House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 142

HOUSE BILL 2452

AN ACT

AMENDING TITLE 13, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-119; AMENDING SECTIONS 13-3821, 13-3824 AND 13-3827, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 38, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3828; RELATING TO SEX OFFENDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 13, chapter 1, Arizona Revised Statutes, is amended by adding section 13-119, to read:

13-119. Assessments for offenses for which persons are required to register

ON CONVICTION OF ANY OFFENSE FOR WHICH A PERSON IS REQUIRED TO REGISTER PURSUANT TO SECTION 13-3821, IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, THE COURT SHALL ORDER THE PERSON TO PAY AN ADDITIONAL ASSESSMENT OF TWO HUNDRED FIFTY DOLLARS. THIS ASSESSMENT IS NOT SUBJECT TO ANY SURCHARGE. THE COURT SHALL TRANSMIT THE MONIES RECEIVED PURSUANT TO THIS SECTION TO THE COUNTY TREASURER. THE COUNTY TREASURER SHALL TRANSMIT THE MONIES RECEIVED TO THE STATE TREASURER. THE STATE TREASURER SHALL DEPOSIT THE MONIES RECEIVED IN THE SEX OFFENDER MONITORING FUND ESTABLISHED BY SECTION 13-3828. NOTWITHSTANDING ANY OTHER LAW, THE COURT SHALL NOT WAIVE THE ASSESSMENT IMPOSED PURSUANT TO THIS SECTION.

Sec. 2. Section 13-3821, Arizona Revised Statutes, is amended to read:

13-3821. Persons required to register; procedure; identification card

A. A person who has been convicted of a violation or attempted violation of any of the following offenses or who has been convicted of an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the following offenses or an offense that was in effect before September 1, 1978 and that, if committed on or after September 1, 1978, has the same elements of an offense listed in this section shall, within ten days after the conviction or within ten days after entering and remaining in any county of this state, register with the sheriff of that county:

1. Unlawful imprisonment pursuant to section 13-1303 if the victim is under eighteen years of age and the unlawful imprisonment was not committed by the child's parent.

2. Kidnapping pursuant to section 13-1304 if the victim is under eighteen years of age and the kidnapping was not committed by the child's parent.

3. Sexual abuse pursuant to section 13-1404 if the victim is under eighteen years of age.

4. Sexual conduct with a minor pursuant to section 13-1405.

5. Sexual assault pursuant to section 13-1406.

6. Sexual assault of a spouse pursuant to section 13-1406.01.

7. Molestation of a child pursuant to section 13-1410.

8. Continuous sexual abuse of a child pursuant to section 13-1417.

9. Taking a child for the purpose of prostitution pursuant to section 13-3206.

10. Child prostitution pursuant to section 13-3212.

11. Commercial sexual exploitation of a minor pursuant to section 13-3552.

12. Sexual exploitation of a minor pursuant to section 13-3553.
13. Luring a minor for sexual exploitation pursuant to section 13-3554.
14. A second or subsequent violation of indecent exposure to a person under the age of fifteen years pursuant to section 13-1402, subsection B.
15. A second or subsequent violation of public sexual indecency to a minor under the age of fifteen years pursuant to section 13-1403, subsection B.
16. A third or subsequent violation of indecent exposure pursuant to section 13-1402.
17. A third or subsequent violation of public sexual indecency pursuant to section 13-1403.
18. A violation of section 13-3822 or 13-3824.

B. Before the person is released from confinement the state department of corrections in conjunction with the department of public safety and each county sheriff shall complete the registration of any person who was convicted of a violation of any offense listed under subsection A of this section. Within three days after the person's release from confinement, the state department of corrections shall forward the registered person's records to the department of public safety and to the sheriff of the county in which the registered person intends to reside. Registration pursuant to this subsection shall be consistent with subsection E of this section.

C. Notwithstanding subsection A of this section, the judge who sentences a defendant for any violation of chapter 14 or 35.1 of this title or for an offense for which there was a finding of sexual motivation pursuant to section 13-118 may require the person who committed the offense to register pursuant to this section.

D. The court may require a person who has been adjudicated delinquent for an act that would constitute an offense specified in subsection A or C of this section to register pursuant to this section. Any duty to register under this subsection shall terminate when the person reaches twenty-five years of age.

E. A person who has been convicted of or adjudicated delinquent and who is required to register in the convicting state for an act that would constitute an offense specified in subsection A or C of this section and who is not a resident of this state shall be required to register pursuant to this section if the person is either:

1. Employed full-time or part-time in this state, with or without compensation, for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year.

2. Enrolled as a full-time or part-time student in any school in this state for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year. For the purposes of this paragraph, "school" means an educational institution of any description, public or private, wherever located in this state.

F. Any duty to register under subsection D or E of this section for a juvenile adjudication terminates when the person reaches twenty-five years of age.

G. The court may order the termination of any duty to register under this section upon successful completion of probation if the person was under eighteen years of age when the offense for which the person was convicted was committed.

H. At the time of registering, the person shall sign a statement in writing giving such information as required by the director of the department of public safety, including all names by which the person is known. The sheriff shall fingerprint and photograph the person and within three days thereafter shall send copies of the statement, fingerprints and photographs to the criminal identification section within the department of public safety and the chief of police, if any, of the place where the person resides.

I. Upon the person's initial registration and every year after the person's initial registration, the person shall obtain a NEW nonoperating identification license or a driver license from the motor vehicle division in the department of transportation AND SHALL CARRY A VALID NONOPERATING IDENTIFICATION LICENSE OR A DRIVER LICENSE. Notwithstanding sections 28-3165 and 28-3171, the license shall be valid for one year from the date of issuance, and the person shall submit to the department of transportation proof of the person's address. The motor vehicle division shall ANNUALLY UPDATE THE PERSON'S PHOTOGRAPH AND SHALL make a copy of the photograph available to the criminal identification section of the department of public safety or to any law enforcement agency.

J. Except as provided in subsection E or K of this section, the clerk of the superior court in the county in which a person has been convicted of a violation of any offense listed under subsection A of this section or has been ordered to register pursuant to subsection C or D of this section shall notify the sheriff in that county of the conviction within ten days after entry of the judgment.

K. Within ten days after entry of judgment, a court not of record shall notify the arresting law enforcement agency of an offender's conviction of a violation of section 13-1402. Within ten days after receiving this information, the law enforcement agency shall determine if the offender is required to register pursuant to this section. If the law enforcement agency determines that the offender is required to register, the law enforcement agency shall provide the information required by section 13-3825 to the department of public safety and shall make community notification as required by law.

L. A person who is required to register pursuant to this section because of a conviction for the unlawful imprisonment of a minor or the kidnapping of a minor is required to register, absent additional or subsequent convictions, for a period of ten years from the date that the person is released from prison, jail, probation, community supervision or

parole and the person has fulfilled all restitution obligations. Notwithstanding this subsection, a person who has a prior conviction for an offense for which registration is required pursuant to this section is required to register for life.

M. A person who is required to register pursuant to this section and who is a student at a public or private institution of postsecondary education or who is employed, with or without compensation, at a public or private institution of postsecondary education or who carries on a vocation at a public or private institution of postsecondary education shall notify the county sheriff having jurisdiction of the institution of postsecondary education. The person required to register pursuant to this section shall also notify the sheriff of each change in enrollment or employment status at the institution.

Sec. 3. Section 13-3824, Arizona Revised Statutes, is amended to read:

13-3824. Violation; classification

A person who is subject to registration under this article and who fails to comply with the requirements of this article is guilty of a class 4 felony, EXCEPT THAT A PERSON WHO FAILS TO COMPLY WITH SECTION 13-3821, SUBSECTION I IS GUILTY OF A CLASS 1 MISDEMEANOR AND, IN ADDITION TO ANY OTHER PENALTY PRESCRIBED BY LAW, THE COURT SHALL ORDER THE PERSON TO PAY AN ADDITIONAL ASSESSMENT OF TWO HUNDRED FIFTY DOLLARS. THIS ASSESSMENT IS NOT SUBJECT TO ANY SURCHARGE. THE COURT SHALL TRANSMIT THE MONIES RECEIVED PURSUANT TO THIS SECTION TO THE COUNTY TREASURER. THE COUNTY TREASURER SHALL TRANSMIT THE MONIES RECEIVED TO THE STATE TREASURER. THE STATE TREASURER SHALL DEPOSIT THE MONIES RECEIVED IN THE SEX OFFENDER MONITORING FUND ESTABLISHED BY SECTION 13-3828. NOTWITHSTANDING ANY OTHER LAW, THE COURT SHALL NOT WAIVE THE ASSESSMENT IMPOSED PURSUANT TO THIS SECTION.

Sec. 4. Section 13-3827, Arizona Revised Statutes, is amended to read:

13-3827. Internet sex offender web site; investigation of records; immunity

A. The department of public safety shall establish and maintain an internet sex offender web site for offenders whose risk assessment has been determined to be a level two or level three. The purpose of the internet sex offender web site is to provide sex offender information to the public.

B. The internet sex offender web site shall include the following information for each convicted sex offender in this state who is required to register pursuant to section 13-3821:

1. The offender's name, address and ~~date of birth~~ AGE.

2. A current photograph.

3. The offense committed and notification level pursuant to section 13-3826, subsection E, if a risk assessment has been completed pursuant to section 13-3825.

C. The department of public safety shall annually update on the web site the name, address and photograph of each sex offender.

D. The motor vehicle division of the department of transportation shall send copies of each sex offender's nonoperating identification license or driver license photograph to the department of public safety for inclusion on the sex offender web site.

E. The department of public safety shall annually verify the addresses of all sex offender registration records contained within the Arizona criminal justice information system. Before including the address of a sex offender on the web site, the department of public safety shall confirm that the address is correct. To confirm a sex offender's address, the department shall conduct a search of the Arizona criminal justice information system. If this search does not provide the necessary confirmation, the department shall use alternative public and private sector resources that are currently used for criminal investigation purposes to confirm the address. The department of public safety is prohibited from using or releasing the information from the alternative public and private sector resources except pursuant to this section. A custodian or public or private sector resource that releases information pursuant to this subsection is not civilly or criminally liable in any action alleging a violation of confidentiality.

F. The department of public safety may petition the superior court for enforcement of subsection E of this section if a public or private sector resource refuses to comply. The court shall grant enforcement if the department has reasonable grounds to believe the records sought to be inspected are relevant to confirming the identity and address of a sex offender.

G. A person who provides or fails to provide information required by this section is not civilly or criminally liable unless the act or omission is wanton or wilful.

~~H. For the purposes of implementing this section, the department may charge and collect fees as determined by the director.~~

~~I. A sex offender monitoring fund is established consisting of fees collected pursuant to this chapter, and monies in the fund are subject to legislative appropriation.~~

Sec. 5. Title 13, chapter 38, article 3, Arizona Revised Statutes, is amended by adding section 13-3828, to read:

13-3828. Sex offender monitoring; fund

THE SEX OFFENDER MONITORING FUND IS ESTABLISHED CONSISTING OF MONIES COLLECTED FROM ASSESSMENTS PURSUANT TO SECTIONS 13-119 AND 13-3824. THE DEPARTMENT OF PUBLIC SAFETY SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE APPROPRIATION.

APPROVED BY THE GOVERNOR APRIL 23, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2004.

Passed the House March 15, 2004, by the following vote: 57 Ayes, 0 Nays, 3 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate April 15, 2004, by the following vote: 29 Ayes, 0 Nays, 1 Not Voting

Ken Bennett
President of the Senate

Charmin Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this 19th day of April, 2004 at 2:30 o'clock p. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 23 day of April, 2004, at 2:00 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State this 23 day of April, 2004, at 3:05 o'clock P. M.

Janice K. Brewer
Secretary of State

H.B. 2452