

SENATE BILL No. 758

September 15, 2005, Introduced by Senators GOSCHKA and GARCIA and referred to the Committee on Judiciary.

A bill to amend 1994 PA 295, entitled "Sex offenders registration act," by amending sections 5, 5a, and 5b (MCL 28.725, 28.725a, and 28.725b), sections 5 and 5a as amended by 2004 PA 240 and section 5b as added by 2004 PA 237.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) Within 10 days after any of the following occur,
2 an individual required to be registered under this act shall notify
3 the local law enforcement agency or sheriff's department having
4 jurisdiction where his or her new residence or domicile is located
5 or the department post of the individual's new residence or
6 domicile:

1 (a) The individual changes his or her residence, domicile, or
2 place of work or education, including any change required to be
3 reported under section 4a.

4 (b) The individual is paroled.

5 (c) Final release of the individual from the jurisdiction of
6 the department of corrections.

7 (2) Within 10 days after either of the following occurs, the
8 department of corrections shall notify the local law enforcement
9 agency or sheriff's department having jurisdiction over the area to
10 which the individual is transferred or the department post of the
11 transferred residence or domicile of an individual required to be
12 registered under this act:

13 (a) The individual is transferred to a community residential
14 program.

15 (b) The individual is transferred into a minimum custody
16 correctional facility of any kind, including a correctional camp or
17 work camp.

18 (3) An individual required to be registered under this act
19 shall notify the department on a form prescribed by the department
20 not later than 10 days before he or she changes his or her domicile
21 or residence to another state. The individual shall indicate the
22 new state and, if known, the new address. The department shall
23 update the registration and compilation databases and promptly
24 notify the appropriate law enforcement agency and any applicable
25 sex or child offender registration authority in the new state.

26 (4) If the probation or parole of an individual required to be
27 registered under this act is transferred to another state or an

1 individual required to be registered under this act is transferred
2 from a state correctional facility to any correctional facility or
3 probation or parole in another state, the department of corrections
4 shall promptly notify the department and the appropriate law
5 enforcement agency and any applicable sex or child offender
6 registration authority in the new state. The department shall
7 update the registration and compilation databases.

8 (5) An individual registered under this act shall comply with
9 the verification procedures and proof of residence procedures
10 prescribed in sections 4a and 5a.

11 (6) Except as provided in subsections (7) and (8), an
12 individual shall comply with this section for ~~25~~ 30 years after
13 the date of initially registering or, if the individual is in a
14 state correctional facility, for 10 years after release from the
15 state correctional facility, whichever is longer.

16 (7) Except as provided in subsection (8), an individual shall
17 comply with this section for life if the individual is convicted of
18 any of the following or a substantially similar offense under a law
19 of the United States, any state, or any country or under tribal or
20 military law:

21 (a) A violation of section 520b of the Michigan penal code,
22 1931 PA 328, MCL 750.520b.

23 (b) A violation of section 520c(1)(a) of the Michigan penal
24 code, 1931 PA 328, MCL 750.520c.

25 (c) A violation of section 349 of the Michigan penal code,
26 1931 PA 328, MCL 750.349, if the victim is less than 18 years of
27 age.

1 (d) A violation of section 350 of the Michigan penal code,
2 1931 PA 328, MCL 750.350.

3 (e) A violation of section 145c(2) or (3) of the Michigan
4 penal code, 1931 PA 328, MCL 750.145c.

5 (f) An attempt or conspiracy to commit an offense described in
6 subdivisions (a) to (e).

7 (g) Except as provided in this subdivision, a second or
8 subsequent listed offense after October 1, 1995 regardless of when
9 any earlier listed offense was committed. An individual is not
10 required to comply with this section for life if his or her first
11 or second listed offense is for a conviction on or before September
12 1, 1999 for an offense that was added on September 1, 1999 to the
13 definition of listed offense, unless he or she is convicted of a
14 subsequent listed offense after September 1, 1999.

15 (8) An individual who is ordered to register as provided in
16 section 8d shall register subject to that section.

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

24 (2) Upon the release of an individual registered under this
25 act who is in a state correctional facility, the department of
26 corrections shall provide written notice to that individual
27 explaining his or her duties under this section and this act as

1 amended and the procedure for registration, notification, and
2 verification and payment of the registration ~~fee~~ **FEES** prescribed
3 under subsection (7) or section 7(1). The individual shall sign and
4 date the notice. The department of corrections shall maintain a
5 copy of the signed and dated notice in the individual's file. The
6 department of corrections shall forward the original notice to the
7 department within 30 days, regardless of whether the individual
8 signs it.

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

20 (4) Except as provided in subsection (5), following initial
21 verification under subsection (3), or registration under this act
22 after January 15, 2000, an individual required to be registered
23 under this act who is not incarcerated shall report in person to
24 the local law enforcement agency or sheriff's department having
25 jurisdiction where he or she is domiciled or resides or to the
26 department post in or nearest to the county where he or she is
27 domiciled or resides for verification of domicile or residence as

1 follows:

2 (a) If the person is registered only for 1 or more misdemeanor
3 listed offenses, not earlier than January 1 or later than January
4 15 of each year after the initial verification or registration. As
5 used in this subdivision, "misdemeanor listed offense" means a
6 listed offense that is any of the following:

7 (i) A violation of section 145a of the Michigan penal code,
8 1931 PA 328, MCL 750.145a, committed before June 1, 2002.

9 (ii) A violation of section 145c(4), 167(1)(f), or 448 of the
10 Michigan penal code, 1931 PA 328, MCL 750.145c, 750.167, and
11 750.448.

12 (iii) A violation of section 335a of the Michigan penal code,
13 1931 PA 328, MCL 750.335a, other than a violation committed by a
14 person who was, at the time of the offense, a sexually delinquent
15 person as defined in section 10a of the Michigan penal code, 1931
16 PA 328, MCL 750.10a.

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

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

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

27 (vii) An offense substantially similar to an offense described

1 in subparagraphs (i) to (vi) under a law of the United States, any
2 state, or any country or under tribal or military law.

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

9 (i) A violation of section 145a of the Michigan penal code,
10 1931 PA 328, MCL 750.145a, committed on or after June 1, 2002.

11 (ii) A violation of section 145b, 145c(2) or (3), 349, 350,
12 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code,
13 1931 PA 328, MCL 750.145b, 750.145c, 750.349, 750.350, 750.455,
14 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

15 (iii) A violation of section 335a of the Michigan penal code,
16 1931 PA 328, MCL 750.335a, committed by a person who was, at the
17 time of the offense, a sexually delinquent person as defined in
18 section 10a of the Michigan penal code, 1931 PA 328, 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 than
21 18 years of age if the violation is specifically designated a
22 felony or is punishable by imprisonment for more than 1 year.

23 (v) An attempt or conspiracy to commit an offense described in
24 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) The continued reporting requirements of this section
2 following initial registration do not apply to an individual
3 convicted as a juvenile of committing an offense described in
4 section 8c(15)(a) or (b) committed by the individual when he or she
5 was less than 17 years of age, except that the individual shall
6 report a change in his or her residence within this state or to
7 another state as provided in this section within 10 days after the
8 change of residence is made. If the individual fails to file a
9 petition under section 8c before he or she becomes 18 years of age,
10 or if his or her petition is denied by the court, the individual
11 shall report as otherwise required under this section.

12 (6) When an individual reports under subsection (3) or (4), an
13 officer or authorized employee of the local law enforcement agency,
14 sheriff's department, or department post shall verify the
15 individual's residence or domicile and any information required to
16 be reported under section 4a. The officer or authorized employee
17 shall sign and date a verification form. The officer shall give a
18 copy of the signed form showing the date of verification to the
19 individual. The officer or employee shall forward verification
20 information to the department by the law enforcement information
21 network in the manner the department prescribes. The department
22 shall revise the databases maintained under section 8 as necessary
23 and shall indicate verification in the compilation under section
24 8(2).

25 (7) Except as otherwise provided in section 5b, beginning
26 October 16, 2004, an individual who reports as prescribed under
27 subsection (3) or (4) and who has not already paid the **ORIGINAL**

1 REGISTRATION fee prescribed under section 7(1) shall pay ~~a~~ THE
2 \$35.00 ORIGINAL registration fee. ~~An individual shall only be~~
3 ~~required to pay a fee once under this subsection.~~ EXCEPT AS
4 OTHERWISE PROVIDED IN SECTION 5B, BEGINNING JANUARY 1, 2006, AN
5 INDIVIDUAL WHO REPORTS AS PRESCRIBED UNDER SUBSECTION (3) OR (4)
6 SHALL PAY AN ANNUAL REGISTRATION FEE OF \$25.00. THE \$25.00 ANNUAL
7 REGISTRATION FEE SHALL BE RETAINED BY THAT LOCAL LAW ENFORCEMENT
8 AGENCY OR SHERIFF'S DEPARTMENT, OR IN THE CASE OF A DEPARTMENT
9 POST, BY THE DEPARTMENT, TO OFFSET THE COSTS ASSOCIATED WITH
10 IMPLEMENTING THIS ACT. AN ANNUAL FEE SHALL NOT BE CHARGED FOR THE
11 YEAR IN WHICH THE INDIVIDUAL PAYS THE ORIGINAL REGISTRATION FEE.

12 (8) An individual required to be registered under this act
13 shall maintain either a valid operator's or chauffeur's license
14 issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to
15 257.923, or an official state personal identification card issued
16 under 1972 PA 222, MCL 28.291 to 28.300, with the individual's
17 current address. The license or card may be used as proof of
18 domicile or residence under this section. In addition, the officer
19 or authorized employee may require the individual to produce
20 another document bearing his or her name and address, including,
21 but not limited to, voter registration or a utility or other bill.
22 The department may specify other satisfactory proof of domicile or
23 residence.

24 (9) Not earlier than January 1, 2000 or later than January 15,
25 2000, an individual registered under this act who is not
26 incarcerated shall report in person to a secretary of state office
27 and have his or her digitized photograph taken. An individual

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

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

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

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

1 enforcement agency, sheriff's department, or department post.

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

12 (3) If an individual required to pay ~~a~~ **AN ORIGINAL OR ANNUAL**
13 registration fee under this act is indigent, the registration fee
14 shall be temporarily waived. The burden is on the individual
15 claiming indigence to prove the fact of indigence to the
16 satisfaction of the local law enforcement agency, sheriff's
17 department, or department post where the individual is reporting.

18 (4) Payment of ~~the~~ **AN ORIGINAL OR ANNUAL** registration fee
19 prescribed under this act shall be made in the form and by means
20 prescribed by the department. Upon payment of the registration fee
21 prescribed under this act, the officer or employee shall forward
22 verification of the payment to the department by the law
23 enforcement information network in the manner the department
24 prescribes. The department shall revise the databases maintained
25 under section 8 as necessary and shall indicate verification of
26 payment in the compilation under section 8(2).