SPONSOR: Sen. Sokola & Rep. Gorman & Rep. Romer
Sens. Hansen, Hoffner, Lawson, Lockman, Pettyjohn, Poore, Richardson, Townsend, Walsh, Wilson; Reps. Collins, Gray, Heffernan, Minor-Brown

DELAWARE STATE SENATE
153rd GENERAL ASSEMBLY

SENATE BILL NO. 66

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

WHEREAS, under the Sex Offender Registration and Notification Act ("SORNA"), which is Title 1 of Adam Walsh Child Protection and Safety Act of 2006, states are required to provide public access to sex offender information through the Internet; and

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

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

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

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

WHEREAS, some municipal police agencies, such as the City of Dover Police Department and the Newark Delaware Police Department, also provide public access to community notifications of registered sex offenders in the municipality on the police agency's website; and

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

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

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

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

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

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

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

NOW, THEREFORE:

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

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

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

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

(1) "Community notification" means notice ~~which~~ that includes, to the extent possible, all information required to be included in the searchable records available to the public under paragraph (a)(3) of this section and that is provided by any method devised specifically to notify members of the public who are likely to encounter a sex offender. Methods of notification may ~~include, but not be limited to,~~ include door-to-door appearances, mail, ~~electronic mail,~~ e-mail, telephone, fax, newspapers or notices, or any combination ~~thereof~~ of methods to schools, licensed day care facilities, public libraries, any other organization, company or individual upon request, and other accessible public facilities within the community. "Community notification" also includes notice provided through an alert system added to the Delaware State Police Sex Offender Central Registry ~~Internet Web Site~~ website that allows governmental ~~agencies,~~ agencies; public officials ~~(such~~ such as county or municipal ~~Executives, Mayors, Commissioners, or Council Members),~~ executives, mayors, commissioners, or council members; and members of the general public to register to receive updates by geographical region whenever a sex offender is added to, deleted from, or has any change in status on the registry created pursuant to § 4120 of this title. ~~Community notification shall include where possible all information required to be included in the searchable records pursuant to paragraph (a)(3) of this section.~~

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

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

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

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

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

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

c. The searchable records available to the public may also include other information designated for public access by the Superintendent of the Delaware State Police. ~~Exempt from the~~ But the searchable records ~~are~~ available to the public must not include the identity of the victims, the Social Security number of the offender, and arrests that ~~did~~ do not result in conviction.

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

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

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

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

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

(i) ~~When~~ Whenever a sex offender assigned to Risk Assessment Tier II or III provides registration information ~~as provided by~~ under § 4120 of this title, the chief law-enforcement officer of the local jurisdiction where the offender intends

to reside, or the Superintendent of the State Police if no local police agency exists, shall provide public notification as follows:

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

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

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

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

~~(t) (1) If a school, school district or licensed child care provider receives community notification, the community notification must be placed in a binder and kept in the administrative office available to view upon request by adults and juveniles with adult supervision. No community notification may be removed from the binder unless the school or child care provider is notified of an address change informing them that the offender has moved from the community. The school, school district or licensed child care provider shall notify parents and staff frequently through their regular communications of the availability and location of the community notification binder.~~ (t)(1)a. For purposes of this paragraph (t)(1), "school and child care notification" means notice of all of the following information:

1. That searchable records available to the public can be obtained online at the Delaware State Police Sex Offender Central Registry website or in-person at a Delaware State Police troop or the Delaware State Bureau of Identification.

2. That the public can register to receive community notifications through the Delaware State Police Sex Offender Central Registry website.

3. The Uniform Resource Locator address of the Delaware State Police Sex Offender Central Registry website.

b. A school, school district, and licensed child care provider shall provide school and child care notification as follows:

1. By posting the school and child care notification on its website if the school, school district, or licensed child care provider has a website.

2. By sending the school and child care notification to faculty, staff, and a parent or guardian of an enrolled child in writing at least annually if the school, school district, or licensed child care provider does not have a website.

3. By providing the school and child care notification to staff, faculty, or a parent or guardian of an enrolled child upon a request for sex offender registry information.

SYNOPSIS

Beginning in 2002, schools, school districts, and licensed child care providers have been required to keep binders of community notifications with information about registered sex offenders. This requirement was enacted 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.

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 "school and child care notification" that includes all of the following information:

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.

The school, school district, or licensed child care provider must provide the school and child care notification upon request from staff, faculty, or a parent or guardian of an enrolled child. Additionally, the school, school district, or licensed child care provider must post the school and child care notification on its website or, if it does not have website, the school, school district, or licensed child care provider must send the information to staff, faculty, and a legal parent or 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.

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