

HOUSE BILL No. 4973

October 13, 2015, Introduced by Reps. Sarah Roberts, Lane, Singh, Plawecki, LaVoy, Darany, Brinks, Smiley, Liberati, Yanez, Geiss, Gay-Dagnogo, Rutledge, Wittenberg, Chirkun and Dianda and referred to the Committee on Judiciary.

A bill to create the child abuse offenders registry; to prescribe the powers and duties of certain departments and agencies in connection with that registry; and to prescribe penalties and sanctions.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "child
2 abuse offenders registry act".

3 Sec. 2. As used in this act:

4 (a) "Child abuse offense" means any violation of section 136b
5 of the Michigan penal code, 1931 PA 328, MCL 750.136b (child
6 abuse), or a substantially similar offense under a law of the
7 United States, any state, or any country or under tribal or
8 military law, that is committed by an adult or by a minor who is
9 tried in the same manner as an adult under section 2d of chapter

1 XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d.

2 (b) "Convicted" means any of the following:

3 (i) Having a judgment of conviction or a probation order
4 entered in any court having jurisdiction over criminal offenses,
5 including, but not limited to, a tribal court or a military court,
6 other than a conviction subsequently set aside under 1965 PA 213,
7 MCL 780.621 to 780.624.

8 (ii) Either of the following:

9 (A) Being assigned to youthful trainee status under sections
10 11 to 15 of chapter II of the code of criminal procedure, 1927 PA
11 175, MCL 762.11 to 762.15.

12 (B) Being assigned to youthful trainee status under sections
13 11 to 15 of chapter II of the code of criminal procedure, 1927 PA
14 175, MCL 762.11 to 762.15, if the individual's status of youthful
15 trainee is revoked and an adjudication of guilt is entered.

16 (iii) Having an order of disposition entered under section 18
17 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL
18 712A.18, that is open to the general public under section 28 of
19 chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28.

20 (c) "Department" means the department of state police.

21 (d) "Institution of higher education" means 1 or more of the
22 following:

23 (i) A public or private community college, college, or
24 university.

25 (ii) A public or private trade, vocational, or occupational
26 school.

27 (e) "Local law enforcement agency" means the police department

1 of a municipality.

2 (f) "Minor" means a person who is less than 18 years of age.

3 (g) "Municipality" means a city, village, or township of this
4 state.

5 (h) "Registering authority" means the local law enforcement
6 agency or sheriff's office having jurisdiction over the person's
7 residence, place of employment, or institution of higher learning,
8 or the nearest department post designated to receive or enter child
9 abuse offender registration information within a registration
10 jurisdiction.

11 (i) "Registration jurisdiction" means each of the 50 states,
12 the District of Columbia, the Commonwealth of Puerto Rico, Guam,
13 the Northern Mariana Islands, the United States Virgin Islands,
14 American Samoa, and the Indian tribes within the United States that
15 elect to function as a registration jurisdiction.

16 (j) "Residence", as used in this act, for registration and
17 voting purposes means that place at which a person habitually
18 sleeps, keeps his or her personal effects, and has a regular place
19 of lodging. If a person has more than 1 residence, or if a wife has
20 a residence separate from that of the husband, that place at which
21 the person resides the greater part of the time shall be his or her
22 official residence for the purposes of this act. If a person is
23 homeless or otherwise lacks a fixed or temporary residence,
24 residence means the village, city, or township where the person
25 spends a majority of his or her time. This section shall not be
26 construed to affect existing judicial interpretation of the term
27 residence.

1 (k) "Student" means a person enrolled on a full- or part-time
2 basis in a public or private educational institution, including,
3 but not limited to, a secondary school, trade school, professional
4 institution, or institution of higher education.

5 Sec. 3. (1) The department shall maintain a computerized law
6 enforcement database of registrations and notices required under
7 the child abuse offenders registration act. The law enforcement
8 database shall contain all of the following information for each
9 person registered under that act:

10 (a) The person's legal name and any aliases, nicknames, ethnic
11 or tribal names, or other names by which the person is or has been
12 known.

13 (b) The person's social security number and any social
14 security numbers or alleged social security numbers previously used
15 by the person.

16 (c) The person's date of birth and any alleged dates of birth
17 previously used by the person.

18 (d) The address where the person resides or will reside. If
19 the person does not have a residential address, information under
20 this subsection shall identify the location or area used or to be
21 used by the person in lieu of a residence or, if the person is
22 homeless, the village, city, or township where the person spends or
23 will spend the majority of his or her time.

24 (e) The name and address of any place of temporary lodging
25 used or to be used by the person during any period in which the
26 person is away, or is expected to be away, from his or her
27 residence for more than 7 days. Information under this subdivision

1 shall include the dates the lodging is used or to be used.

2 (f) The name and address of each of the person's employers.

3 For purposes of this subdivision, "employer" includes a contractor
4 and any person who has agreed to hire or contract with the person
5 for his or her services. Information under this subsection shall
6 include the address or location of employment if different from the
7 address of the employer.

8 (g) The name and address of any school being attended by the
9 person and any school that has accepted the person as a student
10 that he or she plans to attend. For purposes of this subdivision,
11 "school" means a public or private postsecondary school or school
12 of higher education, including a trade school.

13 (h) All telephone numbers registered to the person or
14 routinely used by the person.

15 (i) All electronic mail addresses and instant message
16 addresses assigned to the person or routinely used by the person.

17 (j) A digital copy of the person's passport and other
18 immigration documents.

19 (k) The person's occupational and professional licensing
20 information, including any license that authorizes the person to
21 engage in any occupation, profession, trade, or business.

22 (l) A brief summary of the person's convictions for child
23 abuse offenses regardless of when the conviction occurred,
24 including where the offense occurred and the original charge if the
25 conviction was for a lesser offense.

26 (m) A complete physical description of the person.

27 (n) The photograph required under section 7 of the child abuse

1 offender registration act.

2 (o) The person's fingerprints and palm prints.

3 (p) An electronic copy of the person's Michigan driver license
4 or Michigan personal identification card, including the photograph
5 required under section 7 of the child abuse offenders registration
6 act.

7 (q) The text of the provision of law that defines the criminal
8 offense for which the person is registered.

9 (r) Any outstanding arrest warrant information.

10 (s) The person's registration status.

11 (t) An identifier that indicates whether a DNA sample has been
12 collected and any resulting DNA profile has been entered into the
13 federal Combined DNA Index System (CODIS).

14 (u) The person's complete criminal history record, including
15 the dates of all arrests and convictions.

16 (v) The person's Michigan department of corrections number and
17 the status of his or her parole, probation, or release.

18 (w) The person's Federal Bureau of Investigation number.

19 (2) The department shall maintain a public Internet website
20 separate from the law enforcement database described in subsection
21 (1) to implement section 5(2) and (3). The public Internet website
22 shall contain all of the following information for each person
23 registered under the child abuse offenders registration act:

24 (a) The person's legal name and any aliases, nicknames, ethnic
25 or tribal names, or other names by which the person is or has been
26 known.

27 (b) The person's date of birth.

1 (c) The address where the person resides. If the person does
2 not have a residential address, information under this subsection
3 shall identify the village, city, or township used by the person in
4 lieu of a residence.

5 (d) The address of each of the person's employers. For
6 purposes of this subdivision, "employer" includes a contractor and
7 any person who has agreed to hire or contract with the person for
8 his or her services. Information under this subsection shall
9 include the address or location of employment if different from the
10 address of the employer.

11 (e) The address of any school being attended by the person and
12 any school that has accepted the person as a student that he or she
13 plans to attend. For purposes of this subdivision, "school" means a
14 public or private postsecondary school or school of higher
15 education, including a trade school.

16 (f) A brief summary of the person's convictions for child
17 abuse offenses regardless of when the conviction occurred.

18 (g) A complete physical description of the person.

19 (h) The photograph required under section 7 of the child abuse
20 offenders registration act. If no photograph is available, the
21 department shall use an arrest photograph or Michigan department of
22 corrections photograph until a photograph as prescribed in section
23 7 of the child abuse offenders registration act becomes available.

24 (i) The text of the provision of law that defines the criminal
25 offense for which the person is registered.

26 (j) The person's registration status.

27 (3) The following information shall not be made available on

1 the public Internet website described in subsection (2):

2 (a) The identity of any victim of the offense.

3 (b) The person's social security number.

4 (c) Any arrests not resulting in a conviction.

5 (d) Any travel or immigration document numbers.

6 (e) Any electronic mail addresses and instant message
7 addresses assigned to the person or routinely used by the person
8 and any login names or other identifiers used by the person when
9 using any electronic mail address or instant messaging system.

10 (f) The person's driver license number or state personal
11 identification card number.

12 (4) The compilation of persons shall be indexed alphabetically
13 by village, city, township, and county, numerically by zip code
14 area, and geographically as determined appropriate by the
15 department.

16 (5) The department shall update the public Internet website
17 with new registrations, deletions from registrations, and address
18 changes at the same time those changes are made to the law
19 enforcement database described in subsection (1). The department
20 shall make the law enforcement database available to each
21 department post, local law enforcement agency, and sheriff's
22 department by the law enforcement information network. Upon request
23 by a department post, local law enforcement agency, or sheriff's
24 department, the department shall provide to that post, agency, or
25 sheriff's department the information from the law enforcement
26 database in printed or electronic form for the designated areas
27 located in whole or in part within the post's, agency's, or

1 sheriff's department's jurisdiction. The department shall provide
2 the ability to conduct a computerized search of the law enforcement
3 database and the public Internet website based upon the name and
4 campus location of an institution of higher education.

5 (6) The department shall make the law enforcement database
6 available to a department post, local law enforcement agency, or
7 sheriff's department by electronic, computerized, or other similar
8 means accessible to the post, agency, or sheriff's department. The
9 department shall make the public Internet website available to the
10 public by electronic, computerized, or other similar means
11 accessible to the public. The electronic, computerized, or other
12 similar means shall provide for a search by name, village, city,
13 township, and county designation, zip code, and geographical area.

14 (7) If a court determines that the public availability under
15 section 5 of any information concerning persons registered under
16 the child abuse offenders registration act violates the
17 constitution of the United States or this state, the department
18 shall revise the public Internet website described in subsection
19 (2) so that it does not contain that information.

20 (8) If the department determines that a person has completed
21 his or her registration period or that he or she otherwise is no
22 longer required to register under the child abuse offenders
23 registration act, the department shall remove the person's
24 registration information from both the law enforcement database and
25 the public Internet website within 7 days after making that
26 determination.

27 Sec. 4. (1) If a person fails to register or to update his or

1 her registration information as required under the child abuse
2 offenders registration act, the local law enforcement agency,
3 sheriff's office, or department post responsible for registering
4 the person or for verifying and updating his or her registration
5 information shall do all of the following immediately after the
6 date the person was required to register or to update his or her
7 registration information:

8 (a) Determine whether the person has absconded or is otherwise
9 unlocatable.

10 (b) If the registering authority was notified by a
11 registration jurisdiction that the person was to appear in order to
12 register or update his or her registration information in the
13 jurisdiction of the registering authority, notify the department in
14 a manner prescribed by the department that the person failed to
15 appear as required.

16 (c) Revise the information in the registry to reflect that the
17 person has absconded or is otherwise unlocatable.

18 (d) Seek a warrant for the person's arrest if the legal
19 requirements for obtaining a warrant are satisfied.

20 (e) Enter the person into the national crime information
21 center wanted person file if the requirements for entering
22 information into that file are met.

23 (2) If a person fails to register or to update his or her
24 registration information as required under the child abuse
25 offenders registration act, the department shall do all of the
26 following immediately after being notified by the registering
27 authority that the person failed to appear as required:

1 (a) Notify that other registration jurisdiction that the
2 person failed to appear as required.

3 (b) Notify the United States Marshal's Service in the manner
4 required by the United States Marshal's Service of the person's
5 failure to appear as required.

6 Sec. 5. (1) Except as provided in this act, a registration or
7 report is confidential and information from that registration or
8 report shall not be open to inspection except for law enforcement
9 purposes. The registration or report and all included materials and
10 information are exempt from disclosure under section 13 of the
11 freedom of information act, 1976 PA 442, MCL 15.243.

12 (2) A department post, local law enforcement agency, or
13 sheriff's department shall make information from the public
14 Internet website described in section 3(2) for the designated areas
15 located in whole or in part within the post's, agency's, or
16 sheriff's department's jurisdiction available for public inspection
17 during regular business hours. A department post, local law
18 enforcement agency, or sheriff's department is not required to make
19 a copy of the information for a member of the public.

20 (3) The department shall make information from the public
21 Internet website described in section 3(2) available to the public
22 through electronic, computerized, or other accessible means. The
23 department shall provide for notification by electronic or
24 computerized means to any member of the public who has subscribed
25 in a manner required by the department when a person who is the
26 subject of the public Internet website described in section 3(2)
27 initially registers under the child abuse offenders registration

1 act, or changes his or her registration under that act, to a
2 location that is in a designated area or geographic radius
3 designated by the subscribing member of the public.

4 (4) Except as provided in this act, a person other than the
5 registrant who knows of a registration or report under the child
6 abuse offenders registration act and who divulges, uses, or
7 publishes nonpublic information concerning the registration or
8 report in violation of this act is guilty of a misdemeanor
9 punishable by imprisonment for not more than 93 days or a fine of
10 not more than \$1,000.00, or both.

11 (5) A person whose registration or report is revealed in
12 violation of this act has a civil cause of action against the
13 responsible party for treble damages.

14 (6) Subsections (4) and (5) do not apply to the public
15 Internet website described in section 3(2) or information from that
16 public Internet website that is provided or made available under
17 section 3(2) or under subsection (2) or (3).

18 Enacting section 1. This act takes effect 90 days after the
19 date it is enacted into law.

20 Enacting section 2. This act does not take effect unless
21 Senate Bill No. ____ or House Bill No. 4974 (request no. 01099'15) of
22 the 98th Legislature is enacted into law.

23 Enacting section 3. This act shall be known and may be cited
24 as "Wyatt's Law".