

HOUSE BILL No. 6698

November 19, 2008, Introduced by Reps. Condino, Rick Jones, Warren, Meisner, Alma Smith, Young, Garfield, Gaffney, Meadows and Jackson and referred to the Committee on Judiciary.

A bill to amend 1994 PA 295, entitled
"Sex offenders registration act,"
by amending section 2 (MCL 28.722), as amended by 2005 PA 301, and
by adding section 8a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) As used in this act:

2 (a) ~~"Convicted"~~ **EXCEPT AS PROVIDED IN SUBSECTION (2),**
3 **"CONVICTED"** means 1 of the following:

4 (i) Having a judgment of conviction or a probation order
5 entered in any court having jurisdiction over criminal offenses,
6 including, but not limited to, a tribal court or a military court,
7 and including a conviction subsequently set aside under 1965 PA
8 213, MCL 780.621 to 780.624.

9 (ii) Either of the following:

1 (A) Being assigned to youthful trainee status under sections
2 11 to 15 of chapter II of the code of criminal procedure, 1927 PA
3 175, MCL 762.11 to 762.15, before October 1, 2004.

4 (B) Being assigned to youthful trainee status under sections
5 11 to 15 of chapter II of the code of criminal procedure, 1927 PA
6 175, MCL 762.11 to 762.15, on or after October 1, 2004 if the
7 individual's status of youthful trainee is revoked and an
8 adjudication of guilt is entered.

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

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

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

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

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

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

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

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

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

27 (ii) A violation of section 158 of the Michigan penal code,

1 1931 PA 328, MCL 750.158, if a victim is an individual less than 18
2 years of age.

3 (iii) A violation of section 335a(2)(b) of the Michigan penal
4 code, 1931 PA 328, MCL 750.335a, if that individual was previously
5 convicted of violating section 335a of that act.

6 (iv) A third or subsequent violation of any combination of the
7 following:

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

10 (B) Section 335a(2)(a) of the Michigan penal code, 1931 PA
11 328, MCL 750.335a.

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

15 (v) Except for a juvenile disposition or adjudication, a
16 violation of section 338, 338a, or 338b of the Michigan penal code,
17 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an
18 individual less than 18 years of age.

19 (vi) A violation of section 349 of the Michigan penal code,
20 1931 PA 328, MCL 750.349, if a victim is an individual less than 18
21 years of age.

22 (vii) A violation of section 350 of the Michigan penal code,
23 1931 PA 328, MCL 750.350.

24 (viii) A violation of section 448 of the Michigan penal code,
25 1931 PA 328, MCL 750.448, if a victim is an individual less than 18
26 years of age.

27 (ix) A violation of section 455 of the Michigan penal code,

1 1931 PA 328, MCL 750.455.

2 (x) A violation of section 520b, 520c, 520d, 520e, or 520g of
3 the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c,
4 750.520d, 750.520e, and 750.520g.

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

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

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

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

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

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

27 (h) "Student" means an individual enrolled on a full- or part-

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

4 (2) FOR PURPOSES OF SUBSECTION (1), THE TERM "CONVICTED" DOES
5 NOT INCLUDE A CONVICTION OR JUVENILE ADJUDICATION SET ASIDE UNDER
6 1965 PA 213, MCL 780.621 TO 780.624, OR UNDER SECTION 18E OF
7 CHAPTER XIIA OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL
8 712A.18E, OR UNDER A SUBSTANTIALLY SIMILAR LAW OF THE UNITED
9 STATES, ANOTHER STATE, OR A POLITICAL SUBDIVISION OF ANOTHER STATE.

10 SEC. 8A. BEGINNING JANUARY 1, 2009, IF AN INDIVIDUAL PRESENTS
11 TO THE DEPARTMENT A COURT ORDER ESTABLISHING THAT ANY CONVICTION OR
12 JUVENILE ADJUDICATION SUPPORTING THE REQUIREMENT THAT HE OR SHE
13 REGISTER UNDER THIS ACT HAS BEEN SET ASIDE UNDER 1965 PA 213, MCL
14 780.621 TO 780.624, OR UNDER SECTION 18E OF CHAPTER XIIA OF THE
15 PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.18E, OR UNDER A
16 SUBSTANTIALLY SIMILAR LAW OF THE UNITED STATES, ANOTHER STATE, OR A
17 POLITICAL SUBDIVISION OF ANOTHER STATE, AND THE DEPARTMENT
18 DETERMINES THAT BASED UPON THE ORDER THE INDIVIDUAL IS NOT REQUIRED
19 TO BE REGISTERED UNDER THIS ACT, THE DEPARTMENT SHALL PROMPTLY
20 REMOVE THE INDIVIDUAL'S REGISTRATION INFORMATION FROM THE DATABASE
21 DESCRIBED IN SECTION 8.

22 Enacting section 1. This amendatory act takes effect January
23 1, 2009.

24 Enacting section 2. This amendatory act does not take effect
25 unless Senate Bill No. ____ or House Bill No. 6697(request no.
26 03677'07) of the 94th Legislature is enacted into law.