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BILL



ANALYSIS

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Senate Bills 1206, 1207, and 1208 (as introduced 3-4-10)

Sponsor: Senator Roger Kahn, M.D. (S.B. 1206)

Senator Bill Hardiman (S.B. 1207)

Senator Randy Richardville (S.B. 1208)

Committee: Judiciary

Date Completed: 3-26-10

### **CONTENT**

**The bills would amend the Sex Offenders Registration Act to provide for the registration of an individual who did not have a residence as defined by the Act.**

**Senate Bill 1206 would add Section 2a to require such an individual to register with the police department or sheriff's department of the city, village, township, or county where he or she was present for a majority of time within a 30-day period, pay a \$35 registration fee, and report monthly.**

**Senate Bill 1207 would require the State Police's compilation of registered individuals to include the location of individuals who registered under Section 2a.**

**Senate Bill 1208 would add references to Section 2a to provisions that impose various notice and verification requirements on law enforcement agencies, the State Police, and the Department of Corrections; and to make an exception for individuals registered under Section 2a to periodic reporting requirements.**

The bills are tie-barred to each other and Senate Bill 1209, which would amend a section of the Act that prohibits a person required to register from residing in a student safety zone. (The bill would make an exception for a person who registered without a residence but the exception would not apply to a person who initiated or maintained contact with a minor within that zone.)

### **Senate Bill 1206**

The Act requires individuals convicted of listed offenses to register information about their identity, address, and conviction with a local law enforcement agency or sheriff's department. Individuals required to register also must notify the local law enforcement agency or sheriff's department of their new residence or domicile, when they move.

The Act defines "residence" as that place where a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. Under the bill, this would apply except as provided in Section 2a.

Proposed Section 2a specifies that an individual's residence would be as follows, if the individual were required to be registered but did not have a residence as defined in the Act:



- If the individual were present in a city or village having an organized police department for a majority of her or her time within a 30-day period, that city or village would be considered to be his or her residence.
- Unless the first provision applied, if the individual were present in a township having an organized police department for a majority of his or her time within a 30-day period, that township would be considered to be his or her residence.
- Unless either of the first two provisions applied, if the individual were present in a county for a majority of his or her time within a 30-day period, that county would be considered to be his or her residence.

The individual would have to report to the police department or sheriff's department having jurisdiction within the city, village, township, or county within 10 days after the bill's effective date, and register as a resident within that city, village, township, or county. The individual also would have to report to the police or sheriff's department on the first day of each month following the month of registration.

When an individual reported as required, an officer or authorized employee of the local law enforcement agency or sheriff's department would have to verify the individual's lack of residence and any information required to be reported under the Act. The officer or employee would have to note that the individual was registering as provided in Section 2a, sign and date a verification form, and give a copy of the signed form to the individual. The officer or employee also would have to forward verification to the Michigan Department of State Police (MSP) by the Law Enforcement Information Network.

The MSP would have to revise the databases maintained under the Act as necessary, and indicate verification in its compilation of registered individuals (described under Senate Bill 1207). The State Police also would have to note in the compilation that the person did not have a fixed residence but was registered as a resident of the city, village, township, or county described above.

Except as otherwise provided in Section 5b, an individual who reported as required by the bill and who had not already paid the fee prescribed by Section 7(1), would have to pay a \$35 registration fee. An individual could be required to pay this fee only once. (Section 5b, which provides for the Sex Offenders Registration Fund, requires the registration fee to be waived temporarily for an indigent individual. Section 7(1) prescribes a \$35 registration fee for each original registration.)

If an individual did not report as required by the bill, the MSP would have to notify the local law enforcement agency or sheriff's department. An appearance ticket could be issued for the individual's failure to report.

The bill specifies that the designation of a residence under Section 2a would not apply for purposes of establishing a violation of the prohibition against residing within a student safety zone, but would apply to the prohibition against initiating or maintaining contact with a minor within that zone.

### **Senate Bill 1207**

The Act requires the State Police to maintain a computerized database of registrations and notices. The MSP also must maintain a separate computerized database to implement provisions that allow public access to information. The separate database must consist of a compilation of registered individuals.

The compilation must be indexed by zip code. Within each zip code, the compilation must contain information listed in the Act, including the address of each registered individual who is included in the compilation and who resides in that zip code. The bill would require the



compilation to include the address or location, as applicable, of each registered individual who resided or was present in that zip code.

An individual registered under proposed Section 2a would have to be indexed within the zip code area of the police department or sheriff's department where he or she registered, and the term "without residence" would have to be reflected in the compilation for that individual.

The Act requires the MSP to revise the compilation if a court determines that the public availability of any information concerning registered individuals, including names and aliases, addresses, physical descriptions, or dates of birth, violates the Constitution of the United States or this State. The bill would refer to addresses or locations.

### **Senate Bill 1208**

The Act requires the Department of Corrections, upon an individual's release from a State correctional facility, to notify the individual of his or her duties under the Act and the procedure for registration, notification, verification, and payment of the registration fee prescribed by Section 5a (which requires a \$35 registration fee if an individual has not already paid the fee under Section 7(1)). The bill also would refer to Section 2a.

Currently, an individual who is registered only for listed offenses that are misdemeanors must report each January to the local law enforcement agency or sheriff's department. A person who is registered for one or more listed offenses that are felonies must report in April, July, October, and January. Under the bill, these requirements would apply except as provided in Section 2a.

When an individual reports as described above, an officer or authorized employee of the local law enforcement agency, sheriff's department, or MSP post must verify the individual's residence or domicile and any information required to be reported. When an individual does not report as required, the MSP must notify the local law enforcement agency, sheriff's department, or State Police post. Under the bill, these requirements also would apply when an individual reported, or failed to report, under Section 2a.

MCL 28.722 et al. (S.B. 1206)  
28.728 (S.B. 1207)  
28.725a (S.B. 1208)

### **BACKGROUND**

The Michigan Court of Appeals recently held that the requirements of the Sex Offenders Registration Act (SORA) do not apply to a homeless person (*People v Dowdy*, No. 287689, 2-2-10). The Court pointed out that the Act provides for registering and reporting by individuals where they have either a "domicile" or a "residence". The Court distinguished between those terms, and stated that domicile was not an issue in the case because a homeless person has no "true, fixed, principal, and permanent home" (as "domicile" is defined in *Black's Law Dictionary*).

The Court examined the Act's definition of "residence", which refers to a place where an individual has a regular place of lodging. The Court found that the provisional location where an individual happens to spend the night does not fall within dictionary definitions of "lodging".

The Court concluded, "In sum, in SORA, the Legislature provided for maintaining information on the location of convicted sexual offenders in order to provide for the public



safety... But, in so doing, the Legislature chose to focus those reporting requirements on persons who have a domicile or residence, as defined by the act. The Legislature is free, indeed, empowered, to make this choice, as it is to include a provision addressing reporting requirements for the homeless."

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Bruce Baker