House Engrossed Senate Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 154

SENATE BILL 1286

AN ACT

AMENDING SECTIONS 13-3825 AND 13-3827, ARIZONA REVISED STATUTES; RELATING TO THE INTERNET SEX OFFENDER WEBSITE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 13-3825, Arizona Revised Statutes, is amended to read:

13-3825. Community notification

A. Within seventy-two hours after a person who was convicted or adjudicated guilty except insane is released from confinement or who was accepted under the interstate compact for the supervision of parolees and probationers and has arrived in this state, the agency that had custody or responsibility for supervision of the person who was convicted of or adjudicated guilty except insane for committing an offense for which the person was required or ordered by the court to register pursuant to section 13-3821 or that has accepted supervision under the interstate compact for the supervision of parolees and probationers shall provide all of the following information to the department of public safety by entering all of the following information into the sex offender profile and notification database:

1. The offender's identifying information.

2. A risk assessment of the offender.

3. The offender's date of release from confinement or, if the offender is sentenced to probation without jail time, the date the sentence is imposed.

B. Following the tenth day after the person is released from confinement or, if the offender is sentenced to probation without jail time, the date the sentence is imposed, the department of public safety shall cross-reference the information the department receives pursuant to subsection A of this section with the sex offender registry to determine if the person is registered as required or ordered by the court pursuant to section 13-3821. If the person is not registered, the local law enforcement agency or the department of public safety shall request that the county attorney in the county in which the person was convicted or adjudicated guilty except insane petition the court for an arrest warrant to be issued and, if appropriate, notify the interstate compact administrator for this state. If the person is registered, the department of public safety shall forward the information the department received pursuant to subsection A of this section to the sheriff in the county where the person is registered.

C. The community notification requirements are as follows:

1. For level two and level three offenders, the notification must be made to the surrounding neighborhood, area schools, appropriate community groups and prospective employers. The notification must include a flyer with the offender's photograph and exact address and a summary of the offender's status and criminal background. A press release and a level two or level three flyer must be given to the local electronic and print media to enable information to be placed in a local publication.

2. For level one offenders, the local law enforcement agency that is responsible for notification shall maintain information about the offender.

The local law enforcement agency may disseminate this information to other law enforcement agencies and may give notification to the people with whom the offender resides.

D. After receiving the information pursuant to subsection B of this section, the sheriff shall forward the information to the chief law enforcement officer of the community in which the person resides. After reviewing the information received and any other information available to the local law enforcement agency, the local law enforcement agency shall categorize each offender and place each offender into a notification level. Within forty-five days, the local law enforcement agency shall notify the community of the offender's presence in the community pursuant to ~~the guidelines prescribed by~~ subsection C of this section. If the community does not have a chief law enforcement officer, the sheriff shall perform the duties of the local law enforcement agency.

E. If a person who has been convicted of or adjudicated guilty except insane or not guilty by reason of insanity for an offense in another state registers pursuant to section 13-3821, subsection A, the sheriff in the county in which the person registers shall forward the information to the chief law enforcement officer of the community in which the person resides. The chief law enforcement officer shall contact the state in which the person was convicted or adjudicated guilty except insane or not guilty by reason of insanity and shall obtain information regarding the person. After reviewing the information received and any other information available, the local law enforcement agency shall complete the risk assessment, shall categorize the person, shall place the person into a notification level and shall enter the information into the computer system. If the law enforcement agency is unable to obtain sufficient information to complete the sex offender community notification risk assessment, the agency shall categorize the offender as a level two offender. Within forty-five days, the local law enforcement agency shall notify the community of the person's presence in the community pursuant to ~~the guidelines prescribed by~~ subsection C of this section. If the community does not have a chief law enforcement officer, the sheriff shall perform the duties of the local law enforcement agency.

F. On receiving notice pursuant to section 13-3822 that a person who is required to register has moved from the person's address, the chief law enforcement officer of the community to which the person has relocated may notify that community of the person's relocation to the community, pursuant to subsection D of this section. If the community does not have a local law enforcement agency, the sheriff of the county to which the person has relocated shall notify the community of the person's relocation.

G. In cooperation with the county probation department or the state department of corrections, a law enforcement agency may delegate all or part of the notification process for offenders on community supervision to the county probation department or to the state department of corrections, as appropriate.

H. Information concerning a person who is required to register pursuant to section 13-3821, who is subject to the provisions of community notification and who is a student at a public or private institution of postsecondary education or who is employed or carries on a vocation, with or without compensation, at a public or private institution of postsecondary education shall be promptly made available by the county sheriff to the law enforcement agency having jurisdiction for performing community notification pursuant to ~~guidelines prescribed by~~ subsection C of this section. The law enforcement agency shall notify the institution's administration and shall complete appropriate campus notification pursuant to ~~guidelines prescribed by~~ subsection C of this section.

I. This section does not prohibit law enforcement officers from giving a community notice of any circumstances or persons that pose a danger to the community under circumstances that are not provided for under this section.

J. Except as provided in subsection K of this section, this section applies to all persons who are subject to the registration requirements in section 13-3821 whether or not the person was convicted or adjudicated guilty except insane before or after June 1, 1996.

K. This section does not apply to persons who are subject to the registration requirements in section 13-3821 as a result of offenses adjudicated by a juvenile court unless ordered by the court.

L. Notwithstanding subsections B and D of this section, the agency that had custody or responsibility for supervision of an offender or the court that sentenced the offender who was convicted of or adjudicated guilty except insane for committing an offense that subjects the offender to the registration requirements of section 13-3821 and who committed the offense before June 1, 1996 may conduct a risk assessment for the offender as existing resources are available pursuant to ~~guidelines prescribed by~~ subsection C of this section. Community notification pursuant to this section and sex offender website notification pursuant to section 13-3827, SUBSECTION A, PARAGRAPH 1 shall only be conducted after the risk assessment is complete.

M. The court may continue, defer or terminate community notification after a hearing held pursuant to section 13-923.

Sec. 2. Section 13-3827, Arizona Revised Statutes, is amended to read:

13-3827. Internet sex offender website; investigation of records; immunity; exception; definition

A. The department of public safety shall establish and maintain an internet sex offender website ~~for offenders whose risk assessment has been determined to be a level two or level three.~~ FOR the purpose of ~~the internet sex offender website is to provide~~ PROVIDING sex offender information to the public. THE INTERNET SEX OFFENDER WEBSITE SHALL INCLUDE THE FOLLOWING OFFENDERS:

1. ANY OFFENDER WHOSE RISK ASSESSMENT HAS BEEN DETERMINED TO BE A LEVEL TWO OR LEVEL THREE.

2. UNLESS INCLUDED UNDER PARAGRAPH 1 OF THIS SUBSECTION, ANY OFFENDER WHO WAS CONVICTED OF OR ADJUDICATED GUILTY EXCEPT INSANE FOR ANY OF THE FOLLOWING COMPLETED OFFENSES OR THE SAME OR SUBSTANTIALLY SIMILAR OFFENSE IN ANOTHER STATE OR JURISDICTION:

(a) SEXUAL ASSAULT PURSUANT TO SECTION 13-1406.

(b) SEXUAL EXPLOITATION OF A MINOR PURSUANT TO SECTION 13-3553 IF THE OFFENDER IS AT LEAST TWENTY-ONE YEARS OF AGE AND IS SENTENCED PURSUANT TO SECTION 13-705.

(c) COMMERCIAL SEXUAL EXPLOITATION OF A MINOR PURSUANT TO SECTION 13-3552.

(d) SEXUAL ABUSE PURSUANT TO SECTION 13-1404 IF THE VICTIM IS UNDER TWELVE YEARS OF AGE.

(e) MOLESTATION OF A CHILD PURSUANT TO SECTION 13-1410 IF THE VICTIM IS UNDER TWELVE YEARS OF AGE.

(f) SEXUAL CONDUCT WITH A MINOR PURSUANT TO SECTION 13-1405 IF THE VICTIM IS UNDER TWELVE YEARS OF AGE.

(g) CHILD PROSTITUTION PURSUANT TO SECTION 13-3212, SUBSECTION A OR SUBSECTION B, PARAGRAPH 1 OR 2.

(h) TAKING A CHILD FOR THE PURPOSE OF PROSTITUTION PURSUANT TO SECTION 13-3206 IF THE VICTIM IS UNDER TWELVE YEARS OF AGE.

(i) LURING A MINOR FOR SEXUAL EXPLOITATION PURSUANT TO SECTION 13-3554 IF THE VICTIM IS UNDER TWELVE YEARS OF AGE.

(j) AGGRAVATED LURING A MINOR FOR SEXUAL EXPLOITATION PURSUANT TO SECTION 13-3560 IF THE VICTIM IS UNDER TWELVE YEARS OF AGE.

(k) CONTINUOUS SEXUAL ABUSE OF A CHILD PURSUANT TO SECTION 13-1417 IF THE VICTIM IS UNDER TWELVE YEARS OF AGE.

B. The internet sex offender website shall include the following information for each convicted or adjudicated guilty except insane sex offender in this state who is required to register pursuant to section 13-3821:

1. The offender's name, address and age.

2. A current photograph.

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

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

D. The department of public safety shall maintain a separate database and search function on the website that contains any required online identifier of sex offenders whose risk assessments have been determined to be a level two or level three and the name of any website or internet communication service where the required online identifier is being used. This information shall not be publicly connected to the name, address and photograph of a registered sex offender on the website.

E. The department of public safety may disseminate a registered sex offender's required online identifier and the name of any corresponding website or internet communication service to a business or organization that offers electronic communication services for comparison with information that is held by the requesting business or organization. The requesting business or organization shall notify the department of public safety when a comparison of the information indicates that a registered sex offender's required online identifier is being used on the business's or organization's system. The requesting business or organization shall not further disseminate that the person is a registered sex offender.

F. 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 website.

G. 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 website, 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.

H. The department of public safety may petition the superior court for enforcement of subsection G 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.

I. Except for a person who is required to register pursuant to section 13-3821, 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.

J. THIS SECTION DOES NOT APPLY TO AN OFFENDER DURING ANY TIME THAT THE OFFENDER IS INCARCERATED IN THE STATE DEPARTMENT OF CORRECTIONS.

~~J.~~ K. For the purpose of this section, "required online identifier" means any electronic e-mail address information or instant message, chat, social networking or other similar internet communication name, but does not include a social security number, date of birth or pin number.

1 Sec. 3. Applicability
2 A. Section 13-3827, Arizona Revised Statutes, as amended by this act,
3 applies to a person who is convicted of or adjudicated guilty except insane
4 for an offense that is listed in section 13-3827, subsection A, Arizona
5 Revised Statutes, as amended by this act, and that was committed before, on
6 or after the effective date of this act.
7 B. Notwithstanding section 13-3827, Arizona Revised Statutes, as
8 amended by this act, the department of public safety is not required to
9 include the name and information of an offender on the internet sex offender
10 website until July 1, 2017 if the offender was convicted of an offense listed
11 in section 13-3827, subsection A, paragraph 2, Arizona Revised Statutes, as
12 added by this act, before the effective date of this act.

APPROVED BY THE GOVERNOR MAY 11, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 11, 2016.

Passed the House March 30, 2016,

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

Acting Speaker of the House
Pro Tempore

Jim Drake
Chief Clerk of the House

Passed the Senate February 11, 2016,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Susan Reeves
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1286

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate May 5, 2016

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

5th day of May, 2016

at 4:10 o'clock P. M.

Secretary to the Governor

Approved this 11th day of

May

at 9:49 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 11TH day of May, 2016

at 2:20 o'clock P M.

Secretary of State

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