

Act No. 542  
Public Acts of 2002  
Approved by the Governor  
July 25, 2002  
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July 26, 2002  
EFFECTIVE DATE: October 1, 2002

**STATE OF MICHIGAN  
91ST LEGISLATURE  
REGULAR SESSION OF 2002**

Introduced by Senators Hammerstrom, McCotter, Stille, Dingell, Goschka, Bullard, Sikkema, Steil,  
Young and Byrum

# ENROLLED SENATE BILL No. 1275

AN ACT to amend 1994 PA 295, entitled "An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe penalties and sanctions," by amending sections 2, 5, 5a, 7, 8, 9, and 10 (MCL 28.722, 28.725, 28.725a, 28.727, 28.728, 28.729, and 28.730), sections 2, 5, 7, 8, 9, and 10 as amended and section 5a as added by 1999 PA 85, and by adding sections 1a and 4a.

*The People of the State of Michigan enact:*

Sec. 1a. The legislature declares that the sex offenders registration act was enacted pursuant to the legislature's exercise of the police power of the state with the intent to better assist law enforcement officers and the people of this state in preventing and protecting against the commission of future criminal sexual acts by convicted sex offenders. The legislature has determined that a person who has been convicted of committing an offense covered by this act poses a potential serious menace and danger to the health, safety, morals, and welfare of the people, and particularly the children, of this state. The registration requirements of this act are intended to provide law enforcement and the people of this state with an appropriate, comprehensive, and effective means to monitor those persons who pose such a potential danger.

Sec. 2. As used in this act:

(a) "Convicted" means 1 of the following:

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

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

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

(iv) Having an order of disposition or other adjudication in a juvenile matter in another state or country.

(b) "Department" means the department of state police.

(c) "Institution of higher education" means 1 or more of the following:

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

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

(d) "Local law enforcement agency" means the police department of a municipality.

(e) "Listed offense" means any of the following:

(i) A violation of section 145a, 145b, or 145c of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.145b, and 750.145c.

(ii) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.

(iii) A third or subsequent violation of any combination of the following:

(A) Section 167(1)(f) of the Michigan penal code, 1931 PA 328, MCL 750.167.

(B) Section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a.

(C) A local ordinance of a municipality substantially corresponding to a section described in sub-subparagraph (A) or (B).

(iv) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.

(v) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an individual less than 18 years of age.

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

(vii) A violation of section 448 of the Michigan penal code, 1931 PA 328, MCL 750.448, if a victim is an individual less than 18 years of age.

(viii) A violation of section 455 of the Michigan penal code, 1931 PA 328, MCL 750.455.

(ix) A violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(x) Any other violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age.

(xi) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(xii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (xi).

(xiii) An offense substantially similar to an offense described in subparagraphs (i) to (xii) under a law of the United States, any state, or any country or under tribal or military law.

(f) "Municipality" means a city, village, or township of this state.

(g) "Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. This section shall not be construed to affect existing judicial interpretation of the term residence.

(h) "Student" means an individual enrolled on a full- or part-time basis in a public or private educational institution, including but not limited to a secondary school, trade school, professional institution, or institution of higher education.

Sec. 4a. (1) An individual required to be registered under this act who is not a resident of this state shall report his or her status in person to the local law enforcement agency or sheriff's department having jurisdiction over a campus of an institution of higher education, or to the department post nearest to that campus, if any of the following occur:

(a) Regardless of whether he or she is financially compensated or receives any governmental or educational benefit, the individual is or becomes a full- or part-time employee, contractual provider, or volunteer with that institution of higher education and his or her position will require that he or she be present on that campus for 14 or more consecutive days or 30 or more total days in a calendar year.

(b) The individual is or becomes an employee of a contractual provider described in subdivision (a) and his or her position will require that he or she be present on that campus for 14 or more consecutive days or 30 or more total days in a calendar year.

(c) The status described in subdivision (a) or (b) is discontinued.

(d) The individual changes the campus on which he or she is an employee, a contractual provider, an employee of a contractual provider, or a volunteer as described in subdivision (a) or (b).

(e) The individual is or enrolls as a student with that institution of higher education or the individual discontinues that enrollment.

(f) As part of his or her course of studies at an institution of higher education in this state, the individual is present at any other location in this 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 individual discontinues his or her studies at that location.

(2) An individual required to be registered under this act who is a resident of this state shall report his or her status in person to the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post nearest to the individual's new residence or domicile, if any of the events described under subsection (1) occur.

(3) The report required under subsections (1) and (2) shall be made as follows:

(a) For an individual registered under this act before the effective date of the amendatory act that added this section and who is required to make his or her first report under subsections (1) and (2), not later than January 15, 2003.

(b) For an individual who is an employee, a contractual provider, an employee of a contractual provider, or a volunteer on that campus on the effective date of the amendatory act that added this section, or who is a student on that campus on the effective date of the amendatory act that added this section, who is subsequently required to register under this act, on the date he or she is required to register under this act.

(c) Except as provided under subdivisions (a) and (b), within 10 days after the individual becomes an employee, a contractual provider, an employee of a contractual provider, or a volunteer on that campus, or discontinues that status, or changes location, or within 10 days after he or she enrolls or discontinues his or her enrollment as a student on that campus including study in this state or another state, a territory or possession of the United States, or another country.

(4) The additional registration reports required under this section shall be made in the time periods described in section 5a(4)(a) and (b) for reports under that section.

(5) The local law enforcement agency, sheriff's department, or department post to which an individual reports under this section shall require the individual to present written documentation of employment status, contractual relationship, volunteer status, or student status. Written documentation under this subsection may include, but need not be limited to, any of the following:

- (a) A W-2 form, pay stub, or written statement by an employer.
- (b) A contract.
- (c) A student identification card or student transcript.

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

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

(b) The individual is paroled.

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

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

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

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

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

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

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

(6) Except as provided in subsection (7), an individual shall comply with this section for 25 years after the date of initially registering or, if the individual is in a state correctional facility, for 10 years after release from the state correctional facility, whichever is longer.

(7) An individual shall comply with this section for life if the individual is convicted of any of the following or a substantially similar offense under a law of the United States, any state, or any country or under tribal or military law:

- (a) A violation of section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.
- (b) A violation of section 520c(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520c.
- (c) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if the victim is less than 18 years of age.
- (d) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.
- (e) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

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

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

Sec. 5a. (1) Not later than September 1, 1999, the department shall mail a notice to each individual registered under this act who is not in a state correctional facility explaining the individual's duties under this section and this act as amended and the procedure for registration, notification, and verification.

(2) Upon the release of an individual registered under this act who is in a state correctional facility, the department of corrections shall provide written notice to that individual explaining his or her duties under this section and this act as amended and the procedure for registration, notification, and verification. The individual shall sign and date the notice. The department of corrections shall maintain a copy of the signed and dated notice in the individual's file. The department of corrections shall forward the original notice to the department within 30 days, regardless of whether the individual signs it.

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

(4) Following initial verification under subsection (3), or registration under this act after January 15, 2000, an individual required to be registered under this act who is not incarcerated shall report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides for verification of domicile or residence as follows:

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

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

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

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

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

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

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

(vii) An offense substantially similar to an offense described in subparagraphs (i) to (vi) under a law of the United States, any state, or any country or under tribal or military law.

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

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

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

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

(iv) A violation of a law of this state that by its nature constitutes a sexual offense against an individual who is less than 18 years of age if the violation is specifically designated a felony or is punishable by imprisonment for more than 1 year.

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

(vi) An offense substantially similar to an offense described in subparagraphs (i) to (v) under a law of the United States, any state, or any country or under tribal or military law.

(5) When an individual reports under subsection (3) or (4), an officer or authorized employee of the local law enforcement agency, sheriff's department, or department post shall verify the individual's residence or domicile and any information required to be reported under section 4a. The officer or authorized employee shall sign and date a verification form. The officer shall give a copy of the signed form showing the date of verification to the individual. The officer or employee shall forward verification information to the department by the law enforcement information network in the manner the department prescribes. The department shall revise the data bases maintained under section 8 as necessary and shall indicate verification in the compilation under section 8(2).

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

(7) Not earlier than January 1, 2000 or later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to a secretary of state office and have his or her digitized photograph taken. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released. The individual is not required to report under this subsection if he or she had a digitized photograph taken for an operator's or chauffeur's license or official state personal identification card before January 1, 2000, or within 2 years before he or she is released. The photograph shall be used on the individual's operator's or chauffeur's license or official state personal identification card. The individual shall have a new photograph taken when he or she renews the license or identification card as provided by law. The secretary of state shall make the digitized photograph available to the department for a registration under this act.

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

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

Sec. 7. (1) A registration under this act shall be made on a form provided by the department and shall be forwarded to the department in the format the department prescribes. A registration shall contain all of the following:

(a) The individual's name, social security number, date of birth, and address or expected address. An individual who is in a witness protection and relocation program is only required to use the name and identifying information reflecting his or her new identity in a registration under this act. The registration and compilation databases shall not contain any information identifying the individual's prior identity or locale. The department shall request each individual to provide his or her date of birth if it is not included in the registration, and that individual shall comply with the request within 10 days.

(b) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.

(c) A complete physical description of the individual.

(d) The photograph required under section 5a.

(e) The individual's fingerprints if not already on file with the department. An individual required to be registered on September 1, 1999 shall have his or her fingerprints taken not later than September 12, 1999 if not already on file with the department. The department shall forward a copy of the individual's fingerprints to the federal bureau of investigation if not already on file with that bureau.

(f) Information that is required to be reported under section 4a.

(2) A registration may contain the individual's blood type and whether a DNA identification profile of the individual is available.

(3) The form used for registration or verification under this act shall contain a written statement that explains the duty of the individual being registered to provide notice of a change of address under section 5, the procedures for providing that notice, and the verification procedures under section 5a.

(4) The individual shall sign a registration, notice, and verification. However, the registration, notice, or verification shall be forwarded to the department regardless of whether the individual signs it.

(5) The officer, court, or an employee of the agency registering the individual or receiving or accepting a registration under section 4 shall sign the registration form.

(6) An individual shall not knowingly provide false or misleading information concerning a registration, notice, or verification.

(7) The department shall prescribe the form for a notification required under section 5 and the format for forwarding the notification to the department.

(8) The department shall promptly provide registration, notice, and verification information to the federal bureau of investigation and to local law enforcement agencies, sheriff's departments, department posts, and agencies of other states requiring the information, as provided by law.

Sec. 8. (1) The department shall maintain a computerized data base of registrations and notices required under this act.

(2) The department shall maintain a computerized data base separate from that described in subsection (1) to implement section 10(2) and (3). The data base shall consist of a compilation of individuals registered under this act, but except as provided in this subsection, shall not include any individual registered solely because he or she had 1 or more dispositions for a listed offense entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, in a case that was not designated as a case in which the individual was to be tried in the same manner as an adult under section 2d of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d. The exclusion for juvenile dispositions does not apply to a disposition for a violation of section 520b or 520c of the Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, after the individual becomes 18 years of age.

(3) The compilation of individuals shall be indexed numerically by zip code area. Within each zip code area, the compilation shall contain all of the following information:

(a) The name and aliases, address, physical description, and birth date of each individual registered under this act who is included in the compilation and who resides in that zip code area and any listed offense of which the individual has been convicted.

(b) The name and campus location of each institution of higher education to which the individual is required to report under section 4a.

(4) The department shall update the compilation with new registrations, deletions from registrations, and address changes at the same time those changes are made to the data base described in subsection (1). The department shall make the compilation available to each department post, local law enforcement agency, and sheriff's department by the law enforcement information network. Upon request by a department post, local law enforcement agency, or sheriff's department, the department shall provide to that post, agency, or sheriff's department the information from the compilation in printed form for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction. The department shall provide the ability to conduct a computerized search of the compilation based upon the name and campus location of an institution of higher education described in subsection (3)(b).

(5) The department shall make the compilation or information from the compilation available to a department post, local law enforcement agency, sheriff's department, and the public by electronic, computerized, or other similar means accessible to the post, agency, or sheriff's department. The electronic, computerized, or other similar means shall provide for both a search by name and by zip code.

(6) If a court determines that the public availability under section 10 of any information concerning individuals registered under this act, including names and aliases, addresses, physical descriptions, or dates of birth, violates the constitution of the United States or this state, the department shall revise the compilation in subsection (2) so that it does not contain that information.

Sec. 9. (1) Except as provided in subsections (2) and (3), an individual required to be registered under this act who willfully violates this act is guilty of a felony punishable as follows:

(a) If the individual has no prior convictions for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(b) If the individual has 1 prior conviction for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 7 years or a fine of not more than \$5,000.00, or both.

(c) If the individual has 2 or more prior convictions for violations of this act, other than a failure to comply with section 5a, by imprisonment for not more than 10 years or a fine of not more than \$10,000.00, or both.

(2) An individual who fails to comply with section 5a is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(3) An individual who willfully fails to sign a registration, notice, or verification as provided in section 7(4) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(4) The court shall revoke the probation of an individual placed on probation who willfully violates this act.

(5) The court shall revoke the youthful trainee status of an individual assigned to youthful trainee status who willfully violates this act.

(6) The parole board shall rescind the parole of an individual released on parole who willfully violates this act.

(7) An individual's failure to register as required by this act or a violation of section 5(1), (3), or (4) may be prosecuted in the judicial district of any of the following:

- (a) The individual's last registered address or residence.
- (b) The individual's actual address or residence.
- (c) Where the individual was arrested for the violation.

Sec. 10. (1) Except as provided in this act, a registration or report under section 4a is confidential and information from that registration or report shall not be open to inspection except for law enforcement purposes. The registration or report and all included materials and information are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(2) A department post, local law enforcement agency, or sheriff's department shall make information from the compilation described in section 8(2) for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction available for public inspection during regular business hours. A department post, local law enforcement agency, or sheriff's department is not required to make a copy of the information for a member of the public.

(3) The department may make information from the compilation described in section 8(2) available to the public through electronic, computerized, or other accessible means.

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

(5) An individual whose registration or report is revealed in violation of this act has a civil cause of action against the responsible party for treble damages.

(6) Subsections (4) and (5) do not apply to the compilation described in section 8(2) or information from that compilation that is provided or made available under section 8(2) or under subsection (2) or (3).

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate.

*Jay E. Randall*

Clerk of the House of Representatives.

Approved .....

.....  
Governor.