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SFA



BILL ANALYSIS

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Senate Bill 1275 (Substitute S-1 as reported)
Sponsor: Senator Bev Hammerstrom
Committee: Families, Mental Health and Human Services

Date Completed: 5-13-02

RATIONALE

The Campus Sex Crimes Prevention Act, a Federal law enacted on October 28, 2000, requires that convicted sex offenders enrolled at or employed by an institution of higher education register the name of that college or university with the police. The Act further requires that this information be made available to the police agency with jurisdiction over the campus, and that each institution of higher education issue a statement advising the campus community where the information concerning registered sex offenders can be found. Reportedly, the Act was aimed at closing a loophole in many states' laws that required sex offenders to register with the police agency near their permanent residence, but neglected to address students and others who lived part of the year on a campus.

States that fail to comply with the Federal requirements under the Campus Sex Crimes Prevention Act are subject to a mandatory 10% reduction of the formula grant funding available under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, which is administered by the U.S. Bureau of Justice. In order to protect this revenue source, some people believe that Michigan's Sex Offender Registration Act should be amended to reflect these Federal requirements.

CONTENT

The bill would amend the Sex Offenders Registration Act to require certain sexual offenders who are employed by or students at institutions of higher education to report their sexual offense status to the law enforcement agency with jurisdiction over the campus. The bill would take effect October 1, 2002.

The bill would define "institution of higher education" to mean either a public or private community college, college, or university; or a public or private trade, vocational, or occupational school; or both.

Reporting Requirement

Under the Act, individuals convicted of a sexual offense listed in the Act must register information about their identities, addresses, and convictions with their local law enforcement agencies, sheriff's departments, or State Police. As a rule, someone who was convicted of a listed offense in another state or country and moves into the State, or becomes a student in Michigan, has 14 days to register. The bill would further require an out-of-State resident to report his or her status to the law enforcement agency or department or sheriff's department having jurisdiction over a campus of an institution of higher education, if any of the following occurred:

- The individual was or became a full- or part-time employee, contractual provider, employee of a contractual provider, or volunteer with an institution of higher education, and his or her position required that the person be present on campus for 14 or more consecutive days or 30 or more total days in a calendar year, regardless of whether he or she was financially compensated or received any governmental or educational benefit.
- His or her status as an employee, contractual provider, or volunteer, as described above, was discontinued.
- The individual changed the campus on which he or she was an employee, a contractual provider, an employee of a contractual provider, or a volunteer.

- The individual enrolled as a student at an institution of higher education, or he or she discontinued that enrollment.
- As part of the person's course of studies at an institution of higher education in the State, he or she was present at any other location in the State, another state, a territory or possession of the United States, or another country for 14 or more consecutive days or 30 or more total days in a calendar year, or the person discontinued his or her studies at that location.

The bill provides that a resident of Michigan required to be registered under the Act would have to report his or her status in person to the local law enforcement agency, sheriff's department, or State Police post having jurisdiction where his or her new residence or domicile was located if any of the events described above occurred.

Deadlines for Filing Registration Report

The bill would require employees, contractual providers, employees of contractual providers, volunteers, and students at an institution of higher education who were registered under the Act *before* the bill's effective date, to file their first reports with the police agency having jurisdiction over their campus no later than January 15, 2003.

Individuals who were employees, contractual providers, employees of contractual providers, or volunteers on the bill's effective date, and who subsequently were required to register under the Act, would have to file their first reports with the police agency having jurisdiction over the campus on the date they were required to register. (Section 4 of the Act specifies that individuals convicted of a listed offense after October 1, 1995, must register before sentencing, entry of the order of disposition, or assignment to youthful trainee status.)

The bill would require all other registrants under the Act to report within 10 days after becoming an employee, contractual provider, employee of a contractual provider, volunteer, or student at an institution of higher education, discontinuing that status, or changing location.

The bill also states that the additional registration reports required by the bill would have to be made according to time lines established under the Act for registered individuals to report to the police.

Documentation

Under the bill, the law enforcement agency to which an individual reported would have to require the individual to present written documentation of employment status, contractual relationship, volunteer status, or student status. Written documentation could include, but would not be limited to, a W-2 form, pay stub, or written statement by an employer; a contract; and/or a student identification card or student transcript.

Additional Reporting Requirements

The Act requires that individuals registered under the Act who change residences, places of work, or education notify the law enforcement agency or sheriff's department having jurisdiction over their new residence within 10 days. The bill would further require those individuals to notify the local police of any change required to be reported under the bill.

The Act requires registered individuals who are not incarcerated to report periodically in person to their local law enforcement agency, sheriff's department, or State Police post to present proof of residence and update any information that has changed since registration. The bill also would require those individuals to comply with verification and proof-of-residence procedures prescribed by the bill.

Under the Act, an officer or authorized employee of the law enforcement agency, sheriff's department, or State Police post to which an individual reports must verify his or her residence. The bill would require that the officer also verify any information required to be reported under the bill.

Under the Act, if an individual does not report as required, the State Police must notify the local law enforcement agency. The bill would further require the State Police to notify a local law enforcement agency if a person failed to report as required by the bill.

Duties of the State Police

The Act requires that listed sex offenders register on a form provided by the State Police. The registration must contain the individual's name, Social Security number, date of birth, and address, a summary of the individual's convictions for listed sex offenses, a complete physical description, a photograph, and the individual's fingerprints. Under the bill, the registration also would have to contain information that was required to be reported under the bill.

The Act further requires the State Police to maintain a computerized data base of registrations. The data base compilation must be indexed numerically by zip code area. Within each zip code area, the data must contain each registrant's name, address, physical description, and birth date. The bill would further require the data base to include the name and campus location of each institution of higher education to which an individual was required to report under the bill.

Under the Act, the State Police must make the compiled data available to each State Police post, local law enforcement agency, and sheriff's department by the Law Enforcement Information Network. The bill also would require the State Police to provide the ability to conduct a computerized search of the compilation based on the name and campus location of an institution of higher education described above.

Other Provisions

Penalties. The Act provides that a person who fails to comply with the registration requirements is guilty of a misdemeanor punishable by imprisonment for up to 90 days and/or a fine of up to \$500. The bill would increase the maximum penalties to 93 days and \$1,000. Further, the Act provides that an individual who willfully fails to sign a registration, notice, or verification is guilty of a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$500. The bill would increase the maximum fine to \$1,000.

Confidentiality. Under the Act, a registration is confidential and must not be open to inspection except for law enforcement

purposes. The bill would add to this confidentiality provision the reports that would be required under the bill.

MCL 28.722 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Campus communities should be protected from sex offenders to the same degree that the general public is protected. Currently, the sexual offender list posted on the Michigan State Police website is searchable by zip code. According to the State Police, following passage of the bill, the list also would be searchable by campus name. This would provide accurate, clear information to campus communities about the sex offenders who frequent or live in university or college communities.

Further, the bill is necessary to ensure compliance with Federal law and to maintain formula grant funding. Also, under the Federal Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, funds not allocated to noncompliant states are redistributed to compliant states. It is possible that Michigan could see an increase in Federal funding by enacting the bill.

Legislative Analyst: Claire Layman

FISCAL IMPACT

The bill would have a minimal fiscal impact on local and State law enforcement agencies. Both agencies would encounter additional record-keeping responsibilities and the State would incur some programing costs related to changes required in data base design.

There are no statewide data currently available to indicate how many offenders are convicted of a misdemeanor for divulging information from a confidential registration or report. Under the bill an offender would receive up to 93 rather than 90 days' incarceration in a local facility. Local units would incur the additional cost, which varies by county from \$27 to \$65 per day. Libraries

would benefit from any additional revenue generated by increasing the maximum fine from \$500 to \$1,000.

Fiscal Analyst: Bruce Baker
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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.