCL 750.520b and 750.520c, after the individual becomes 18 years
8 of age. The compilation of individuals shall be indexed numeri-
9 cally by zip code area. Within each zip code area, the compila-
10 tion shall contain the name and aliases, address, physical
11 description, and birth date of each individual registered under
12 this act who is included in the compilation and who resides in
13 that zip code area and any listed offense of which the individual
14 has been convicted. The department shall update the compilation
15 with new registrations, deletions from registrations, and address
16 changes at the same time those changes are made to the data base
17 described in subsection (1). The department shall make the com-
18 pilation available to each department post, local law enforcement
19 agency, and sheriff's department by the law enforcement informa-
20 tion network. Upon request by a department post, local law
21 enforcement agency, or sheriff's department, the department shall
22 provide to that post, agency, or sheriff's department the infor-
23 mation from the compilation in printed form for the zip code
24 areas located in whole or in part within the post's, agency's, or
25 sheriff's department's jurisdiction. The department shall make
26 the compilation or information from the compilation available to
27 a department post, local law enforcement agency, sheriff's

1 department, and the public by electronic, computerized, or other
2 similar means accessible to the post, agency, or sheriff's
3 department. The electronic, computerized, or other similar means
4 shall provide for both a search by name and by zip code.

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

12 SEC. 8C. (1) IF, AFTER THE EFFECTIVE DATE OF THE AMENDATORY
13 ACT THAT ADDED THIS SECTION, AN INDIVIDUAL IS CONVICTED OF OR
14 FOUND RESPONSIBLE AS A JUVENILE FOR VIOLATING SECTION 520B OR
15 520C OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520B AND
16 750.520C, THE COURT SHALL DETERMINE WHETHER THE INDIVIDUAL IS
17 REQUIRED TO BE LISTED ON THE PUBLIC REGISTRY UNDER SECTION 8.
18 THE COURT SHALL PLACE ITS DETERMINATION ON THE ABSTRACT OF CON-
19 VICTION OR ON THE ORDER OF DISPOSITION.

20 (2) IF AN INDIVIDUAL WAS CONVICTED OF OR FOUND RESPONSIBLE
21 AS A JUVENILE FOR VIOLATING SECTION 520B OR 520C OF THE MICHIGAN
22 PENAL CODE, 1931 PA 328, MCL 750.520B AND 750.520C, BEFORE THE
23 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE
24 INDIVIDUAL MAY PETITION THE COURT FOR AN ORDER EXEMPTING HIM OR
25 HER FROM BEING LISTED ON THE PUBLIC REGISTRY UNDER SECTION 8.
26 THE COURT SHALL MAKE THE DETERMINATION REGARDING EXEMPTION IN THE

1 SAME MANNER AND USING THE SAME CRITERIA AS FOR A DETERMINATION
2 UNDER SUBSECTION (1).

3 (3) THE DEPARTMENT SHALL NOT PLACE AN INDIVIDUAL ON THE
4 PUBLIC REGISTRY UNDER SECTION 8 WHO WAS LESS THAN 18 YEARS OF AGE
5 AT THE TIME HE OR SHE COMMITTED A LISTED OFFENSE UNLESS THE
6 ABSTRACT OF CONVICTION OR THE ORDER OF DISPOSITION STATES THAT
7 THE INDIVIDUAL IS REQUIRED TO BE REGISTERED. IF THE DEPARTMENT
8 IS ORDERED UNDER SUBSECTION (2) TO EXEMPT AN INDIVIDUAL FROM REG-
9 ISTRATION, THE DEPARTMENT SHALL PROMPTLY REMOVE ALL INFORMATION
10 REGARDING THE INDIVIDUAL FROM THE PUBLIC REGISTRY AS ORDERED BY
11 THE COURT.

12 (4) IN MAKING A DETERMINATION UNDER SUBSECTION (1) OR (2),
13 THE COURT SHALL CONSIDER ALL OF THE FOLLOWING:

14 (A) THE INDIVIDUAL'S AGE AND LEVEL OF MATURITY AT THE TIME
15 THE OFFENSE WAS COMMITTED AND AT THE TIME OF SENTENCING OR
16 DISPOSITION.

17 (B) THE INDIVIDUAL'S PRIOR JUVENILE HISTORY.

18 (C) THE NATURE AND SEVERITY OF THE OFFENSE.

19 (D) THE INDIVIDUAL'S LIKELIHOOD TO ENGAGE IN FURTHER CRIMI-
20 NAL ACTS.

21 (E) ANY OTHER INFORMATION CONSIDERED RELEVANT BY THE COURT.

22 (5) THE COURT SHALL NOT EXEMPT AN INDIVIDUAL FROM REGISTRA-
23 TION UNDER SECTION 8 IF THE PERSON WAS PREVIOUSLY CONVICTED OF OR
24 FOUND RESPONSIBLE AS A JUVENILE FOR VIOLATING SECTION 520B, 520C,
25 520D, 520E, OR 520G OF THE MICHIGAN PENAL CODE, 1931 PA 328,
26 MCL 750.520B, 750.520C, 750.520D, 750.520E, AND 750.520G, OR A

- 1 SUBSTANTIALLY SIMILAR LAW OF THE UNITED STATES, ANOTHER STATE, OR
- 2 A POLITICAL SUBDIVISION OF ANOTHER STATE.