

HOUSE BILL No. 4384

March 21, 2017, Introduced by Reps. Hertel, Sabo, Sowerby, Ellison, Elder, Green, Hoitenga, Hughes, Lucido, Gay-Dagnogo and Chirkun 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
10 XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d.

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

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

7 (ii) Either of the following:

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

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

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

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

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

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

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

26 (e) "Local law enforcement agency" means the police department
27 of a municipality.

1 (f) "Minor" means a person who is under 18 years of age.

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

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

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

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

27 (k) "Student" means a person enrolled on a full- or part-time

1 basis in a public or private educational institution, including,
2 but not limited to, a secondary school, trade school, professional
3 institution, or institution of higher education.

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

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

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

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

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

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

1 (f) The name and address of each of the person's employers.
2 For purposes of this subdivision, "employer" includes a contractor
3 and any person who has agreed to hire or contract with the person
4 for his or her services. Information under this subsection must
5 include the address or location of employment if it differs from
6 the address of the employer.

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

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

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

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

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

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

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

26 (n) The photograph required under section 7 of the child abuse
27 offender registration act.

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

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

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

8 (r) Any outstanding arrest warrant information.

9 (s) The person's registration status.

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

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

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

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

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

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

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

27 (c) The address where the person resides. If the person does

1 not have a residential address, information under this subsection
2 must identify the village, city, or township used by the person in
3 lieu of a residence.

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

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

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

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

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

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

25 (j) The person's registration status.

26 (3) The following information must not be made available on
27 the public internet website described in subsection (2):

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

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

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

4 (d) Any travel or immigration document numbers.

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

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

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

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

1 the ability to conduct a computerized search of the law enforcement
2 database and the public internet website based upon the name and
3 campus location of an institution of higher education.

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

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

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

26 Sec. 4. (1) If a person fails to register or to update his or
27 her registration information as required under the child abuse

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

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

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

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

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

19 (e) Enter the person into the National Crime Information
20 Center wanted person file if the requirements for entering
21 information into that file are met.

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

27 (a) Notify that other registration jurisdiction that the

1 person failed to appear as required.

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

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

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

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

1 location that is in a designated area or geographic radius
2 designated by the subscribing member of the public.

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

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

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

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

19 Enacting section 2. This act does not take effect unless
20 Senate Bill No.____ or House Bill No.____ (request no. 00693'17) of
21 the 99th Legislature is enacted into law.

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