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 BILL ANALYSIS

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Senate Bills 188, 189, and 206 (as enacted)
Sponsor: Senator Rick Jones (S.B. 188)
Senator Phil Pavlov (S.B. 189 & 206)
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACTS 17, 18, & 19 of 2011

Date Completed: 8-20-12

CONTENT

Senate Bill 188 amended the Sex Offender Registration Act to do the following:

- Categorize offenses subject to the Act's registration and reporting requirements as Tier I, Tier I, and Tier III.
- Exclude from Tier I, II, or III offenses certain violations involving a victim who consented and was at least 13 years old, or 16 or 17, depending on the offense, if the other person is not more than four years older than the victim or did not have custodial authority over the victim, as applicable.
- Require the court to hold a hearing if a convicted person claims that an exception applies and the prosecutor disputes the allegation.
- For individuals subject to an order of disposition under the juvenile code, limit the registration requirement to those aged 14 or older who commit a Tier III offense.
- Require the registration of a person who was convicted of a listed offense before July 1, 2011, but was not required to register, and who commits any felony on or after that date.
- Require Tier I offenders to comply with the Act for 15 years and report annually.
- Require Tier II offenders to comply for 25 years and report biannually.
- Require Tier III offenders to comply for life and report quarterly.

- Require an individual to report to a law enforcement agency when he or she moves, buys a vehicle, establishes an e-mail address, changes employment, enrolls at a college or university, or intends to change his or her residence temporarily for more than seven days.
- Increase the registration fee that must be paid when a person reports, if a fee has not already been paid.
- Revise the allocation of fee revenue between the Sex Offender Registration Fund and courts, local law enforcement agencies, and State Police posts.
- Allow the State Police to use money in the Fund for notification and registration duties.

Senate Bill 189 amended the Act to do the following:

- Increase the registration fee from \$35 to \$50.
- Require additional information and palm prints to be provided when a person registers, and require all of the registration information to be included in the law enforcement database.
- Specify information that must be included in the public internet website (previously called the public database).
- Require the public internet website to exclude an individual registered

solely because of one Tier I offense or an out-of-State juvenile adjudication.

- Revise the provisions under which an offender may petition the court to discontinue his or her obligation to register, and require the court to grant a petition under certain circumstances.**
- Establish responsibilities of law enforcement agencies and the Michigan State Police when a person fails to comply with the registration requirements.**
- Revise the misdemeanor penalties for failure to comply with reporting requirements.**

Senate Bill 206 amended the Code of Criminal Procedure to revise the sentencing guidelines designation for failure to update sex offender registration information. Previously, a third or subsequent offense was a Class F public order felony, with a statutory maximum sentence of four years' imprisonment. The bill deleted the reference to a third or subsequent offense and indicated a statutory maximum of two years (reflecting changes enacted by Senate Bill 189).

The effective date of Senate Bill 188 was April 12, 2011, but most of the amendments took effect on July 1, 2011. Senate Bills 189 and 206 took effect on July 1, 2011.

Senate Bills 188 and 189 were tie-barred to each other. Senate Bill 206 was tie-barred to Senate Bill 189.

Below is a detailed description of Senate Bills 188 and 189.

Senate Bill 188

Listed Offenses – Tiers I, II, & III

The Act requires individuals who are convicted of a listed offense to register with the Department of State Police. The bill amended the definition of "listed offense", and categorized offenses as Tier I, Tier II, and Tier III offenses, as shown in Table 1.

Like the original definition of "listed offense", each tier includes an attempt or conspiracy to commit an offense designated in that category, and an offense substantially similar to a designated offense under a law of the United States that is specifically enumerated in 42 USC 16911 (which defines terms used in the Federal Sex Offender Registration and Notification Act), under a law of any state or any country, or under tribal or military law. Tier I offenses also include an offense committed by a person who was, at the time, a sexually delinquent person as defined in the Michigan Penal Code.

The bill defines "Tier I offender" as an individual convicted of a Tier I offense who is not a Tier II or Tier III offender. "Tier II offender" means either a Tier I offender convicted subsequently of another Tier I offense, or an individual convicted of a Tier II offense who is not a Tier III offender. "Tier III offender" means either a Tier II offender convicted subsequently of another Tier I or Tier II offense, or an individual convicted of a Tier III offense.

Table 1

Listed Offense Penal Code Section	Tier		
	1	2	3
145a - accosting/soliciting child for immoral purpose		X	
145b - accosting/soliciting with 1 or more prior convictions		X	
145c(4) - possession of child sexually abusive material	X		
145c(2) - causing or allowing child to engage in child sexually abusive activity or material		X	
145c(3) - distribution or promotion of child sexually abusive activity or material		X	
145d(1)(a) - use of the internet to commit 145a, 145c, 349, 350, 520b, 520c, 520d, 520e, 520g, or 722.675 (disseminating sexually explicit matter to a minor)		X	
158 - sodomy - if victim is a minor		X ^{a)b)}	
335a(2)(b) - indecent exposure involving fondling - if victim is a minor	X		
338, 338a, 338b - gross indecency		X ¹⁾ a)b)	X ²⁾
349 - kidnapping - if victim is a minor			X
349b - unlawful imprisonment - if victim is a minor	X		
350 - enticing a child under 14 from his or her parents			X
448 - soliciting a person to commit prostitution or immoral conduct - if victim is a minor		X	
455 - pandering (enticing a person to become a prostitute)		X	
520b - criminal sexual conduct (CSC) 1st degree			X ^{a)}
520c - CSC 2nd degree		X	X ²⁾
520d - CSC 3rd degree			X ^{a)}
520e - CSC 4th degree	X ³⁾	X ¹⁾	X ⁴⁾
520g(1) - assault with intent to commit CSC- sexual penetration			X ^{a)}
520g(2) - assault with intent to commit 2 nd degree CSC	X ³⁾	X ¹⁾	X ²⁾
539j - surveillance or photography of unclothed person in violation of his/her privacy - if victim is a minor	X		
<p>1) Against a minor aged 13 or older. 2) Against a minor under 13. 3) Against a person aged 18 or older 4) Committed by a person 17 or older against a minor under 13</p> <p>a) Not a listed offense if the victim consented to the conduct constituting the violation, the victim was at least 13 years old but younger than 16 at the time of the violation, and the individual is not more than four years older than the victim. b) Not a listed offense if the victim consented, the victim was 16 or 17 years old at the time of the violation, and the victim was not under the individual's custodial authority at the time of the violation.</p>			

Under the bill, "custodial authority" means one or more of the following apply:

- The actor was a member of the same household as the victim.
- The actor was related to the victim by blood or affinity to the fourth degree.
- The actor was in a position of authority over the victim and used the authority to coerce the victim to submit.
- The actor was a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district (ISD) in which the other person was enrolled.
- The actor was an employee or a contractual service provider of the school, district, or ISD in which the other person was enrolled, or was a volunteer who was not a student in any public or nonpublic school, or was a State, local, or Federal employee assigned to provide any service to that school, district, or ISD, and used his or her employee, contractual, or volunteer status to gain access to, or establish a relationship with, the other person.
- The other person was under the jurisdiction of the Department of Corrections (DOC) and the actor was an employee or contractual employee of, or a volunteer with, the DOC who knew that the other person was under the DOC's jurisdiction and used his or her position of authority to gain access to or coerce or otherwise encourage the victim to engage in sexual contact.
- The other person was under the jurisdiction of the DOC and the actor was an employee or a contractual employee of, or a volunteer with, a private vendor that operated a youth correctional facility who knew that the other person was under the DOC's jurisdiction.
- The other person was a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program, and the actor was an employer or contractual employer of, or a volunteer with, the county or the DOC who knew that the other person was under the county's jurisdiction and used his or her position of authority to gain access to or coerce or otherwise encourage the victim to engage in sexual contact.
- The actor knew or had reason to know that a court had detained the victim in a facility while he or she was awaiting a trial or hearing, or committed the victim to a facility because the victim was found responsible for committing an act that would be a crime if committed by an adult, and the actor was an employee or contractual employee of, or a volunteer with, the facility.

Juvenile Offenders

The Act's definition of "convicted" includes having an order of disposition entered under Section 18 of the juvenile code that is open to the general public under that code, or having an order of disposition or other adjudication in a juvenile matter in another state or country. Under the bill, those provisions apply if both of the following are met:

- The individual was 14 years old or older at the time of the offense.
- The order of disposition is for the commission of an offense that would classify the individual as a Tier III offender.

"Convicted" also includes being assigned to youthful trainee status before October 1, 2004. Under the bill, this does not apply if a petition was granted at any time allowing the person to discontinue registration under the Act, including a reduced registration period that extends to or past July 1, 2011, regardless of the tier designation that would apply on or after that date.

Previously, "convicted" included being assigned to youthful trainee status on or after October 1, 2004, if the individual's status of youthful trainee was revoked and an adjudication of guilt was entered. Under the bill, "convicted" includes being assigned to youthful trainee status on or after October 1, 2004, if the individual is convicted of any other felony on or after July 1, 2011.

Individuals Required to Register

Under the bill, any individual who is convicted of a listed offense must register if he or she is domiciled, temporarily resides, works, or is a student in the State. Previously, registration was required if the

individual was domiciled, temporarily resided, worked, or was a student in the State for 14 or more consecutive days, or for 30 or more total days in a calendar year

The bill also requires registration by an individual who was previously convicted of a listed offense for which he or she was not required to register, but is convicted of any other felony on or after July 1, 2011. ("Felony" refers to a violation punishable by imprisonment for more than one year or a violation designated as a felony.)

The bill specifies that a nonresident convicted of a listed offense in Michigan on or after July 1, 2011, who is not otherwise described as an individual required to register, nevertheless must register. The Act's continued reporting requirements, however, do not apply to the person while he or she remains a nonresident and is not otherwise required to report. The individual must have his or her photograph taken as required by the Act.

Previously, individuals who were convicted of a listed offense out of State, or required to register as a sex offender in another state or country, were required to register with a local law enforcement agency, sheriff's department, or State Police within 14 days after becoming domiciled or temporarily residing, working, or being a student in this State, or to report to a local law enforcement agency, sheriff's department, or State Police post within 10 days after becoming an employee, contractual provider, or volunteer of an institution of higher education in the State, or within 10 days after enrolling or discontinuing enrollment. The bill requires these individuals to register or report "immediately", which means within three business days. The bill also deleted the number of days a nonresident had to be on campus before the requirement to report his or her status was triggered.

Under the bill, if a prosecution or juvenile proceeding was pending on July 1, 2011, the determination of whether the individual is required to register must be based on the law in effect on that date.

Hearing on Registration Requirement

The bill requires a court, before sentencing or disposition, to conduct a hearing to

determine whether an individual is required to register under the Act, if the individual pleads guilty to or is found guilty of a listed offense or is adjudicated as a juvenile as being responsible for a listed offense, but alleges that he or she is not required to register because the victim consented, the victim was at least 13 but under 16, or was 16 or 17, at the time (depending on the violation), and the individual is not more than four years older than the victim or the victim was not under the individual's custodial authority at the time (depending on the violation), and the prosecuting attorney disputes that allegation. (This applies to Tier II and III violations that are not listed offenses if the applicable criteria are met.)

The individual has the burden of proving by a preponderance of the evidence that his or her conduct falls within the exceptions described above and that he or she therefore is not required to register.

The rules of evidence (except those pertaining to the victim's sexual conduct) do not apply to the hearing.

The prosecuting attorney must give the victim notice of the date, time, and place of the hearing. The victim has the rights to submit a written statement to the court; to attend the hearing and make a written or oral statement to the court; to refuse to attend the hearing; and to attend the hearing but refuse to testify or make a statement.

The court's decision excusing or requiring the individual to register will be a final order of the court and may be appealed by the prosecuting attorney or the individual as a matter of right.

These provisions apply to criminal and juvenile cases pending on July 1, 2011, and to criminal and juvenile cases brought on and after that date.

Notice to Registered Individuals

The bill required the Department of State Police, by July 1, 2011, to mail to each individual registered under the Act who was not in a State correctional facility a notice explaining his or her duties under the Act.

This amendment took effect on April 12, 2011.

Requirement to Report Changes

Previously, an individual required to be registered had to notify the local law enforcement agency or sheriff's department or State Police post within 10 days after the individual changed or vacated his or her residence or domicile, or place of work or education.

Under the bill, instead, a resident of the State who is required to register must report in person and notify the registering authority immediately after any of the following occur:

- The individual changes or vacates his or her residence or domicile.
- The individual changes his or her place of employment, or employment is discontinued.
- The individual enrolls as a student with an institution of higher education, or enrollment is discontinued.
- The individual changes his or her name.
- The individual intends to reside temporarily at any place other than his or her residence for more than seven days.
- The individual establishes any electronic mail or instant message address, or any other designation used in internet communications or postings.
- The individual purchases or begins to regularly operate any vehicle, or discontinues ownership or operation of a vehicle.

A nonresident who is employed in the State and is required to be registered must notify the registering authority of his or her place of employment immediately after changing his or her place of employment or after employment is discontinued.

(The bill defines "registering authority" as local law enforcement agency or sheriff's office having jurisdiction over the individual's residence, place of employment, or institution of higher learning, or the nearest State Police post designated to receive or enter sex offender registration information within a registration jurisdiction.)

Under the bill, the notification requirements do not apply to an individual whose

enrollment and participation at an institution of higher education are solely through the mail or the internet from a remote location.

If an individual who is incarcerated in a county jail and is required to be registered is due to be released from custody, the bill requires the sheriff's department, before releasing the person, to notify the State Police of the location of the individual's proposed place of residence or domicile.

Under the bill, a resident required to be registered must report in person and notify the registering authority at least 21 days before he or she changes his or her domicile or residence to another country or travels to another country for more than seven days. The individual must state the new country of residence or country of travel and, if known, the address of his or her new home or place of stay. The State Police must update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority.

Duration of Reporting Requirements

Previously, except as otherwise provided, the Act required an individual to comply with the reporting requirements described above for 25 years after the date of initial registration or, if the individual was in a State correctional facility, for 10 years after release, whichever was longer. An individual had to comply with the notification requirements for life if he or she was convicted of first-degree CSC, second-degree CSC involving a victim under 13, kidnapping a minor, enticing a child under 14 from his or her parents, causing or allowing a child to engage in child sexually activity, distributing or promoting child sexually abusive activity or material, or attempting or conspiring to commit one of those offenses.

The bill, instead, requires a Tier I offender to comply for 15 years. A Tier II offender must comply for 25 years. A Tier III offender must comply for life. These registration periods exclude any period of incarceration or civil commitment.

For an individual who was previously convicted of a listed offense for which he or she was not required to register, but is convicted of any felony on or after July 1,

2011, any period of time that he or she was not incarcerated for the listed offense or that other felony and was not civilly committed counts toward satisfying the registration period for that listed offense. If those periods equal or exceed the prescribed registration period, the individual does not have to register. If those periods are less than the prescribed registration period, the individual must comply for the time remaining.

Annual or Semiannual Reporting

Under the bill, an individual who is required to be registered and is not incarcerated must report in person to the registering authority as follows:

- Between January 1 and January 15 each year, for a Tier I offender.
- Between the 1st and the 15th of each January and July, for a Tier II offender.
- Between the 1st and the 15th of each April, July, October, and January, for a Tier III offender.

(Previously, the annual January reporting requirement applied to an individual who was registered only for one or more listed offenses that were misdemeanors, and the quarterly reporting requirement applied to an individual registered for one or more listed offenses that were felonies.)

The bill also requires an individual to review all registration information for accuracy when he or she reports.

When an individual reports, the Act requires an officer or authorized employee to verify the individual's residence or domicile and any other information required to be reported. The bill also requires the officer or employee to determine whether the individual's photograph required under the Act sufficiently matches his or her appearance. If it does not, the officer or employee must require the individual immediately to obtain a current photograph. When all of the verification information has been provided, the officer or employee must review it with the individual and make any necessary corrections, additions, or deletions.

Fee; Allocation; Fund

The Act requires an individual who reports to pay a registration fee if he or she has not

already paid a fee upon original registration. (This fee must be paid only once.) The bill increased this fee from \$35 to \$50.

The Act also requires a portion of each registration fee (paid upon registration or reporting) to be forwarded to the Department of State Police for deposit in the Sex Offenders Registration Fund, with the balance retained by the court, local law enforcement agency, sheriff's department, or State Police post. The bill increased the portion deposited in the Fund from \$25 to \$30, requiring \$20, rather than \$10, to be retained by the court, local law enforcement agency, sheriff's department, or State Police post.

Previously, the State Police could use money credited to the Fund only for database training, maintenance, and automation, compilation, and required information. The bill also allows the Department to use money in the Fund for notification and offender registration duties.

Senate Bill 189

Registration Info; Database & Website

The Act requires a registration to contain the individual's name, Social Security number, date of birth, and address or expected address; a brief summary of the individual's convictions for listed offenses; a complete physical description of the individual; a photograph; and fingerprints, if not already on file with the State Police.

The bill also requires all of the following to be obtained or provided:

- Any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known.
- Any Social Security numbers or alleged Social Security numbers the individual previously used.
- Any alleged dates of birth previously used.
- The individual's village, city, or county of birth and state of birth.
- The individual's palm prints.
- The location or area used or to be used by the individual in lieu of a residence, or, if he or she is homeless, the village, city, or township where the person spends or will spend most of his or her time.

- The name and address of any place of temporary lodging used or to be used during any period the individual is away, or expects to be away, from his or her residence for more than seven days, including the dates.
- The name and address of any school attended by the individual and any school that has accepted him or her as a student that he or she plans to attend.
- All telephone numbers registered to the individual or routinely used by him or her.
- All e-mail addresses and instant message addresses assigned to the individual or routinely used by him or her, and all login names or other identifiers used by the individual when using any e-mail address or instant messaging system.
- The license plate number, registration number, and description of any motor vehicle, aircraft, or vessel owned or regularly operated by the individual and its location.
- The individual's driver license or State personal ID number.
- A digital copy of the individual's passport and other immigration documents.
- The individual's occupational and professional licensing information.
- The name and address of each of the individual's employers, including a contractor and anyone who has agreed to hire or contract with the individual for services.

If the individual lacks a fixed employment location, the information must include the general areas where he or she works and the normal travel routes he or she takes in the course of his or her employment.

In addition, the bill requires a registration to contain the following:

- An electronic copy of the individual's Michigan driver license or personal ID card.
- The text of the provision of law defining the criminal offense for which the individual is registered.
- Any outstanding arrest warrant information.
- The individual's tier classification.
- An identifier that indicates whether a DNA sample has been collected and any resulting DNA profile has been entered

into the Federal Combined DNA Index System (CODIS).

- The individual's complete criminal history record, including the dates of all arrests and convictions.
- The individual's DOC number and status of parole, probation, or supervised release.
- The individual's FBI number.

The Act requires the State Police to maintain a computerized database of registrations and notices required under the Act. Under the bill, this law enforcement database must contain all of the information that a registration is required to include.

Previously, the Act also required the State Police to maintain a separate computerized database consisting of a compilation of registered individuals, indexed by zip code, that was available to the public. The compilation had to contain the name and aliases, address, physical description, and birth date of each registered individual who lived in that zip code and any listed offenses of which he or she had been convicted; the name and campus location of each higher education institution to which the individual was required to report; and a photograph of each registered individual.

The bill instead requires the State Police to maintain a separate public internet website, which must contain generally the same information included in the law enforcement database, *except* the individual's Social Security number; the address of temporary lodging; telephone numbers; e-mail and instant message addresses; driver license or State ID number; a copy of the individual's passport and immigration documents; occupational and professional licensing information; fingerprints and palm prints; a copy of the individual's driver license or State ID card; outstanding arrest warrant information; a DNA sample identifier; criminal history; and DOC and FBI numbers. The public internet website also may not contain the identity of the victim.

The Act previously excluded from the public database an individual registered solely because he or she had one or more dispositions for a listed offense entered under Section 18 of the juvenile code, in a case that was not designated as one in which the individual was to be tried as an adult. Under the bill, the public internet

website may not include such an individual or either of the following:

- An individual registered solely because he or she was the subject of an order of disposition or other adjudication in a juvenile matter in another state or country.
- An individual registered solely because he or she has been convicted of a single Tier I offense.

The bill requires the compilation of individuals to be indexed alphabetically by village, city, township, and county, numerically by zip code, and geographically as determined appropriate by the State Police.

The bill requires the Department of State Police to remove an individual's registration from both the law enforcement database and the public internet website within seven days after determining that the individual has completed his or her registration period, including a period reduced by law under the bill, or after determining that he or she otherwise is no longer required to register.

If an individual gives the State Police documentation that he or she is required to register for a violation that has been set aside under Public Act 213 of 1965 (which provides for setting aside convictions) or otherwise expunged, the Department must note that information on the public internet website.

Failure to Register or Update Info

Under the bill, if an individual fails to register or update his or her registration information as required, the local law enforcement agency, sheriff's office, or State Police post responsible for registering the individual or for verifying and updating his or her registration information must do all of the following immediately after the date the individual was required to register or update registration information:

- Determine whether the individual has absconded or otherwise cannot be located.
- Notify the State Police that the individual has failed to appear, if the registering authority was notified by a registration jurisdiction that the individual was to

appear in order to register or update his or her information.

- Revise the information in the registry to reflect that the individual has absconded or cannot be located.
- Seek a warrant for the individual's arrest if the legal requirements for obtaining a warrant are satisfied.
- Enter the individual into the National Crime Information Center wanted person file if the requirements for entry are met.

The State Police also must notify the U.S. Marshal's Service and update the National Sex Offender Registry, immediately after being notified by the registering authority that the individual failed to appear.

Petition to Discontinue Registration

The Act previously allowed an individual to petition the court to discontinue registration if the individual was convicted as a juvenile of certain CSC offenses and he or she was under 13 years of age at the time and not more than five years older than the victim; or he or she was 13 or older but under 17 at the time and was not more than three years older than the victim. An individual also could petition to discontinue registration if he or she successfully completed his or her probationary period for committing a listed offense and was discharged from youthful trainee status.

The bill, instead, allows a Tier I, Tier II, or Tier III offender to petition for discontinuing registration, and allows or requires the court to grant the petition, as described below.

A Tier I offender may petition to discontinue registration, and the court may grant the petition, if all of the following apply:

- At least 10 years have elapsed since the date of the individual's conviction or from his or her release from any period of confinement for the offense, whichever occurred later.
- The individual has not been convicted of any felony or any listed offense since that date.
- The individual successfully completed his or her assigned periods of supervised release, probation, or parole without revocation.
- The individual successfully completed a sex offender treatment program certified

by the U.S. Attorney General or another appropriate sex offender treatment program (although the court may waive this requirement if completing a program was not a condition of the individual's confinement, release, probation, or parole).

A Tier III offender may petition to discontinue registration, and the court may grant the petition, if all of the following apply:

- The individual is required to register based on an order of disposition entered under Section 18 of the juvenile code that is open to the general public.
- At least 25 years have elapsed since the date of adjudication or release, whichever was later.
- The individual meets the other criteria applicable to a Tier I offender.

A Tier I, II, or III offender may petition the court, and the court must grant the petition, if the court determines that the conviction for the listed offense was the result of a consensual sexual act between the petitioner and the victim and either of the following apply:

- The victim was at least 13 years old but younger than 16 at the time of the offense, and the petitioner is not more than four years older than the victim.
- The individual was convicted of sodomy, gross indecency, or second-degree CSC involving a person under the jurisdiction of the DOC and a DOC employee; the victim was at least 16 at the time of the violation; and the victim was not under the individual's custodial authority at the time.

In addition, a Tier I, II, or III offender may file a petition, and the court must grant the petition, if either of the following applies:

- The petitioner was adjudicated as a juvenile, and was younger than 14 at the time of the offense.
- The individual was registered before July 1, 2011, for an offense that required registration but for which registration is not required after that date.

In cases in which granting a petition is discretionary, the court must consider factors listed in the Act and may not grant

the petition if it determines that the individual is a continuing threat to the public.

The Act requires a petition to be filed in the court in which the individual was convicted of committing the listed offense. Under the bill, however, if the conviction occurred in another state or country and the individual is a Michigan resident, he or she may file the petition in the circuit court in the county of his or her residence. A copy of the petition must be filed with the prosecuting attorney for that county.

Criminal Penalties

Except as otherwise provided, a person who willfully violates the Act is guilty of a felony and subject to penalties that range from up to four years' imprisonment and/or a maximum fine of \$2,000 for someone with no prior convictions, to up to 10 years and/or \$5,000 for someone with two or more prior convictions.

These penalties do not apply to a violation of Section 5a (which contains the periodic reporting requirements; requires a person to pay a registration fee upon reporting if he or she has not already paid one; and requires an individual to report to the Secretary of State to have a digitized photograph taken). That offense, other than failure to pay the fee, was a misdemeanor punishable by imprisonment for up to 93 days and/or a maximum fine of \$1,000 for someone with no prior convictions; a misdemeanor punishable by up to one year and/or \$2,000 for someone with one prior conviction; or a felony punishable by up to four years and/or \$2,500 for someone with two or more prior convictions. Under the bill, regardless of the number of convictions, failure to comply with Section 5a, other than payment of the fee, is a misdemeanor punishable by imprisonment for up to two years and/or a maximum fine of \$2,000.

MCL 28.722 et al. (S.B. 188)
28.726 et al. (S.B. 189)
777.11b (S.B. 206)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Fiscal Analyst: Bruce Baker
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Senate Bills 188 and 189

The bills' fiscal impact on the Department of State Police and on local law enforcement agencies is likely minimal. The provisions in the bills reflect changes in the sex offender registry system as mandated by the Federal Sex Offender Registration and Notification Act (SORNA). To accomplish these mandates, the Department received over \$2.3 million in Federal grants and reported that necessary changes to the State's sex offender registry system had been made and were up and ready to become operational, before the bills became law. It was possible that some additional programming costs of \$400,000 to \$500,000 would still be needed, but the Department reported that there were likely sufficient unused Federal grants funds and sex offender registration fees to cover these costs. The Department also reported that it did not anticipate any additional ongoing costs after implementation of the Adam Walsh registry, and that existing staff should be able to administer the new system without a need to add personnel.

In addition, Senate Bill 188 increased the initial required registration fee for registry candidates from \$35 to \$50 and allocates \$30 of each fee paid to the State Police (up from \$25 under prior law) and \$20 to the local agency (up from \$10 under prior law). The increased fees will amount to additional annual revenue of approximately \$20,000 to locals and \$10,000 to the State Police based upon the 2,042 new registrants enrolled in calendar year 2010.

Senate Bill 189 also requires those who are listed in the sex offender registry to submit a palm print, which will be added to their record. It was not clear from the bill who will assume the cost, though likely minimal, of obtaining these prints, particularly in regard to those in the registry who are not incarcerated. To this end, however, the State obtained through Federal grants 50 palm print scanners and distributed them to sheriff's offices. Another 10 scanners also were distributed.

Senate Bill 206

The bill has no fiscal impact on State or local government.

S1112\s188es

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.