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BILL ANALYSIS

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House Bill 4932 (Substitute H-2 as passed by the House)
Sponsor: Representative Edward Gaffney, Jr.
House Committee: Education
Senate Committee: Education

Date Completed: 8-23-05

CONTENT

The bill would amend the Sex Offenders Registration Act (SORA) to prohibit certain individuals required to be registered under SORA from living, working, or loitering within 1,000 feet of school property, subject to certain exceptions. The bill would take effect October 15, 2005.

Under the bill, a person who was required to be registered under SORA because he or she had been convicted of a felony "listed offense" could not reside, work, or loiter within a "student safety zone", i.e., "an area that lies 1,000 feet or less from school property".

A first violation would be a misdemeanor punishable by imprisonment for up to one year and/or a maximum fine of \$1,000. A second or subsequent violation would be a felony punishable by imprisonment for up to two years and/or a maximum fine of \$2,000.

The prohibition would not apply to any of the following:

- An individual who resided or worked within a student safety zone before the bill's effective date.
- An individual whose residence or place of employment was within a student safety zone solely because a school was relocated or was initially established 1,000 feet or less from the individual's residence or place of employment.
- An individual who resided within a student safety zone because he or she was an inmate or resident of a prison, jail, juvenile facility, or other correctional facility, or was a patient of a mental health facility under an order of commitment.
- An individual under 18 years old who lived with his or her parent or guardian.
- A patient in a hospital or hospice.

An individual who lived in a student safety zone and who subsequently was required to register under SORA would have to change his or her residence to a location outside the zone within 90 days after he or she was sentenced for the conviction that gave rise to the obligation to register.

The bill specifies that it would not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that was committed by that person while violating the bill.

The bill would define "school property" as a building, facility, or structure and other real estate owned, leased, or otherwise controlled by a school. "School" would mean a public,

private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12. "Work" would mean continuous and regular employment.

Under SORA, listed offense that are felonies include the following:

- A first or subsequent conviction of accosting, enticing, or soliciting a child for immoral purposes (MCL 750.145a & 750.145b).
- Involvement in child sexually abusive activity or material (MCL 750.145c).
- Sodomy, if a victim is under 18 (MCL 750.158).
- Except for a juvenile disposition or adjudication, gross indecency, if a victim is under 18 (MCL 750.338, 750.338a, or 750.338b).
- Kidnapping, if a victim is under 18 (MCL 750.349).
- Kidnapping a child under 14 (MCL 750.350).
- A third or subsequent conviction of soliciting, accosting, or inviting another person to commit prostitution or an immoral act, if a victim is under 18 (MCL 750.448).
- Pandering for purposes of prostitution (MCL 750.455).
- First-, second-, or third-degree criminal sexual conduct (CSC) or assault with intent to commit first-, second-, or third-degree CSC (MCL 750.520b-750.520d & 750.520g).
- Any other violation of a State or local law that, by its nature, constitutes a sexual offense against an individual under 18.
- An offense committed by a person who was, at the time of the offense, a "sexually delinquent person" as defined in the Michigan Penal Code (i.e., any person whose sexual behavior is characterized by repetitive or compulsive acts that indicate a disregard of consequences or the recognized rights of others, or by the use of force upon another person in attempting sexual relations or by the commission of sexual aggressions against children under 16) (MCL 750.10a).
- An attempt or conspiracy to commit an offense listed above.
- An offense substantially similar to an offense listed above, under a law of the United States, any state, or any country, or under tribal or military law.

Proposed MCL 28.733 & 28.734

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of violating the student safety zones. Local units of government incur the costs of misdemeanor probation and incarceration in local facilities, both of which vary by county. The State incurs the cost of felony probation at an average annual cost of \$2,000, and the cost of incarceration in a State facility at an average annual cost of \$28,000.

Fiscal Analyst: Bethany Wicksall

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.