



SPONSOR: Sen. Sokola & Rep. Baumbach
Sens. Gay, Lawson, Sturgeon, Walsh; Rep. S. Moore

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 333

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO SEX OFFENDER COMMUNITY NOTIFICATION.

1 WHEREAS, the Sex Offender Registration and Notification Act (“SORNA”), which is Title I of the Adam Walsh
2 Child Protection and Safety Act of 2006, 34 U.S.C. § 20920, requires states to provide public access to sex offender
3 information through the Internet; and

4 WHEREAS, the Delaware State Police, State Bureau of Identification (“SBI”) provides public access to the
5 Delaware Sex Offender Central Registry (the “Registry”) on its website; and

6 WHEREAS, the SBI allows the public to sign up for e-mail notifications that provide information concerning
7 changes and additions to the Registry; and

8 WHEREAS, the public can also use computers at public libraries to access the Registry website; and

9 WHEREAS, the public can also call the SBI for information regarding the Registry or visit a Delaware State
10 Police troop to request information from the Registry; and

11 WHEREAS, certain municipal police agencies, such as the City of Dover Police Department and the Newark
12 Delaware Police Department, also provide public access to community notifications for offenders in the municipality on the
13 agency’s website; and

14 WHEREAS, SORNA does not require schools to maintain or provide sex offender registry information; and

15 WHEREAS, the requirement that schools, school districts, and licensed child care providers keep binders of
16 community notifications was enacted in 2002, before SORNA required states to provide public access to offender
17 information on the Internet; and

18 WHEREAS, the requirement for schools, school districts, and licensed child care providers to keep binders of
19 community notifications has created financial, administrative, and emotional burdens on staff who maintain the binders;
20 and

21 WHEREAS, the Community Notification Task Force, in its March 31, 2002, report, found that schools do not
22 have the expertise to answer inevitable questions related to the nature of particular offenses and the risk posed by particular
23 offenders, and it is not an appropriate role for educators to answer these questions; and

24 WHEREAS, the SBI or the Delaware State Police Sex Offender Unit can answer the public's questions regarding
25 information included in the Registry; and

26 WHEREAS, the binders may not include up-to-date information or may include information about offenders that
27 do not live within the school, school district, or licensed child care provider's immediate geographic area; and

28 WHEREAS, the Registry website is updated every Friday and is searchable by the offender's information or by
29 geographic region.

30 NOW, THEREFORE:

31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

32 Section 1. Amend § 4121, Title 11 of the Delaware Code by making deletions as shown by strike through and
33 insertions as shown by underline as follows:

34 § 4121. Community notification of sex offenders on probation, parole, conditional ~~release~~ release, or release from
35 confinement.

36 (a) ~~When~~ As used in this subchapter:

37 (1) "Community notification" means notice ~~which~~ to schools, licensed day care facilities, public libraries, any
38 other organization, company or individual upon request, and other accessible public facilities within the community
39 that includes, to the extent possible, all information required to be included in the searchable records available to the
40 public and which is provided by any method devised specifically to notify members of the public who are likely to
41 encounter a sex offender. ~~Methods of notification may include, but not be limited to, door-to-door appearances,~~
42 offender, including any of the following:

43 a. ~~Door-to-door appearances, mail,~~

44 b. ~~Mail, electronic~~

45 c. ~~E-mail, mail, telephone,~~

46 d. ~~Telephone, fax,~~

47 e. ~~Fax, newspapers~~

48 f. ~~Newspapers or notices, or any combination thereof, notices.~~

49 g. An alert system on the Delaware State Police Sex Offender Central Registry website that allows
50 governmental agencies, public officials, such as county or municipal executives, mayors, commissioners, or
51 council members, and members of the general public to register to receive updates by geographical region
52 whenever a sex offender is added to, deleted from, or has any change in status on the registry created under §
53 4120 of this title. ~~to schools, licensed day care facilities, public libraries, any other organization, company or~~

54 individual upon request, and other accessible public facilities within the community. “Community notification”
55 also includes notice provided through an alert system added to the Delaware State Police Sex Offender Registry
56 Internet Web Site that allows governmental agencies, public officials (such as county or municipal Executives,
57 Mayors, Commissioners, or Council Members), and members of the general public to register to receive updates
58 by geographical region whenever a sex offender is added to, deleted from, or has any change in status on the
59 registry created pursuant to § 4120 of this title. Community notification shall include where possible all
60 information required to be included in the searchable records pursuant to paragraph (a)(3) of this section.

61 (3)a. “Searchable records available to the public” means records regarding every sex offender who has been
62 convicted and who is thereafter designated to Risk Assessment Tier II or III pursuant to under this section. Such

63 b. The searchable records shall also available to the public must include the all of the following
64 information:

65 1. The last verified addresses for the offender, and shall identify the offender.

66 2. The specific sex offense or offenses for which the offender was ~~convicted~~, the convicted.

67 3. The date or dates of the convictions and all each conviction.

68 4. All information required for registration pursuant to under § 4120(d)(2) of this title as is
69 practicable given the method of community notification, except that relationship to the victim shall may not
70 be a searchable record available to the public and age of the victim shall may be searchable only by age ranges
71 birth to 11 years, 12 to 15 years, 16 to 17 years, and 18 years and above: older.

72 c. The searchable records available to the public may also include other information designated for public
73 access by the Superintendent of the Delaware State Police. Exempt from the

74 d. The searchable records are available to the public must not include the identity of the victims, the
75 Social Security number of the offender, and arrests that did do not result in conviction.

76 e. The public-access searchable records shall available to the public must include a warning that
77 information should not be used to unlawfully injure, harass, or commit a crime against any individual named in the
78 registry or residing or working at any reported address. The warning shall must note that any such action could
79 result in civil or criminal penalties. These

80 f. The searchable records shall available to the public must be searchable by the name of the sex offender,
81 by suitable geographic criteria, and by as many other required data elements as is technically feasible. These

82 g. ~~The searchable records shall available to the public must be made available upon request through~~
83 ~~police agencies, public libraries, public schools police agencies and the Internet. The records shall be maintained~~
84 ~~by the Delaware State Police Sex Offender Central Registry website.~~

85 h. ~~The Superintendent of the Delaware State Police, as set forth in Police shall maintain the searchable~~
86 ~~records available to the public in accordance with this section and § 4120 of this title, and elsewhere in this~~
87 ~~section. title. They shall~~ The records must be updated as often as practicable, but not less than every 3 months.

88 ~~(e)-(1) (e)(1)~~ Any person designated as a sex offender who is required to register pursuant to this section shall
89 comply with the registration provisions of § 4120 of this title as follows:

90 (i) When a sex offender assigned to Risk Assessment Tier II or III provides registration information ~~as provided by~~
91 under § 4120 of this title, the chief law-enforcement officer of the local jurisdiction where the offender intends to reside, or
92 the Superintendent of the State Police if no local police agency exists, shall provide public notification as follows:

93 (1) For sex offenders assigned to Risk Assessment Tier II, notification ~~shall~~ must consist of searchable records
94 available to the public, and may also consist of community notification ~~pursuant to under~~ paragraph ~~(1)(3) (1)(3)~~ of this
95 ~~section; or section.~~

96 (2) For sex offenders assigned to Risk Assessment Tier III, notification ~~shall~~ must consist of searchable
97 records available to the public ~~as well as~~ and community notification.

98 (3) For sex offenders assigned to Tier II or III, notice ~~shall~~ must be given to any school the offender plans to
99 attend ~~and/or~~ and to the chief law-enforcement officer of the local jurisdiction where the offender plans to study or be
100 employed.

101 ~~(f)-(1) (f)(1)~~ All elected public officials, public employees and public agencies are immune from civil liability for
102 any discretionary decision to release relevant information unless it is shown that the official, employee or agency acted with
103 gross negligence or in bad faith. The immunity provided under this section applies to the release of relevant information to
104 other employees, officials or public agencies as well as to the general public.

105 ~~(t)-(1) (t)(1)a.~~ If a school, school district or licensed child care provider receives community notification, the
106 community notification must be placed in a binder and kept in the administrative office available to view upon request by
107 adults and juveniles with adult supervision. No community notification may be removed from the binder unless the school
108 or child care provider is notified of an address change informing them that the offender has moved from the community.
109 ~~The school, school district or licensed child care provider shall notify parents and staff frequently through their regular~~
110 ~~communications of the availability and location of the community notification binder. A school, school district, or licensed~~
111 child care provider shall provide all of the following information upon a request made by staff, faculty, or a legal guardian:

- 112 1. Searchable records available to the public can be obtained at a Delaware State Police troop or the
113 Delaware State Bureau of Identification.
- 114 2. The public can register to receive community notifications through the Delaware State Police Sex
115 Offender Central Registry website.
- 116 3. The Uniform Resource Locator address of the Delaware State Police Sex Offender Central
117 Registry website.
- 118 b. Additionally, the information listed in paragraphs (t)(1)a.1. through (t)(1)a.3. of this section must be
119 provided as follows:
- 120 1. By posting the information on its website if the school, school district, or licensed child care
121 provider has a website.
- 122 2. By sending the information to faculty, staff, and a legal guardian of an enrolled child in writing at
123 least annually if the school, school district, or licensed child care provider does not have a website.

SYNOPSIS

This Act eliminates the requirement that a school, school district, or licensed child care provider keep community notifications in a binder. Instead, schools, school district, or licensed child care providers are required to provide all of the following information upon request by staff, faculty, or a legal guardian:

1. Notification that searchable records available to the public can be obtained at a police agency or the Delaware State Bureau of Identification (“SBI”).
2. Notification that the public can register for community notifications on the Delaware Sex Offender Central Registry website.
3. The URL for the Delaware Sex Offender Central Registry website.

Additionally, the school, school district, or licensed child care provider must post the information on its website. If it does not have website, then the school, school district, or licensed child care provider must send the information to staff, faculty, and a legal guardian of an enrolled child in writing at least annually.

The Act also clarifies that sex offender registry information must be available on the Internet on the Delaware Sex Offender Central Registry website.

The requirement that schools, school districts, and licensed child care providers keep binders was enacted in 2002, based on recommendation from the Community Notification Task Force that schools have a role in community awareness. However, this requirement has created financial, administrative, and emotional burdens for staff who maintain the binders. The binders are rarely reviewed by the public and they do not necessarily provide up-to-date information or information on sex offenders in the immediate geographic area of the school, school district, or licensed child care provider. Additionally, in its March 31, 2002, report, the Community Notification School Task Force found that schools do not have the expertise to answer inevitable questions regarding the nature of particular offenses or the risk posed by particular offenders, and that it is not an appropriate role for educators to answer those questions.

Federal Sex Offender Registration and Notification Act (“SORNA”) guidelines require law enforcement to keep a registry of sex offenders and to provide public notification. Specifically, the guidelines require law enforcement to notify schools, but do not require schools to provide access to sex offender records. Instead, federal law enacted in 2006, 34 U.S.C. § 20920, requires states to provide public access to sex offender registry information on the Internet.

The SBI maintains the Delaware Sex Offender Central Registry on its website, which allows the general public to find information about registered sex offenders by searching the offender’s information or by searching in a geographic radius. The website also allows the public to sign up for e-mail notifications regarding sex offenders who appear on the

website. The website is updated every Friday. It is easily accessible to most of the public, including on computers at public libraries.

Additionally, the public can request sex offender registry information in-person at a Delaware State Police troop. The public also can call the SBI for information. Certain municipal police agencies, such as the City of Dover Police Department and the Newark Delaware Police Department, also provide access to community notifications for offenders located in the municipality on the agency's website. Law-enforcement agencies are better equipped than schools or licensed childcare providers to answer questions about the registry.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Sokola