

Megan's Law In Pennsylvania



Megan's Law

42 Pa.C.S. § 9791 (updated April 2009)

§ 9791. Legislative findings and declaration of policy

- A. **LEGISLATIVE FINDINGS.**—It is hereby determined and declared as a matter of legislative finding:
1. If the public is provided adequate notice and information about sexually violent predators and certain other offenders, the community can develop constructive plans to prepare themselves and their children for the offender's release. This allows communities to meet with law enforcement to prepare and obtain information about the rights and responsibilities of the community and to provide education and counseling to their children.
 2. These sexually violent predators pose a high risk of engaging in further offenses even after being released from incarceration or commitments and that protection of the public from this type of offender is a paramount governmental interest.
 3. The penal and mental health components of our justice system are largely hidden from public view and lack of information from either may result in failure of both systems to meet this paramount concern of public safety.
 4. Overly restrictive confidentiality and liability laws governing the release of information about sexually violent predators have reduced the willingness to release information that could be appropriately released under the public disclosure laws and have increased risks to public safety.
 5. Persons found to have committed such an offense have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government.
 6. Release of information about sexually violent predators to public agencies and the general public will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems so long as the information released is rationally related to the furtherance of those goals.
- B. **DECLARATION OF POLICY.**—It is hereby declared to be the intention of the General Assembly to protect the safety and general welfare of the people of this Commonwealth by providing for registration and community notification regarding sexually violent predators who are about to be released from custody and will live in or near their neighborhood. It is further declared to be the policy of this Commonwealth to require the exchange of relevant information about sexually violent predators among public agencies and officials and to authorize the release of necessary and relevant information about sexually violent predators to members of the general public as a means of assuring public protection and shall not be construed as punitive.

HISTORY: Act 1995 Special Session-24 (S.B. 7), § 1, approved Oct. 24, 1995, eff. immediately; Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days.

42 Pa.C.S. § 9792 (2008)

§ 9792. Definitions

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Active notification." Notification pursuant to section 9798 (relating to other notification) or any process whereby law enforcement, pursuant to the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, notifies persons in the community in which the individual resides, including any person identified in section 9798(b), of the residence, employment or school location of the individual.

"Approved registration site." A site in this Commonwealth approved by the Pennsylvania State Police as required by section 9799.1(2) (relating to duties of Pennsylvania State Police):

1. at which individuals subject to this subchapter may register, verify information or be fingerprinted or photographed as required by this subchapter;
2. which is capable of submitting fingerprints utilizing the Integrated Automated Fingerprint Identification System or in another manner and in such form as the Pennsylvania State Police shall require; and
3. which is capable of submitting photographs utilizing the Commonwealth Photo Imaging Network or in another manner and in such form as the Pennsylvania State Police shall require.

"Board." The State Sexual Offenders Assessment Board.

"Common interest community." Includes a cooperative, a condominium and a planned community where an individual by virtue of an ownership interest in any portion of real estate is or may become obligated by covenant, easement or agreement imposed upon the owner's interest to pay any amount for real property taxes, insurance, maintenance, repair, improvement, management, administration or regulation of any part of the real estate other than the portion or interest owned solely by the individual.

"Commonwealth Photo Imaging Network." The computer network administered by the Commonwealth and used to record and store digital photographs of an individual's face and any scars, marks, tattoos or other unique features of the individual.

"Employed." Includes a vocation or employment that is full-time or part-time for a period of time exceeding 14 days or for an aggregate period of time exceeding 30 days during any calendar year, whether financially compensated, volunteered, pursuant to a contract or for the purpose of government or educational benefit.

"Integrated Automated Fingerprint Identification System." The national fingerprint and criminal history system maintained by the Federal Bureau of Investigation providing automated fingerprint search capabilities, latent searching capability, electronic image storage and electronic exchange of fingerprints and responses.

"Mental abnormality." A congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of other persons.

"Minor." As used in section 9795.1 (relating to registration), is any individual under

the age of 18 unless the age of the victim who is considered a minor is otherwise defined in section 9795.1.

"Municipality." A city, borough, incorporated town or township.

"Offender." An individual required to register under section 9795.1(a), (b)(1) or (2) (relating to registration).

"Passive notification." Notification pursuant to section 9798.1 (relating to information made available on the Internet) or any process whereby persons, pursuant to the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, are able to access information pertaining to an individual as a result of the individual having been convicted or sentenced by a court for an offense similar to an offense listed in section 9795.1 (relating to registration).

"Penetration." Includes any penetration, however slight, of the genitals or anus or mouth of another person with a part of the person's body or a foreign object for any purpose other than good faith medical, hygienic or law enforcement procedures.

"Predatory." An act directed at a stranger or at a person with whom a relationship has been initiated, established, maintained or promoted, in whole or in part, in order to facilitate or support victimization.

"Residence." A location where an individual resides or is domiciled or intends to be domiciled for 30 consecutive days or more during a calendar year.

"Sexually violent offense." Any criminal offense specified in section 9795.1 (relating to registration).

"Sexually violent predator." A person who has been convicted of a sexually violent offense as set forth in section 9795.1 (relating to registration) and who is determined to be a sexually violent predator under section 9795.4 (relating to assessments) due to a mental abnormality or personality disorder that makes the person likely to engage in predatory sexually violent offenses. The term includes an individual determined to be a sexually violent predator where the determination occurred in the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico, a foreign nation or by court martial.

"Student." A person who is enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade or professional institution or institution of higher education.

HISTORY: Act 1995 Special Session-24 (S.B. 7), § 1, approved Oct. 24, 1995, eff. immediately; Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days.; Act 2004-152 (S.B. 92), § 7, approved Nov. 24, 2004, eff. in 60 days.

42 Pa.C.S. § 9795.1 (2008)

§ 9795.1. Registration

- A. TEN-YEAR REGISTRATION.—The following individuals shall be required to register with the Pennsylvania State Police for a period of ten years:
1. Individuals convicted of any of the following offenses:
 - 18 Pa.C.S. § 2901 (relating to kidnapping) where the victim is a minor.
 - 18 Pa.C.S. § 2910 (relating to luring a child into a motor vehicle).
 - 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).
 - 18 Pa.C.S. § 3126 (relating to indecent assault) where the offense is graded as a misdemeanor of the first degree or higher.
 - 18 Pa.C.S. § 4302 (relating to incest) where the victim is 12 years of age or older but under 18 years of age.
 - 18 Pa.C.S. § 5902 (b) (relating to prostitution and related offenses) where the actor promotes the prostitution of a minor.
 - 18 Pa.C.S. § 5903 (a)(3), (4), (5) or (6) (relating to obscene and other sexual materials and performances) where the victim is a minor.
 - 18 Pa.C.S. § 6312 (relating to sexual abuse of children).
 - 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
 - 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).
 2. Individuals convicted of an attempt, conspiracy or solicitation to commit any of the offenses under paragraph (1) or subsection (b)(2).
 3. Individuals currently residing in this Commonwealth who have been convicted of offenses similar to the crimes cited in paragraphs (1) and (2) under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation or under a former law of this Commonwealth.
- B. LIFETIME REGISTRATION.—The following individuals shall be subject to lifetime registration:
1. An individual with two or more convictions of any of the offenses set forth in subsection (a).
 2. Individuals convicted of any of the following offenses:
 - 18 Pa.C.S. § 3121 (relating to rape).
 - 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
 - 18 Pa.C.S. § 3124.1 (relating to sexual assault).
 - 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
 - 18 Pa.C.S. § 4302 (relating to incest) when the victim is under 12 years of age.
 3. Sexually violent predators.
 4. Individuals currently residing in this Commonwealth who have been convicted of offenses similar to the crimes cited in paragraph (2) under the laws of the United States or one of its Territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.
- C. NATURAL DISASTER. The occurrence of a natural disaster or other event requiring evacuation of residences shall not relieve an individual of the duty to register or any other duty imposed by this chapter.

HISTORY: Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days.; Act 2000-113 (S.B. 844), § 2, approved Dec. 20, 2000, eff. in 60 days.; Act 2002-134 (S.B. 834), § 3, approved Nov. 20, 2002, eff. in 60 days.; Act 2004-152 (S.B. 92), § 8, approved Nov. 24, 2004, eff. in 60 days.; Act 2006-178 (S.B. 944), § 6,

approved Nov. 29, 2006, eff. Jan. 1, 2007; 2008, Oct. 9, P.L. 1352 No. 98, Sec. 7, effective in 60 days [Dec. 8, 2008]

42 Pa.C.S. § 9795.2 (2008)

§ 9795.2. Registration procedures and applicability

A. REGISTRATION-

1. Offenders and sexually violent predators shall be required to register with the Pennsylvania State Police upon release from incarceration, upon parole from a State or county correctional institution or upon the commencement of a sentence of intermediate punishment or probation. For purposes of registration, offenders and sexually violent predators shall provide the Pennsylvania State Police with all current or intended residences, all information concerning current or intended employment and all information concerning current or intended enrollment as a student.
2. Offenders and sexually violent predators shall inform the Pennsylvania State Police within 48 hours of:
 - i. Any change of residence or establishment of an additional residence or residences.
 - ii. Any change of employer or employment location for a period of time that will exceed 14 days or for an aggregate period of time that will exceed 30 days during any calendar year, or termination of employment.
 - iii. Any change of institution or location at which the person is enrolled as a student, or termination of enrollment.
 - iv. Becoming employed or enrolled as a student if the person has not previously provided that information to the Pennsylvania State Police.
- 2.1 Registration with a new law enforcement agency shall occur no later than 48 hours after establishing residence in another state.
3. The ten-year registration period required in section 9795.1(a) (relating to registration) shall be tolled when an offender is recommitted for a parole violation or sentenced to an additional term of imprisonment. In such cases, the Department of Corrections or county correctional facility shall notify the Pennsylvania State Police of the admission of the offender.
4. This paragraph shall apply to all offenders and sexually violent predators:
 - i. Where the offender or sexually violent predator was granted parole by the Pennsylvania Board of Probation and Parole or the court or is sentenced to probation or intermediate punishment, the board or county office of probation and parole shall collect registration information from the offender or sexually violent predator and forward that registration information to the Pennsylvania State Police. The Department of Corrections or county correctional facility shall not release the offender or sexually violent predator until it receives verification from the Pennsylvania State Police that it has received the registration information. Verification by the Pennsylvania State Police may occur by electronic means, including e-mail or facsimile transmission. Where the offender or sexually violent predator is

scheduled to be released from a State correctional facility or county correctional facility because of the expiration of the maximum term of incarceration, the Department of Corrections or county correctional facility shall collect the information from the offender or sexually violent predator no later than ten days prior to the maximum expiration date. The registration information shall be forwarded to the Pennsylvania State Police.

- ii. Where the offender or sexually violent predator scheduled to be released from a State correctional facility or county correctional facility due to the maximum expiration date refuses to provide the registration information, the Department of Corrections or county correctional facility shall notify the Pennsylvania State Police or police department with jurisdiction over the facility of the failure to provide registration information and of the expected date, time and location of the release of the offender or sexually violent predator.

B. INDIVIDUALS CONVICTED OR SENTENCED BY A COURT OR ADJUDICATED DELINQUENT IN JURISDICTIONS OUTSIDE THIS COMMONWEALTH OR SENTENCED BY COURT MARTIAL.—

4. An individual who resides, is employed or is a student in this Commonwealth and who has been convicted of or sentenced by a court or court martial for a sexually violent offense or a similar offense under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation, or who was required to register under a sexual offender statute in the jurisdiction where convicted, sentenced or court martial, shall register at an approved registration site within 48 hours of the individual's arrival in this Commonwealth. The provisions of this subchapter shall apply to the individual as follows:

- i. If the individual has been classified as a sexually violent predator as defined in section 9792 (relating to definitions) or determined under the laws of the other jurisdiction or by reason of court martial to be subject to active notification and lifetime registration on the basis of a statutorily authorized administrative or judicial decision or on the basis of a statute or administrative rule requiring active notification and lifetime registration based solely on the offense for which the individual was convicted, sentenced or court martial, the individual shall, notwithstanding section 9792, be considered a sexually violent predator and subject to lifetime registration pursuant to section 9795.1(b) (relating to registration). The individual shall also be subject to the provisions of this section and sections 9796 (relating to verification of residence), 9798 (relating to other notification) and 9798.1(c)(1) (relating to information made available on the Internet), except that the individual shall not be required to receive counseling unless required to do so by the other jurisdiction or by reason of court martial.
- ii. Except as provided in subparagraphs (i) and (iv), if the individual has been convicted or sentenced by a court or court martial for an offense listed in section 9795.1(b) or an equivalent offense, the individual shall, notwithstanding section 9792, be considered an offender and be subject to lifetime

- registration pursuant to 9795.1(b). The individual shall also be subject to the provisions of this section and sections 9796 and 9798.1(c)(2).
- iii. Except as provided in subparagraphs (i), (ii), (iv) and (v), if the individual has been convicted or sentenced by a court or court martial for an offense listed in section 9795.1(a) or an equivalent offense, the individual shall be, notwithstanding section 9792, considered an offender and subject to registration pursuant to this subchapter. The individual shall also be subject to the provisions of this section and sections 9796 and 9798.1(c)(2). The individual shall be subject to this subchapter for a period of ten years or for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, whichever is greater, less any credit due to the individual as a result of prior compliance with registration requirements.
 - iv. Except as provided in subparagraph (i) and notwithstanding subparagraph (v), if the individual is subject to active notification in the other jurisdiction or subject to active notification by reason of court martial, the individual shall, notwithstanding section 9792, be considered an offender and subject to this section and sections 9796, 9798 and 9798.1©(1). If the individual was convicted of or sentenced in the other jurisdiction or sentenced by court martial for an offense listed in section 9795.1(b) or an equivalent offense, the individual shall be subject to this subchapter for the individual's lifetime. If the individual was convicted of or sentenced in the other jurisdiction or sentenced by court martial for an offense listed in section 9795.1(a) or an equivalent offense, the individual shall be subject to this subchapter for a period of ten years or for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, whichever is greater, less any credit due to the individual as a result of prior compliance with registration requirements. Otherwise, the individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, less any credit due to the individual as a result of prior compliance with registration requirements.
 - v. Except as provided in subparagraphs (i), (ii), (iii) and (iv), if the individual is subject to passive notification in the other jurisdiction or subject to passive notification by reason of court martial, the individual shall, notwithstanding section 9792, be considered an offender and subject to this section and sections 9796 and 9798.1©(2). The individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction or required to register by reason of court martial, less any credit due to the individual as a result of prior compliance with registration requirements.

5. Notwithstanding the provisions of Chapter 63 (relating to juvenile matters) and except as provided in paragraph (4), an individual who resides, is employed or is a student in this Commonwealth and who is required to register as a sex offender under the laws of the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation as a result of a juvenile adjudication shall register at an approved registration site within 48 hours of the individual's arrival in this Commonwealth. The provisions of this subchapter shall apply to the individual as follows:
 - i. If the individual has been classified as a sexually violent predator as defined in section 9792 or determined under the laws of the other jurisdiction to be subject to active notification and lifetime registration on the basis of a statutorily authorized administrative or judicial decision or on the basis of a statute or administrative rule requiring active notification and lifetime registration based solely on the offense for which the individual was adjudicated, the individual shall, notwithstanding section 9792, be considered a sexually violent predator and subject to lifetime registration pursuant to section 9795.1(b). The individual shall also be subject to the provisions of this section and sections 9796 and 9798.1(c)(1), except that the individual shall not be required to receive counseling unless required to do so by the other jurisdiction.
 - ii. Except as provided in subparagraph (i), if the individual is subject to active notification in the other jurisdiction, the individual shall, notwithstanding section 9792, be considered an offender and subject to registration pursuant to this subchapter. The individual shall also be subject to the provisions of this section and sections 9796, 9798 and 9798.1©(1). The individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction, less any credit due to the individual as a result of prior compliance with registration requirements.
 - iii. Except as provided in subparagraphs (i) and (ii), if the individual is subject to passive notification in the other jurisdiction, the individual shall, notwithstanding section 9792, be considered an offender and be subject to this section and sections 9796 and 9798.1©(2). The individual shall be subject to this subchapter for a period of time equal to the time for which the individual was required to register in the other jurisdiction, less any credit due to the individual as a result of prior registration compliance.

C. REGISTRATION INFORMATION TO LOCAL POLICE.—

1. The Pennsylvania State Police shall provide the information obtained under this section and sections 9795.3 (relating to sentencing court information) and 9796 (relating to verification of residence) to the chief law enforcement officers of the police departments of the municipalities in which the individual will reside, be employed or enrolled as a student. In addition, the Pennsylvania State Police shall provide this officer with the address at which the individual will reside,

be employed or enrolled as a student following his release incarceration, parole, or probation.

2. The Pennsylvania State Police shall provide notice to the chief law enforcement officers of the police departments of the municipalities notified pursuant to paragraph (1) when an individual fails to comply with the registration requirements of this section or section 9796, and request, as appropriate, that these police departments assist in locating and apprehending the individual.
3. The Pennsylvania State Police shall provide notice to the chief law enforcement officers of the police departments of the municipalities notified pursuant to paragraph (1) when they are in receipt of information indicating that the individual will no longer reside, be employed or enrolled as a student in the municipality.

D. PENALTY.—An individual subject to registration under section 9795.1(a) or (b) who fails to register with the Pennsylvania State Police as required by this section may be subject to prosecution under 18 Pa.C.S. § 4915.

E. REGISTRATION SITES.—An individual subject to section 9795.1 shall register and submit to fingerprinting and photographing as required by this subchapter at approved registration sites.

HISTORY: Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days.; Act 2000-113 (S.B. 844), § 2, approved Dec. 20, 2000, eff. in 60 days.; Act 2002-127 (S.B. 138), § 4, approved Oct. 17, 2002, eff. in 60 days.; Act 2004-152 (S.B. 92), § 8, approved Nov. 24, 2004, eff. in 180 days; Act 2006-178 (S.B. 944), § 7, approved November 29, 2006, eff. January 1, 2007.

42 Pa.C.S. § 9795.3 (2008)

§ 9795.3. Sentencing court information

The sentencing court shall inform offenders and sexually violent predators at the time of sentencing of the provisions of this subchapter. The court shall:

1. Specifically inform the offender or sexually violent predator of the duty to register and provide the information required for each registration, including verification as required in section 9796(a) (relating to verification of residence).

2. Specifically inform the offender or sexually violent predator of the duty to inform the Pennsylvania State Police within ten days if the offender or sexually violent predator changes residence or establishes an additional residence or residences, changes employer or employment location for a period of time that will exceed 14 days or for an aggregate period of time that will exceed 30 days during any calendar year or terminates employment or changes institution or location at which the person is enrolled as a student or terminates enrollment.

- 2.1 Specifically inform the offender or sexually violent predator of the duty to inform the Pennsylvania State Police within ten days of becoming employed or enrolled as a student if the person has not previously provided that information to the Pennsylvania State Police.

3. Specifically inform the offender or sexually violent predator of the duty to register with a new law enforcement agency if the offender or sexually violent predator moves to another state no later than ten days after establishing residence in another state.

4. Order the fingerprints and photograph of the offender or sexually violent predator to be provided to the Pennsylvania State Police upon sentencing.

5. Specifically inform the offender or sexually violent predator of the duty to register with the appropriate authorities in any state in which the offender or

sexually violent predator is employed, carries on a vocation or is a student if the state requires such registration.

6. Require the offender or sexually violent predator to read and sign a form stating that the duty to register under this subchapter has been explained. Where the offender or sexually violent predator is incapable of reading, the court shall certify the duty to register was explained to the offender or sexually violent predator and the offender or sexually violent predator indicated an understanding of the duty.

HISTORY: Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days.; Act 2002-127 (S.B. 138), § 4, approved Oct. 17, 2002, eff. in 60 days.

42 Pa.C.S. § 9795.4 (2008)

§ 9795.4. Assessments

- A. ORDER FOR ASSESSMENT.—After conviction but before sentencing, a court shall order an individual convicted of an offense specified in section 9795.1 (relating to registration) to be assessed by the board. The order for an assessment shall be sent to the administrative officer of the board within ten days of the date of conviction.
- B. ASSESSMENT.—Upon receipt from the court of an order for an assessment, a member of the board as designated by the administrative officer of the board shall conduct an assessment of the individual to determine if the individual should be classified as a sexually violent predator. The board shall establish standards for evaluations and for evaluators conducting the assessments. An assessment shall include, but not be limited to, an examination of the following:
1. Facts of the current offense, including:
 - i. Whether the offense involved multiple victims.
 - ii. Whether the individual exceeded the means necessary to achieve the offense.
 - iii. The nature of the sexual contact with the victim.
 - iv. Relationship of the individual to the victim.
 - v. Age of the victim.
 - vi. Whether the offense included a display of unusual cruelty by the individual during the commission of the crime.
 - vii. The mental capacity of the victim.
 2. Prior offense history, including:
 - i. The individual's prior criminal record.
 - ii. Whether the individual completed any prior sentences.
 - iii. Whether the individual participated in available programs for sexual offenders.
 3. Characteristics of the individual, including:
 - i. Age of the individual.
 - ii. Use of illegal drugs by the individual.
 - iii. Any mental illness, mental disability or mental abnormality.
 - iv. Behavioral characteristics that contribute to the individual's conduct.
 4. Factors that are supported in a sexual offender assessment field as criteria reasonably related to the risk of reoffense.
- C. RELEASE OF INFORMATION.—All State, county and local agencies, offices or entities in this Commonwealth, including juvenile probation officers, shall cooperate by providing copies of records and information as requested by the

board in connection with the court-ordered assessment and the assessment requested by the Pennsylvania Board of Probation and Parole or the assessment of a delinquent child under section 6358 (relating to assessment of delinquent children by the State Sexual Offenders Assessment Board).

- D. SUBMISSION OF REPORT BY BOARD.—The board shall have 90 days from the date of conviction of the individual to submit a written report containing its assessment to the district attorney.

D.1 SUMMARY OF THE OFFENSE. The board shall prepare a description of the offense which triggers the application of this subchapter to include, but not be limited to:

1. *a concise narrative of the offender's conduct;*
2. *whether the victim was a minor;*
3. *the manner of weapon or physical force used to threaten;*
4. *if the offense involved unauthorized entry into a room or vehicle occupied by the victim.*
5. *if the offense was part of a course or pattern of conduct involving multiple incidents or victims.*
6. *previous instances in which the offender was determined guilty of an offense subject to this subchapter or of a crime of violence as defined in section 9714(g) (relating to sentences for second and subsequent offenses).*

- E. HEARING.—

1. A hearing to determine whether the individual is a sexually violent predator shall be scheduled upon the praecipe filed by the district attorney. The district attorney upon filing a praecipe shall serve a copy of same upon defense counsel together with a copy of the report of the board.
2. The individual and district attorney shall be given notice of the hearing and an opportunity to be heard, the right to call witnesses, the right to call expert witnesses and the right to cross-examine witnesses. In addition, the individual shall have the right to counsel and to have a lawyer appointed to represent him if he cannot afford one. If the individual requests another expert assessment, the individual shall provide a copy of the expert assessment to the district attorney prior to the hearing.
3. At the hearing prior to sentencing the court shall determine whether the Commonwealth has proved by clear and convincing evidence that the individual is a sexually violent predator.
4. A copy of the order containing the determination of the court shall be immediately submitted to the individual, the district attorney, the Pennsylvania Board of Probation and Parole, the Department of Corrections, the board and the Pennsylvania State Police.

- F. PRESENTENCE INVESTIGATION.—In all cases where the board has performed an assessment pursuant to this section, copies of the report shall be provided to the agency preparing the presentence investigation.

- G. PAROLE ASSESSMENT.—The Pennsylvania Board of Probation and Parole may request of the board an assessment of an offender or sexually violent predator be conducted and provide a report to the Pennsylvania Board of Probation and Parole prior to considering an offender or sexually violent predator for parole.

- H. DELINQUENT CHILDREN.—Except where section 6358(b.1) (relating to assessment of delinquent children by the State Sexual Offenders Assessment Board) is applicable, the probation officer shall notify the board 90 days prior

to the 20th birthday of the child of the status of the delinquent child who is committed to an institution or other facility pursuant to section 6352 (relating to disposition of delinquent child) after having been found delinquent for an act of sexual violence which if committed by an adult would be a violation of 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault), 3126 (relating to indecent assault) or 4302 (relating to incest), together with the location of the facility where the child is committed. The board shall conduct an assessment of the child, which shall include the board's determination of whether or not the child is in need of commitment due to a mental abnormality as defined in section 6402 (relating to definitions) or a personality disorder, either of which results in serious difficulty in controlling sexually violent behavior, and provide a report to the court within the time frames set forth in section 6358©. The probation officer shall assist the board in obtaining access to the child and any records or information as requested by the board in connection with the assessment. The assessment shall be conducted pursuant to subsection (b).

- I. OTHER ASSESSMENTS.—Upon receipt from the court of an order for an assessment under section 9795.5 (relating to exemption from certain notification), a member of the board as designated by the administrative officer of the board shall conduct an assessment of the individual to determine if the relief sought, if granted, is likely to pose a threat to the safety of any other person. The board shall establish standards for evaluations and for evaluators conducting these assessments.

HISTORY: Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days.; Act 2000-113 (S.B. 844), § 2, approved Dec. 20, 2000, eff. in 60 days.; Act 2003-21 (S.B. 521), § 5, approved Aug. 14, 2003, eff. in 180 days.; Act 2004-152 (S.B. 92), § 9, approved Nov. 24, 2004, eff. in 60 days.; Act 2004-176 (S.B. 109), § 2, approved Nov. 29, 2004, eff. immediately. Act 2006-179 (S.B. 1054), §8, approved November 29, 2006, eff. in 180 days.

42 Pa.C.S. § 9795.5 (2008)

§ 9795.5. Exemption from certain notifications

A. LIFETIME REGISTRANTS NOT CLASSIFIED AS SEXUALLY VIOLENT PREDATORS.—

1. An individual required to register under section 9795.1 (relating to registration) who is not a sexually violent predator may petition the sentencing court to be exempt from the application of section 9798.1 (relating to information made available on the Internet) provided no less than 20 years have passed since the individual has been convicted in this or any other jurisdiction of any offense punishable by imprisonment for more than one year, or the individual's release from custody following the individual's most recent conviction for any such offense, whichever is later.
2. Upon receipt of a petition filed under paragraph (1), the sentencing court shall enter an order directing that the petitioner be assessed by the board in accordance with the provisions of section 9795.4(i) (relating to assessments). The order for an assessment under this subsection shall be sent to the administrative officer of the board within ten days of its entry. No later than 90 days following receipt of such an order, the board shall submit a written report containing its

- assessment to the sentencing court, the district attorney and the attorney for the petitioner.
3. Within 120 days of the filing of a petition under paragraph (1), the sentencing court shall hold a hearing to determine whether to exempt the petitioner from the application of section 9798.1. The petitioner and the district attorney shall be given notice of the hearing and an opportunity to be heard, the right to call witnesses, the right to call expert witnesses and the right to cross-examine witnesses. The petitioner shall have the right to counsel and to have a lawyer appointed to represent him if he cannot afford one.
 4. The sentencing court shall exempt the petitioner from application of section 9798.1 only upon finding by clear and convincing evidence that exempting the petitioner from the application of section 9798.1 is not likely to pose a threat to the safety of any other person.
- B. SEXUALLY VIOLENT PREDATORS.—**
1. An individual required to register under section 9795.1 who is a sexually violent predator may petition the sentencing court for release from the application of section 9798 (relating to other notification) provided no less than 20 years have passed since the individual has been convicted in this or any other jurisdiction of any offense punishable by imprisonment for more than one year, or the individual's release from custody following the individual's most recent conviction for any such offense, whichever is later.
 2. Upon receipt of a petition under paragraph (1), the sentencing court shall order the petitioner to be assessed by the board in accordance with the provisions of section 9795.4(i). The order for an assessment pursuant to this subsection shall be sent to the administrative officer of the board within ten days of its entry. No later than 90 days following receipt of such an order, the board shall submit a written report containing its assessment to the sentencing court, the district attorney and the attorney for the petitioner.
 3. Within 120 days of the filing of a petition under paragraph (1), the sentencing court shall hold a hearing to determine whether to exempt the petitioner from application of section 9798. The petitioner and the district attorney shall be given notice of the hearing and an opportunity to be heard, the right to call witnesses, the right to call expert witnesses and the right to cross-examine witnesses. The petitioner shall have the right to counsel and to have a lawyer appointed to represent him if he cannot afford one.
 4. The sentencing court shall exempt the petitioner from application of section 9798 only upon clear and convincing evidence that releasing the petitioner from application of section 9798 is not likely to pose a threat to the safety of any other person.
- C. NOTICE.—**Any court granting relief to a petitioner under this section shall notify the Pennsylvania State Police in writing within ten days from the date such relief is granted.
- D. RIGHT TO APPEAL.—**The petitioner and the Commonwealth shall have the right to appellate review of the actions of the sentencing court taken under this section. An appeal by the Commonwealth shall stay the order of the sentencing court.
- E. SUBSEQUENT CONVICTION FOR FAILING TO COMPLY.—**If an individual is exempt from the application of either section 9798 or 9798.1 under this section and the individual is subsequently convicted of an offense under 18

Pa.C.S. § 4915 (relating to failure to comply with registration of sexual offenders requirements), any relief granted under this section shall be void, and the individual shall automatically and immediately again be subject to all applicable provisions of this subchapter, as previously determined by this subchapter.

HISTORY: Act 2004-152 (S.B. 92), § 10, approved Nov. 24, 2004, eff. in 60 days.

42 Pa.C.S. § 9796 (2008)

§ 9796. Verification of residence

A. QUARTERLY VERIFICATION BY SEXUALLY VIOLENT PREDATORS.—The Pennsylvania State Police shall verify the residence and compliance with counseling as provided for in section 9799.4 (relating to counseling of sexually violent predators) of sexually violent predators every 90 days through the use of a nonforwardable verification form to the last reported residence. For the period of registration required by section 9795.1 (relating to registration), a sexually violent predator shall appear quarterly between January 5 and January 15, April 5 and April 15, July 5 and July 15, and October 5 and October 15 of each calendar year at an approved registration site to complete a verification form and to be photographed.

A.1 FACILITATION OF QUARTERLY VERIFICATION.—The Pennsylvania State Police shall facilitate and administer the verification process required by subsection (a) by:

1. sending a notice by first class United States mail to all registered sexually violent predators at their last reported residence addresses. This notice shall be sent not more than 30 days nor less than 15 days prior to each of the quarterly verification periods set forth in subsection (a) and shall remind sexually violent predators of their quarterly verification requirement and provide them with a list of approved registration sites; and
2. providing verification and compliance forms as necessary to each approved registration site not less than ten days before each of the quarterly verification periods.

B. ANNUAL VERIFICATION BY OFFENDERS.—The Pennsylvania State Police shall verify the residence of offenders. For the period of registration required by section 9795.1, an offender shall appear within ten days before each annual anniversary date of the offender's initial registration under section 9795.1 at an approved registration site to complete a verification form and to be photographed.

B.1 FACILITATION OF ANNUAL VERIFICATION.—The Pennsylvania State Police shall facilitate and administer the verification process required by subsection (b) by:

1. sending a notice by first class United States mail to all registered offenders at their last reported residence addresses. This notice shall be sent not more than 30 days nor less than 15 days prior to each offender's annual anniversary date and shall remind the offender of the annual verification requirement and provide the offender with a list of approved registration sites; and
2. providing verification and compliance forms as necessary to each approved registration site.

C. NOTIFICATION OF LAW ENFORCEMENT AGENCIES OF CHANGE OF RESIDENCE.—A change of residence of an offender or sexually violent predator required to register under this subchapter reported to the Pennsylvania State Police shall be immediately reported by the Pennsylvania

State Police to the appropriate law enforcement agency having jurisdiction of the offender's or the sexually violent predator's new place of residence. The Pennsylvania State Police shall, if the offender or sexually violent predator changes residence to another state, notify the law enforcement agency with which the offender or sexually violent predator must register in the new state.

- D. FAILURE TO PROVIDE VERIFICATION.—Where an offender or sexually violent predator fails to provide verification of residence within the ten-day period as set forth in this section, the Pennsylvania State Police shall immediately notify the municipal police department of the offender's or the sexually violent predator's last verified residence. The local municipal police shall locate the offender or sexually violent predator and arrest him for violating this section. The Pennsylvania State Police shall assume responsibility for locating the offender or sexually violent predator and arresting him in jurisdictions where no municipal police jurisdiction exists. The Pennsylvania State Police shall assist any municipal police department requesting assistance with locating and arresting an offender or sexually violent predator who fails to verify his residence.
- E. PENALTY.—An individual subject to registration under section 9795.1(a) or (b) who fails to verify his residence or to be photographed as required by this section may be subject to prosecution under 18 Pa.C.S. § 4915 (relating to failure to comply with registration of sexual offenders requirements).
- F. EFFECT OF NOTICE.—Neither failure on the part of the Pennsylvania State Police to send nor failure of a sexually violent predator or offender to receive any notice or information under subsection (a.1) or (b.1) shall relieve that predator or offender from the requirements of this subchapter.

HISTORY: Act 1995 Special Session-24 (S.B. 7), § 1, approved Oct. 24, 1995, eff. in 180 days; Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days.; Act 2000-113 (S.B. 844), § 2, approved Dec. 20, 2000, eff. in 60 days.; Act 2004-152 (S.B. 92), § 11, approved Nov. 24, 2004, eff. Jan. 1, 2006.

42 Pa.C.S. § 9797 (2008)

§ 9797. Victim notification

A. DUTY TO INFORM VICTIM.—

1. Where the individual is determined to be a sexually violent predator by a court under section 9795.4 (relating to assessments), the local municipal police department or the Pennsylvania State Police where no municipal police jurisdiction exists shall give written notice to the sexually violent predator's victim when the sexually violent predator registers initially and when he notifies the Pennsylvania State Police of any change of residence. This notice shall be given within 72 hours after the sexually violent predator registers or notifies the Pennsylvania State Police of a change of address. The notice shall contain the sexually violent predator's name and the address or addresses where he resides.
2. A victim may terminate the duty to inform set forth in paragraph (1) by providing the local municipal police department or the Pennsylvania State Police where no local municipal police department exists with a written statement releasing that agency from the duty to comply with this section as it pertains to that victim.

B. WHERE AN INDIVIDUAL IS NOT DETERMINED TO BE A SEXUALLY VIOLENT PREDATOR.—Where an individual is not determined to be a sexually violent

predator by a court under section 9795.4, the victim shall be notified in accordance with section 201 of the act of November 24, 1998 (P.L. 882, No. 111), known as the Crime Victims Act.

HISTORY: Act 1995 Special Session-24 (S.B. 7), § 1, approved Oct. 24, 1995, eff. in 180 days; Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days.

42 Pa.C.S. § 9798 (2008)

§ 9798. Other notification

A. NOTICE BY MUNICIPALITY'S CHIEF LAW ENFORCEMENT OFFICER.—

Notwithstanding any of the provisions of 18 Pa.C.S. Ch. 91 (relating to criminal history record information), the chief law enforcement officer of the full-time or part-time police department of the municipality where a sexually violent predator lives shall be responsible for providing written notice as required under this section.

1. The notice shall contain:

1. The name of the convicted sexually violent predator.
2. The address or addresses at which he resides.
3. The offense for which he was convicted, sentenced by a court, adjudicated delinquent or court martialled.
4. A statement that he has been determined by court order to be a sexually violent predator, which determination has or has not been terminated as of a date certain.
5. A photograph of the sexually violent predator, if available.

2. The notice shall not include any information that might reveal the victim's name, identity and residence.

B. TO WHOM WRITTEN NOTICE IS PROVIDED.—The chief law enforcement officer shall provide written notice, under subsection (a), to the following persons:

1. Neighbors of the sexually violent predator. As used in this paragraph, where the sexually violent predator lives in a common interest community, the term "neighbor" includes the unit owners' association and residents of the common interest community.
2. The director of the county children and youth service agency of the county where the sexually violent predator resides.
3. The superintendent of each school district and the equivalent official for private and parochial schools enrolling students up through grade 12 in the municipality where the sexually violent predator resides.
- 3.1 The superintendent of each school district and the equivalent official for each private and parochial school located within a one-mile radius of where the sexually violent predator resides.
4. The licensee of each certified day care center and licensed preschool program and owner/operator of each registered family day care home in the municipality where the sexually violent predator resides.
5. The president of each college, university and community college located within 1,000 feet of a sexually violent predator's residence.

C. URGENCY OF NOTIFICATION.—The municipal police department's chief law enforcement officer shall provide notice within the following time frames:

1. To neighbors, notice shall be provided within five days after information of the sexually violent predator's release date and residence has been received by the chief law enforcement officer. Notwithstanding the provisions of subsections (a) and (b), verbal

notification may be used if written notification would delay meeting this time requirement.

2. To the persons specified in subsection (b)(2), (3), (4) and (5), notice shall be provided within seven days after the chief law enforcement officer receives information regarding the sexually violent predator's release date and residence.
- D. PUBLIC NOTICE.—All information provided in accordance with subsection (a) shall be available, upon request, to the general public. The information may be provided by electronic means.
- E. INTERSTATE TRANSFERS.—The duties of police departments under this section shall also apply to individuals who are transferred to this Commonwealth pursuant to the Interstate Compact for the Supervision of Adult Offenders or the Interstate Compact for Juveniles.

HISTORY: Act 1995 Special Session-24 (S.B. 7), § 1, approved Oct. 24, 1995, eff. in 180 days; Act 1996-46 (H.B. 814), § 2, approved May 22, 1996, eff. immediately; Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days.; Act 2004-152 (S.B. 92), § 12, approved Nov. 24, 2004, eff. immediately.

42 Pa.C.S. § 9798.1 (2008)

§ 9798.1. Information made available on the Internet

- A. LEGISLATIVE FINDINGS.—It is hereby declared to be the finding of the General Assembly that public safety will be enhanced by making information about sexually violent predators, lifetime registrants and other sex offenders available to the public through the Internet. Knowledge of whether a person is a sexually violent predator, lifetime registrant or other sex offender could be a significant factor in protecting oneself and one's family members, or those in care of a group or community organization, from recidivist acts by sexually violent predators, lifetime registrants and other sex offenders. The technology afforded by the Internet would make this information readily accessible to parents and private entities, enabling them to undertake appropriate remedial precautions to prevent or avoid placing potential victims at risk. Public access to information about sexually violent predators, lifetime registrants and other sex offenders is intended solely as a means of public protection and shall not be construed as punitive.
- B. INTERNET POSTING OF SEXUALLY VIOLENT PREDATORS, LIFETIME REGISTRANTS AND OTHER OFFENDERS.—The Commissioner of the Pennsylvania State Police shall, in the manner and form directed by the Governor:
1. Develop and maintain a system for making the information described in subsection © publicly available by electronic means so that the public may, without limitation, obtain access to the information via an Internet website to view an individual record or the records of all sexually violent predators, lifetime registrants and other offenders who are registered with the Pennsylvania State Police.
 2. Ensure that the Internet website contains warnings that any person who uses the information contained therein to threaten, intimidate or harass another or who otherwise misuses that information may be criminally prosecuted.
 3. Ensure that the Internet website contains an explanation of its limitations, including statements advising that a positive identification of a sexually violent predator, lifetime registrant or other offender

whose record has been made available may be confirmed only by fingerprints; that some information contained on the Internet website may be outdated or inaccurate; and that the Internet website is not a comprehensive listing of every person who has ever committed a sex offense in Pennsylvania.

4. Strive to ensure that:
 - i. the information contained on the Internet website is accurate;
 - ii. the data therein is revised and updated as appropriate in a timely and efficient manner; and
 - iii. *instructions are included on how to seek a correction of information which a person contends is erroneous.*
5. Provide on the Internet website general information designed to inform and educate the public about sex offenders and sexually violent predators and the operation of this subchapter as well as pertinent and appropriate information concerning crime prevention and personal safety, with appropriate links to other relevant Internet websites operated by the Commonwealth of Pennsylvania.
6. Identify when the victim is a minor with a special designation. The identity of a victim of a sex offense shall not be published or posted on the internet website.

C. INFORMATION PERMITTED TO BE DISCLOSED REGARDING INDIVIDUALS.— Notwithstanding 18 Pa.C.S. Ch. 91 (relating to criminal history information), the Internet website shall contain the following information on each individual:

1. For sexually violent predators, the following information shall be posted on the Internet website:
 - i. name and *all known* aliases;
 - ii. year of birth;
 - iii. the street address, *municipality*, county and zip code of all residences, *including, where applicable, the name of the prison or other place of confinement*;
 - iv. the street address, *municipality*, county, zip code and *name of any institution* or location at which the person is enrolled as a student;
 - v. the *municipality*, county and zip code of any employment location;
 - vi. a photograph of the offender, which shall be updated not less than annually;
 - vii. *a physical description of the offender, including sex, height, weight, hair color and race*;
 - viii. *any identifying marks, including scars, birthmarks and tattoos*;
 - ix. *the license plate number and description of any vehicle owned or registered to the offender*;
 - x. *whether the offender is currently compliant with registration requirements*;
 - xi. *whether the victim is a minor*^[1];
 - xii. a description of the offense which triggered the application of this subsection;
 - xiii. the date of the offense and conviction, if available.
2. For all other lifetime registrants and offenders subject to registration, the information set forth in paragraph (1) shall be posted on the Internet website.

D. DURATION OF INTERNET POSTING.—

1. The information listed in subsection © about a sexually violent predator shall be made available on the Internet for the lifetime of the sexually violent predator.
2. The information listed in subsection © about an offender who is subject to lifetime registration shall be made available on the Internet for the lifetime of the offender unless the offender is granted relief under section 9795.5 (relating to exemption from certain notifications).
3. The information listed in subsection © about any other offender subject to registration shall be made available on the Internet for the entire period during which the offender is required to register, including any extension of this period pursuant to 9795.2(a)(3) (relating to registration procedures and applicability).

(Note – italicized provisions do not become effective until May 28, 2007)

HISTORY: Act 2004-152 (S.B. 92), § 13, approved Nov. 24, 2004, eff. in 60 days; Act 2006-143 (H.B. 2447), § 2, approved and effective November 9, 2006; Act 2006-179 (S.B. 1054), §9, § 10, approved November 29, 2006, eff. in 180 days.

42 Pa.C.S. § 9798.2 (2008)

§ 9798.2. Administration

The Governor shall direct the Pennsylvania State Police, the Pennsylvania Board of Probation and Parole, the State Sexual Offenders Assessment Board, the Department of Corrections, the Department of Transportation and any other agency of this Commonwealth the Governor deems necessary to collaboratively design, develop and implement an integrated and secure system of communication, storage and retrieval of information to assure the timely, accurate and efficient administration of this subchapter.

HISTORY: Act 2004-152 (S.B. 92), § 13, approved Nov. 24, 2004, eff. in 60 days.

42 Pa.C.S. § 9798.3 (2008)

§ 9798.3 Global Positioning System Technology

The Pennsylvania Board of Probation and Parole and County Probation authorities may impose supervision conditions that include offender tracking through global positioning.

HISTORY: Act 2006-178 (S.B. 944), §8, approved November 29, 2006, eff. January 1, 2007.

42 Pa.C.S. § 9799 (2008)

§ 9799. Immunity for good faith conduct

The following entities shall be immune from liability for good faith conduct under this subchapter:

1. The Pennsylvania State Police and local law enforcement agencies and employees of law enforcement agencies.
2. District attorneys and their agents and employees.
3. Superintendents, administrators, teachers, employees and volunteers engaged in the supervision of children of any public, private or parochial school.

4. Directors and employees of county children and youth agencies.
5. Presidents or similar officers of universities and colleges, including community colleges.
6. The Pennsylvania Board of Probation and Parole and its agents and employees.
7. County probation and parole offices and their agents and employees.
8. Licensees of certified day care centers and directors of licensed preschool programs and operators of registered family day care homes, and their agents and employees.
9. The Pennsylvania Department of Corrections and its agents and employees.
10. County correctional facilities and their agents and employees.
11. Members of the Sexual Offenders Assessment Board and its agents and employees.
12. The unit owners' association of a common interest community and its agents and employees as it relates to distributing information regarding sexually violent predators obtained pursuant to section 9798(b)(1) (relating to other notification).

HISTORY: Act 1995 Special Session-24 (S.B. 7), § 1, approved Oct. 24, 1995, eff. in 180 days; Act 1996-46 (H.B. 814), § 2, approved May 22, 1996, eff. immediately; Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days.; Act 2004-152 (S.B. 92), § 14, approved Nov. 24, 2004, eff. in 60 days.

42 Pa.C.S. § 9799.1 (2008)

§ 9799.1. Duties of Pennsylvania State Police

The Pennsylvania State Police shall:

1. Create and maintain a State registry of offenders and sexually violent predators.
2. In consultation with the Department of Corrections, the Office of Attorney General, the Pennsylvania Board of Probation and Parole and the chairman and the minority chairman of the Judiciary Committee of the Senate and the chairman and the minority chairman of the Judiciary Committee of the House of Representatives, promulgate guidelines necessary for the general administration of this subchapter. These guidelines shall establish procedures to allow an individual subject to the requirements of sections 9795.1 (relating to registration) and 9796 (relating to verification of residence) to fulfill these requirements at approved registration sites throughout this Commonwealth. The Pennsylvania State Police shall publish a list of approved registration sites in the Pennsylvania Bulletin and provide a list of approved registration sites in any notices sent to individuals required to register under section 9795.1. An approved registration site shall be capable of submitting fingerprints, photographs and any other information required electronically to the Pennsylvania State Police. The Pennsylvania State Police shall require that approved registration sites submit fingerprints utilizing the Integrated Automated Fingerprint Identification System or in another manner and in such form as the Pennsylvania State Police shall require. The Pennsylvania State Police shall require that approved registration sites submit photographs utilizing the Commonwealth Photo Imaging Network or in another manner and in such form as the Pennsylvania State Police shall require. Approved registration sites shall not be limited to sites managed by the Pennsylvania State Police and shall include sites managed by local law enforcement

agencies that meet the criteria for approved registration sites set forth in this paragraph.

3. Write regulations regarding neighbor notification of the current residence of sexually violent predators.
4. Notify, within five days of receiving the offender's or the sexually violent predator's registration, the chief law enforcement officers of the police departments having primary jurisdiction of the municipalities in which an offender or sexually violent predator resides, is employed or enrolled as a student of the fact that the offender or sexually violent predator has been registered with the Pennsylvania State Police pursuant to sections 9795.2 (relating to registration procedures and applicability) and 9796 (relating to verification of residence).
5. In consultation with the Department of Education and the Pennsylvania Board of Probation and Parole, promulgate guidelines directing licensed day-care centers, licensed preschool programs, schools, universities and colleges, including community colleges, on the proper use and administration of information received under section 9798 (relating to other notification).
6. Immediately transfer the information received from the Pennsylvania Board of Probation and Parole under section 9799.2(2) and (3) (relating to duties of Pennsylvania Board of Probation and Parole) and the fingerprints of a sexually violent predator to the Federal Bureau of Investigation.

HISTORY: Act 1995 Special Session-24 (S.B. 7), § 1, approved Oct. 24, 1995, eff. immediately; Act 1996-46 (H.B. 814), § 2, approved May 22, 1996, eff. immediately; Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days.; Act 2002-127 (S.B. 138), § 4, approved Oct. 17, 2002, eff. in 60 days.; Act 2004-152 (S.B. 92), § 15, approved Nov. 24, 2004, eff. immediately.

42 Pa.C.S. § 9799.2 (2008)

§ 9799.2. Duties of Pennsylvania Board of Probation and Parole

The Pennsylvania Board of Probation and Parole shall:

1. Create a notification form which will inform State and county prison and probation and parole personnel how to inform offenders and sexually violent predators required to register under this subchapter of their duty under the law.
2. In cooperation with the Department of Corrections and other Commonwealth agencies, obtain the following information regarding offenders and sexually violent predators:
 - i. Name, including any aliases.
 - ii. Identifying factors.
 - iii. Anticipated future residence.
 - iv. Offense history.
 - v. Documentation of any treatment received for the mental abnormality or personality disorder.
 - vi. Photograph of the offender or sexually violent predator.
3. Immediately transmit the information in paragraph (2) to the Pennsylvania State Police for immediate entry into the State registry of offenders and sexually violent predators and the criminal history record of the individual as provided in 18 Pa.C.S. Ch. 91 (relating to criminal history record information).
4. Apply for Federal funding as provided in the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248, 120 Stat. 587) to support and enhance programming using satellite global positioning system technology.

HISTORY: Act 1995 Special Session-24 (S.B. 7), § 1, approved Oct. 24, 1995, eff. immediately; Act 1996-46 (H.B. 814), § 2, approved May 22, 1996, eff. immediately; Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days; Act 2006-178 (S.B. 944), §9, approved November 29, 2006, eff. January 1, 2007.

42 Pa.C.S. § 9799.3 (2008)

§ 9799.3. Board

- A. COMPOSITION.—The State Sexual Offenders Assessment Board shall be composed of psychiatrists, psychologists and criminal justice experts, each of whom is an expert in the field of the behavior and treatment of sexual offenders.
- B. APPOINTMENT.—The Governor shall appoint the board members.
- C. TERM OF OFFICE.—Members of the board shall serve four-year terms.
- D. COMPENSATION.—The members of the board shall be compensated at a rate of \$ 350 per assessment and receive reimbursement for their actual and necessary expenses while performing the business of the board. The chairman shall receive \$ 500 additional compensation per annum.
- E. STAFF.—Support staff for the board shall be provided by the Pennsylvania Board of Probation and Parole.

HISTORY: Act 1995 Special Session-24 (S.B. 7), § 1, approved Oct. 24, 1995, eff. immediately; Act 1996-46 (H.B. 814), § 2, approved May 22, 1996, eff. immediately; Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days

42 Pa.C.S. § 9799.4 (2008)

§ 9799.4. Counseling of sexually violent predators

For the period of registration required by section 9795.1(b) (relating to registration), a sexually violent predator shall be required to attend at least monthly counseling sessions in a program approved by the board and be financially responsible for all fees assessed from such counseling sessions. The board shall monitor the compliance of the sexually violent predator. If the sexually violent predator can prove to the satisfaction of the court that the person cannot afford to pay for the counseling sessions, that person shall still attend the counseling sessions and the parole office shall pay the requisite fees.

HISTORY: Act 1995 Special Session-24 (S.B. 7), § 1, approved Oct. 24, 1995, eff. in 180 days; Act 1996-46 (H.B. 814), § 2, approved May 22, 1996, eff. immediately; Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days.

42 Pa.C.S. § 9799.7 (2008)

§ 9799.7. Exemption from notification for certain licensees and their employees

Nothing in this subchapter shall be construed as imposing a duty upon a person licensed under the act of February 19, 1980 (P.L. 15, No. 9), known as the Real Estate Licensing and Registration Act, or an employee thereof to disclose any information regarding:

- 1. a sexually violent predator; or
- 2. an individual who is transferred to this Commonwealth pursuant to the Interstate Compact for the Supervision of Adult Offenders or the Interstate Compact for Juveniles.

HISTORY: Act 2000-18 (S.B. 380), § 3, approved May 10, 2000, eff. in 60 days.; Act 2004-152 (S.B. 92), § 15, approved Nov. 24, 2004, eff. in 60 days.

42 Pa.C.S. § 9799.8 (2008)

§ 9799.8. Annual performance audit

A. DUTIES OF THE ATTORNEY GENERAL.—The Attorney General shall:

1. Conduct a performance audit annually to determine compliance with the requirements of this subchapter and any guidelines promulgated pursuant thereto. The audit shall, at a minimum, include a review of the practices, procedures and records of the Pennsylvania State Police, the Pennsylvania Board of Probation and Parole, the Department of Corrections, the State Sexual Offenders Assessment Board, the Administrative Office of the Pennsylvania Courts and any other State or local agency the Attorney General deems necessary in order to conduct a thorough and accurate performance audit.
2. Prepare an annual report of its findings and any action it recommends be taken by the Pennsylvania State Police, the Pennsylvania Board of Probation and Parole, the Department of Corrections, the State Sexual Offenders Assessment Board, the Administrative Office of the Pennsylvania Courts, other State or local agencies and the General Assembly to ensure compliance with this subchapter. The first report shall be released to the general public not less than 18 months following the effective date of this section.
3. Provide a copy of its report to the Pennsylvania State Police, the Pennsylvania Board of Probation and Parole, the Department of Corrections, the State Sexual Offenders Assessment Board, the Administrative Office of the Pennsylvania Courts, State or local agencies referenced therein, the chairman and the minority chairman of the Judiciary Committee of the Senate and the chairman and the minority chairman of the Judiciary Committee of the House of Representatives no less than 30 days prior to its release to the general public.

- B. COOPERATION REQUIRED.—Notwithstanding any other provision of law to the contrary, the Pennsylvania State Police, the Pennsylvania Board of Probation and Parole, the Department of Corrections, the State Sexual Offenders Assessment Board, the Administrative Office of the Pennsylvania Courts, the Pennsylvania Commission on sentencing and any other State or local agency requested to do so shall fully cooperate with the Attorney General and assist the office in satisfying the requirements of this section. For purposes of this subsection, full cooperation shall include, at a minimum, complete access to unredacted records, files, reports and data systems.

HISTORY: Act 2004-152 (S.B. 92), § 16, approved Nov. 24, 2004, eff. in 180 days.

42 Pa.C.S. § 9799.9 (2008)

§ 9799.9. Photographs and fingerprinting

An individual subject to section 9795.1 (relating to registration) shall submit to fingerprinting and photographing as required by this subchapter at approved registration sites. Fingerprinting as required by this subchapter shall, at a minimum, require submission of a full set of fingerprints. Photographing as required by this

subchapter shall, at a minimum, require submission to photographs of the face and any scars, marks, tattoos or other unique features of the individual. Fingerprints and photographs obtained under this subchapter may be maintained for use under this subchapter and for general law enforcement purposes.

HISTORY: Act 2004-152 (S.B. 92), § 16, approved Nov. 24, 2004, eff. in 60 days.

18 Pa.C.S. § 4915 (2008)

- § 4915. Failure to comply with registration of sexual offenders requirements
- A. OFFENSE DEFINED.—An individual who is subject to registration under 42 Pa.C.S. § 9795.1(a) (relating to registration) or an individual who is subject to registration under 42 Pa.C.S. § 9795.1(b)(1), (2) or (3) commits an offense if he knowingly fails to:
1. register with the Pennsylvania State Police as required under 42 Pa.C.S. § 9795.2 (relating to registration procedures and applicability);
 2. verify his address or be photographed as required under 42 Pa.C.S. § 9796 (relating to verification of residence); or
 3. provide accurate information when registering under 42 Pa.C.S. § 9795.2 or verifying an address under 42 Pa.C.S. § 9796.
- B. GRADING FOR OFFENDERS WHO MUST REGISTER FOR TEN YEARS.—
1. Deleted by 2006, Nov. 29, P.L. 1567, No. 178, § 3, effective Jan. 1, 2007.
 2. Except as set forth in paragraph (3), an individual subject to registration under 42 Pa.C.S. § 9795.1(a) who commits a violation of subsection (a)(1) or (2) commits a felony of the third degree.
 3. An individual subject to registration under 42 Pa.C.S. § 9795.1(a) who commits a violation of subsection (a)(1) or (2) and who has previously been convicted of an offense under subsection (a) (1) or (2) or a similar offense commits a felony of the second degree.
 4. An individual subject to registration under 42 Pa.C.S. § 9795.1(a) who violates subsection (a)(3) commits a felony of the second degree.
- C. GRADING FOR SEXUALLY VIOLENT PREDATORS AND OTHERS WITH LIFETIME REGISTRATION.—
1. Deleted by 2006, Nov. 29, P.L. 1567, No. 178, § 3, effective Jan. 1, 2007.
 2. Except as set forth in paragraph (3), an individual subject to registration under 42 Pa.C.S. § 9795.1(b)(1), (2) or (3) who commits a violation of subsection (a)(1) or (2) commits a felony of the second degree.
 3. An individual subject to registration under 42 Pa.C.S. § 9795.1(b)(1), (2) or (3) who commits a violation of subsection (a)(1) or (2) and who has previously been convicted of an offense under subsection (a)(1) or (2) or a similar offense commits a felony of the first degree.
 4. An individual subject to registration under 42 Pa.C.S. § 9795.1(b)(1), (2) or (3) who violates subsection (a)(3) commits a felony of the first degree.
- D. EFFECT OF NOTICE.—Neither failure on the part of the Pennsylvania State Police to send nor failure of a sexually violent predator or offender to receive any notice or information pursuant to 42 Pa.C.S. § 9796(a.1) or (b.1) shall be a defense to a prosecution commenced against an individual arising from a

violation of this section. The provisions of 42 Pa.C.S. § 9796(a.1) and (b.1) are not an element of an offense under this section.

E. ARRESTS FOR VIOLATION.—

1. A police officer shall have the same right of arrest without a warrant as in a felony whenever the police office has probable cause to believe an individual has committed a violation of this section regardless of whether the violation occurred in the presence of the police officer.
2. An individual arrested for a violation of this section shall be afforded a preliminary arraignment by the proper issuing authority without unnecessary delay. In no case may the individual be released from custody without first having appeared before the issuing authority.
3. Prior to admitting an individual arrested for a violation of this section to bail, the issuing authority shall require all of the following:
 - i. The individual must be fingerprinted and photographed in the manner required by 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders).
 - ii. The individual must provide the Pennsylvania State Police with all current or intended residences, all information concerning current or intended employment, including all employment locations, and all information concerning current or intended enrollment as a student.
 - iii. Law enforcement must make reasonable attempts to verify the information provided by the individual.

B. DEFINITION.—As used in this section, the term “a similar offense” means an offense similar to an offense under either subsection (a)(1) or (2) under the laws of this Commonwealth, the United States or one of its territories or possessions, another state, the District of Columbia, the Commonwealth of Puerto Rico or a foreign nation.

HISTORY: Act 2004-152 (S.B. 92), § 1, approved Nov. 24, 2004, eff. in 60 days; Act 2006-178 (S.B. 944), §3, approved November 29, 2006, eff. January 1, 2007.

42 Pa.C.S. § 9718.2 (2008)

§ 9718.2 Sentences for Sex Offenders

A. Mandatory Sentence.

1. Any person who is convicted in any court of this Commonwealth of an offense set forth in section 9795.1(a) or (b) shall, if at the time of the commission of the current offense the person had previously been convicted of an offense set forth in section 9795.1(a) or (b) or an equivalent crime under the laws of this Commonwealth in effect at the time of the commission of that offense or an equivalent crime in another jurisdiction, be sentenced to a minimum sentence of at least 25 years off total confinement, notwithstanding any other provision of this title or other statute to the contrary. Upon such conviction the Court shall give the person oral and written notice of the penalties under paragraph (2) for a third conviction. Failure to provide such notice shall not render the offender ineligible to be sentenced under paragraph (2).
2. Where the person had at the time of the commission of the current offense previously been convicted of two or more offenses arising from separate criminal transactions set forth in section 9795.1(a) or (b) or equivalent crimes under the laws of this Commonwealth in effect at

the time of the commission of the offense of equivalent crimes in another jurisdiction, the person shall be sentenced to a term of life imprisonment, notwithstanding any other provision of this title or other statute to the contrary. Proof that the offender received notice of or otherwise knew or should have known of the penalties under this paragraph shall not be required.

- B. **Mandatory Maximum.** An offender sentenced to a mandatory minimum sentence under this section shall be sentenced to a maximum sentence equal to twice the mandatory minimum sentence, notwithstanding 18 Pa.C.S. section 1103 (relating to sentence of imprisonment for felony) or any other provision of this title or other statute to the contrary.
- C. **Proof of Sentencing.** The provision of this section shall not be an element of the crime and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction and before sentencing. The applicability of this section shall be determined at sentencing. The sentencing court, prior to imposing sentence on an offender under subsection (a), shall have a complete record of the previous convictions of the offender, copies of which shall be furnished to the offender. If the offender or the attorney for the Commonwealth contests the accuracy of the record, the Court shall schedule a hearing and direct the offender and the attorney for the Commonwealth to submit evidence regarding the previous convictions of the offender. The Court shall then determine, by a preponderance of the evidence, the previous convictions of the offender and, if this section is applicable, shall impose sentence in accordance with this section. Should a previous conviction be vacated and an acquittal or final discharge entered subsequent to imposition of the sentence under this section, the offender shall have the right to petition the sentencing court for reconsideration of sentence if this section would not have been applicable except for the conviction which was vacated.
- D. **Authority of the Court in Sentencing.** Notice of the application of this section shall be provided to the defendant before trial. If the notice is given, there shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsections (A) or (B) or to place the offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.

HISTORY: Act 2006-178 (S.B. 944), §5, approved November 29, 2006, eff. January 1, 2007.

42 Pa.C.S. § 9718.3 (2008)

§ 9718.3 Sentence for Failure to Comply with Registration of Sexual Offenders.

- A. **Mandatory Sentence.** Mandatory sentencing shall be as follows:
 - 1. Sentencing upon conviction for a first offense shall be as follows:
 - I. Not less than two years for an individual who:
 - a. was subject to section 9795.1(a) (relating to registration) or a similar provision from another jurisdiction; and

- b. violated 18 Pa.C.S. § 4915(a)(1) or (2) (relating to failure to comply with registration of sexual offenders requirements).
 - II. Not less than three years for an individual who:
 - a. was subject to section 9795.1(a) or a similar provision from another jurisdiction, and
 - b. violated 18 Pa.C.S. § 4915(a)(3).
 - III. Not less than three years for an individual who:
 - a. was subject to 9795.1(b) or a similar provision from another jurisdiction; and
 - b. violated 18 Pa.C.S. § 4915(a)(1) or (2).
 - IV. Not less than five years for an individual who:
 - a. was subject to 9795.1(b) or a similar provision from another jurisdiction; and
 - b. violated 18 Pa.C.S. § 4915(a)(3).
 - 2. Sentencing upon conviction for a second or subsequent offense shall be as follows:
 - I. Not less than five years for an individual who:
 - a. was subject to section 9795.1(a) or a similar provision from another jurisdiction; and
 - b. violated 18 Pa.C.S. § 4915(a)(1) or (2).
 - II. Not less than seven years for an individual who:
 - a. was subject to section 9795.1 or a similar provision from another jurisdiction; and
 - b. violated 18 Pa.C.S. § 4915(a)(3).
 - B. Proof at Sentencing. Provisions of this section shall not be an element of the crime, and notice thereof to the defendant shall not be required prior to conviction, but reasonable notice of the Commonwealth's intention to proceed under this section shall be provided after conviction but before sentencing. The applicability of this section shall be determined at sentencing. The Court shall consider any evidence presented at trial and at sentencing. The Court shall consider any evidence presented at trial and shall afford the Commonwealth and the Defendant an opportunity to present any necessary additional evidence and shall determine, by a preponderance of the evidence, if this section is applicable.
 - C. Authority of the Court in Sentencing. There shall be no authority in any court to impose on an offender to which this section is applicable any lesser sentence than provided for in subsection (a) or to place such offender on probation or to suspend sentence. Nothing in this section shall prevent the sentencing court from imposing a sentence greater than that provided in this section. Sentencing guidelines promulgated by the Pennsylvania Commission on Sentencing shall not supersede the mandatory sentences provided in this section.
 - D. Appeal by the Commonwealth. If a sentencing court refuses to apply this section where applicable, the Commonwealth shall have the right to appellate review of the action of the sentencing court. The appellate court shall vacate the sentence and remand the case to the sentencing court for imposition of a sentence in accordance with this section if it finds that the sentence was imposed in violation of this section.

HISTORY: Act 2006-178 (S.B. 944), § 5, approved November 29, 2006, eff. January 1, 2007.

[1] The amendment of 42 Pa.C.S. section 9798.1©(xi) shall only apply to persons convicted after November 30, 2006.

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