

SUBSTITUTE FOR
SENATE BILL NO. 617

A bill to amend 1994 PA 295, entitled
"Sex offenders registration act,"
(MCL 28.721 to 28.732) by amending the title, as amended by 2004 PA
237, and by adding headings for articles I and II and by adding
article III.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to require persons convicted of certain offenses to
register; **TO PROHIBIT CERTAIN INDIVIDUALS FROM ENGAGING IN CERTAIN**
ACTIVITIES WITHIN A STUDENT SAFETY ZONE; to prescribe the powers
and duties of certain departments and agencies in connection with
that registration; and to prescribe penalties and sanctions.

I GENERAL

II SEX OFFENDER REGISTRATION

III STUDENT SAFETY ZONES

SEC. 33. AS USED IN THIS ARTICLE:

(A) "LISTED OFFENSE" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE SEX OFFENDERS REGISTRATION ACT, 1994 PA 295, MCL 28.722.

(B) "LOITER" MEANS TO REMAIN FOR A PERIOD OF TIME AND UNDER CIRCUMSTANCES THAT A REASONABLE PERSON WOULD DETERMINE IS FOR THE PRIMARY PURPOSE OF OBSERVING OR CONTACTING MINORS.

(C) "MINOR" MEANS AN INDIVIDUAL LESS THAN 18 YEARS OF AGE.

(D) "SCHOOL" MEANS A PUBLIC, PRIVATE, DENOMINATIONAL, OR PAROCHIAL SCHOOL OFFERING DEVELOPMENTAL KINDERGARTEN, KINDERGARTEN, OR ANY GRADE FROM 1 THROUGH 12. SCHOOL DOES NOT INCLUDE A HOME SCHOOL.

(E) "SCHOOL PROPERTY" MEANS A BUILDING, FACILITY, STRUCTURE, OR REAL PROPERTY OWNED, LEASED, OR OTHERWISE CONTROLLED BY A SCHOOL, OTHER THAN A BUILDING, FACILITY, STRUCTURE, OR REAL PROPERTY THAT IS NO LONGER IN USE ON A PERMANENT OR CONTINUOUS BASIS, TO WHICH EITHER OF THE FOLLOWING APPLIES:

(i) IT IS USED TO IMPART EDUCATIONAL INSTRUCTION.

(ii) IT IS FOR USE BY STUDENTS NOT MORE THAN 19 YEARS OF AGE FOR SPORTS OR OTHER RECREATIONAL ACTIVITIES.

(F) "STUDENT SAFETY ZONE" MEANS THE AREA THAT LIES 1,000 FEET OR LESS FROM SCHOOL PROPERTY.

SEC. 35. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION AND SECTION 36, AN INDIVIDUAL REQUIRED TO BE REGISTERED UNDER ARTICLE II SHALL NOT RESIDE WITHIN A STUDENT SAFETY ZONE.

(2) AN INDIVIDUAL WHO VIOLATES SUBSECTION (1) IS GUILTY OF A

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1 CRIME AS FOLLOWS:

2 (A) FOR THE FIRST VIOLATION, THE INDIVIDUAL IS GUILTY OF A
3 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR
4 A FINE OF NOT MORE THAN \$1,000.00, OR BOTH.

5 (B) FOR THE SECOND OR SUBSEQUENT VIOLATION, THE INDIVIDUAL IS
6 GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2
7 YEARS OR A FINE OF NOT MORE THAN \$2,000.00, OR BOTH.

8 (3) THIS SECTION DOES NOT APPLY TO ANY OF THE FOLLOWING:

9 (A) AN INDIVIDUAL WHO IS NOT MORE THAN 19 YEARS OF AGE AND
10 ATTENDS SECONDARY SCHOOL OR POSTSECONDARY SCHOOL, AND RESIDES WITH
11 HIS OR HER PARENT OR GUARDIAN. HOWEVER, THIS EXCEPTION DOES NOT
12 APPLY TO AN INDIVIDUAL WHO INITIATES OR MAINTAINS CONTACT WITH A
13 MINOR WITHIN THAT STUDENT SAFETY ZONE. HOWEVER, THE INDIVIDUAL MAY
14 INITIATE OR MAINTAIN CONTACT WITH A MINOR WITH WHOM HE OR SHE
15 ATTENDS SECONDARY SCHOOL OR POSTSECONDARY SCHOOL IN CONJUNCTION
16 WITH THAT SCHOOL ATTENDANCE.

<<(B) THE INDIVIDUAL IS NOT MORE THAN 26 YEARS OF AGE AND ATTENDS A
SPECIAL EDUCATION PROGRAM, AND RESIDES WITH HIS OR HER PARENT OR GUARDIAN
OR RESIDES IN A GROUP HOME OR ASSISTED LIVING FACILITY. HOWEVER, AN
INDIVIDUAL DESCRIBED IN THIS SUBDIVISION SHALL NOT INITIATE OR MAINTAIN
CONTACT WITH A MINOR WITHIN THAT STUDENT SAFETY ZONE. THE INDIVIDUAL
SHALL BE PERMITTED TO INITIATE OR MAINTAIN CONTACT WITH A MINOR WITH WHOM
HE OR SHE ATTENDS A SPECIAL EDUCATION PROGRAM IN CONJUNCTION WITH THAT
ATTENDANCE.>>

17 <<(C) ~~(B)~~>> AN INDIVIDUAL WHO WAS RESIDING WITHIN THAT STUDENT
SAFETY
18 ZONE AT THE TIME THE AMENDATORY ACT THAT ADDED THIS SECTION WAS
19 ENACTED INTO LAW. HOWEVER, THIS EXCEPTION DOES NOT APPLY TO AN
20 INDIVIDUAL WHO INITIATES OR MAINTAINS CONTACT WITH A MINOR WITHIN
21 THAT STUDENT SAFETY ZONE.

<<(D) ~~(C)~~>> AN INDIVIDUAL WHO IS A PATIENT IN A HOSPITAL OR HOSPICE
22 THAT IS LOCATED WITHIN A STUDENT SAFETY ZONE. HOWEVER, THIS
23 EXCEPTION DOES NOT APPLY TO AN INDIVIDUAL WHO INITIATES OR
24 MAINTAINS CONTACT WITH A MINOR WITHIN THAT STUDENT SAFETY ZONE.

<<(E) ~~(D)~~>> AN INDIVIDUAL WHO RESIDES WITHIN A STUDENT SAFETY ZONE
25 BECAUSE THE INDIVIDUAL IS AN INMATE OR RESIDENT OF A PRISON, JAIL,

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1 JUVENILE FACILITY, OR OTHER CORRECTIONAL FACILITY OR IS A PATIENT
2 OF A MENTAL HEALTH FACILITY UNDER AN ORDER OF COMMITMENT. HOWEVER,
3 THIS EXCEPTION DOES NOT APPLY TO AN INDIVIDUAL WHO INITIATES OR
4 MAINTAINS CONTACT WITH A MINOR WITHIN THAT STUDENT SAFETY ZONE.

5 (4) AN INDIVIDUAL WHO RESIDES WITHIN A STUDENT SAFETY ZONE AND
6 WHO IS SUBSEQUENTLY REQUIRED TO REGISTER UNDER ARTICLE II SHALL
7 CHANGE HIS OR HER RESIDENCE TO A LOCATION OUTSIDE THE STUDENT
8 SAFETY ZONE NOT MORE THAN 90 DAYS AFTER HE OR SHE IS SENTENCED FOR
9 THE CONVICTION THAT GIVES RISE TO THE OBLIGATION TO REGISTER UNDER
10 ARTICLE II. HOWEVER, THIS EXCEPTION DOES NOT APPLY TO AN INDIVIDUAL
11 WHO INITIATES OR MAINTAINS CONTACT WITH A MINOR WITHIN THAT STUDENT
12 SAFETY ZONE DURING THE 90-DAY PERIOD DESCRIBED IN THIS SUBSECTION.

13 (5) THIS SECTION DOES NOT PROHIBIT AN INDIVIDUAL FROM BEING
14 CHARGED WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION OF
15 LAW THAT IS COMMITTED BY THAT INDIVIDUAL WHILE VIOLATING THIS
16 SECTION.

17 SEC. 36. <<(1) SUBJECT TO SUBSECTION (2), SECTIONS>> 34 AND 35 DO
18 NOT APPLY TO ANY OF THE

19 FOLLOWING:

20 (A) AN INDIVIDUAL WHO IS CONVICTED AS A JUVENILE UNDER SECTION
21 520B, 520C, OR 520D OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
22 750.520B, 750.520C, AND 750.520D, OF COMMITTING, ATTEMPTING TO
23 COMMIT, OR CONSPIRING TO COMMIT A VIOLATION SOLELY DESCRIBED IN
24 SECTION 520B(1)(A), 520C(1)(A), OR 520D(1)(A) OF THE MICHIGAN PENAL
25 CODE, 1931 PA 328, MCL 750.520B, 750.520C, AND 750.520D, IF EITHER
26 OF THE FOLLOWING APPLIES:

27 (i) THE INDIVIDUAL WAS UNDER 13 YEARS OF AGE WHEN HE OR SHE
28 COMMITTED THE OFFENSE AND IS NOT MORE THAN 5 YEARS OLDER THAN THE

1 VICTIM.

2 (ii) THE INDIVIDUAL WAS 13 YEARS OF AGE OR OLDER BUT LESS THAN
3 17 YEARS OF AGE WHEN HE OR SHE COMMITTED THE OFFENSE AND IS NOT
4 MORE THAN 3 YEARS OLDER THAN THE VICTIM.

5 (B) AN INDIVIDUAL WHO WAS CHARGED UNDER SECTION 520B, 520C, OR
6 520D OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520B,
7 750.520C, AND 750.520D, WITH COMMITTING, ATTEMPTING TO COMMIT, OR
8 CONSPIRING TO COMMIT A VIOLATION SOLELY DESCRIBED IN SECTION
9 520B(1)(A), 520C(1)(A), OR 520D(1)(A) OF THE MICHIGAN PENAL CODE,
10 1931 PA 328, MCL 750.520B, 750.520C, AND 750.520D, AND IS CONVICTED
11 AS A JUVENILE OF VIOLATING, ATTEMPTING TO VIOLATE, OR CONSPIRING TO
12 VIOLATE SECTION 520E OR 520G OF THE MICHIGAN PENAL CODE, 1931 PA
13 328, MCL 750.520E AND 750.520G, IF EITHER OF THE FOLLOWING APPLIES:

14 (i) THE INDIVIDUAL WAS UNDER 13 YEARS OF AGE WHEN HE OR SHE
15 COMMITTED THE OFFENSE AND IS NOT MORE THAN 5 YEARS OLDER THAN THE
16 VICTIM.

17 (ii) THE INDIVIDUAL WAS 13 YEARS OF AGE OR OLDER BUT LESS THAN
18 17 YEARS OF AGE WHEN HE OR SHE COMMITTED THE OFFENSE AND IS NOT
19 MORE THAN 3 YEARS OLDER THAN THE VICTIM.

20 (C) AN INDIVIDUAL WHO HAS SUCCESSFULLY COMPLETED HIS OR HER
21 PROBATIONARY PERIOD UNDER SECTIONS 11 TO 15 OF CHAPTER II FOR
22 COMMITTING A LISTED OFFENSE AND HAS BEEN DISCHARGED FROM YOUTHFUL
23 TRAINEE STATUS.

24 (D) AN INDIVIDUAL CONVICTED OF COMMITTING OR ATTEMPTING TO
25 COMMIT A VIOLATION SOLELY DESCRIBED IN SECTION 520E(1)(A) OF THE
26 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520E, WHO AT THE TIME OF
27 THE VIOLATION WAS 17 YEARS OF AGE OR OLDER BUT LESS THAN 21 YEARS

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1 OF AGE AND WHO IS NOT MORE THAN 5 YEARS OLDER THAN THE VICTIM.

<<(2) AN INDIVIDUAL WHO IS CONVICTED OF MORE THAN 1 OFFENSE
DESCRIBED IN SUBSECTION (1) IS INELIGIBLE FOR EXEMPTION UNDER THIS
SECTION.>>

2 Enacting section 1. This amendatory act takes effect January

3 1, 2006.