

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bills 566 through 571 (as enrolled)

PUBLIC ACTS 85 through 90 of 1999

Sponsor: Senator Bev Hammerstrom (Senate Bill 566)
Senator Mike Rogers (Senate Bill 567)
Senator Mike Goschka (Senate Bill 568)
Senator Shirley Johnson (Senate Bill 569)
Senator Joel D. Gougeon (Senate Bill 570)
Senator Dave Jaye (Senate Bill 571)

Senate Committee: Families, Mental Health and Human Services (Senate Bills 566-570)
Judiciary (Senate Bill 571)

House Committee: Criminal Law and Corrections

Date Completed: 2-8-00

CONTENT

Senate Bill 566 amended the Sex Offenders Registration Act to do the following:

- Expand the Act's listed offenses to include the felonies of sodomy, gross indecency, and kidnapping or enticing away, and the misdemeanor of soliciting and accosting, if the victim is under 18 years of age.
- Include students and people working in this State in the registration requirements.
- Require that the Department of State Police, by September 1, 1999, notify each person registered under the Act who was not in a State correctional facility of his or her registration, notification, and verification duties under the Act.
- Require the Department of Corrections (DOC) to give a registered person who is in a State correctional facility a written notice explaining the procedure for registration, notification, and verification.
- Require registration of a person convicted on or before September 1, 1999, of an offense that was added on that date to the definition of "listed offense".
- Require a person to comply for life with the Act's reporting requirements if he or she is convicted of certain offenses.
- Require by January 15, 2000, a registered person who is not incarcerated to report yearly in person to a law enforcement agency for registration and verification.
- Require a registered person to maintain a valid driver's license or official State personal identification card.
- Require, between January 1, 2000, and January 15, 2000, a registered person who was not incarcerated to have a digitized

- photograph taken by the Secretary of State.
- Revise provisions pertaining to the publicly available compilation of certain information in the sex offender registry.
- Establish felony penalties for persons who are required to be registered and who willfully violate the Act.
- Establish misdemeanor penalties for persons who fail to comply with the bill's reporting requirements.

Senate Bills 567 through 570 amended, respectively, the juvenile code, the Code of Criminal Procedure, the Michigan Vehicle Code, and Public Act 222 of 1972, which provides for an official State personal identification card, to make revisions complementary to Senate Bill 566.

Senate Bill 571 amended the Code of Criminal Procedure to include in sentencing guidelines felonies enacted by Senate Bill 566 for a second, third, or subsequent offense of failure to register as a sex offender, and revise the sentencing guidelines provision for a first offense.

The bills took effect on September 1, 1999. Senate Bills 567 through 571 were all tie-barred to Senate Bill 566. A more detailed description of the bills follows.

Senate Bill 566

Persons Required to Register

The Act previously required persons who had been convicted of certain offenses and were domiciled or temporarily resided in the State for at least 14 days to be registered. The bill requires persons to register

if they are domiciled or temporarily reside in the State for at least 14 consecutive days, who work with or without compensation or are students in the State for at least 14 consecutive days, or who are domiciled, reside, or work with or without compensation or are students in the State for at least 30 day in a calendar year. The bill added to the list of persons who must register a person convicted in another state or country after October 1, 1995, of a "listed offense" as defined before September 1, 1999; a person convicted in another state or country of an offense added by the bill to the definition of "listed offense"; and a person required to be registered as a sex offender in another state or country, regardless of the date of conviction.

("Student" means a person enrolled on a full- or part-time basis in a public or private educational institution, including a secondary school, trade school, professional institution, or institution of higher education. The Act's definition of "convicted" includes having a judgment of conviction or a probation order entered in a "court having jurisdiction over criminal offenses", including an expunged conviction. Under the bill, such a court includes but is not limited to a tribal court or a military court.)

A person convicted of an offense added by the bill on September 1, 1999, to the definition of "listed offense" is not required to be registered solely because of that listed offense unless one of the following applies:

- The person is convicted of that offense on or after September 1, 1999.
- On September 1, 1999, the person was on probation or parole, committed to jail, committed to the jurisdiction of the DOC, under the jurisdiction of the family division of the circuit court (family court), or committed to the Family Independence Agency (FIA) for that offense, or the person is subject to any of those actions on or after September 1, 1999, for that offense.
- On September 1, 1999, the person was on probation or parole for that offense which had been transferred to the State or the person's probation or parole for that offense was transferred to the State after that date.
- On September 1, 1999, in another state or country, the person was on probation or parole, committed to jail, committed to that jurisdiction's department of corrections or similar state agency, under a juvenile court's jurisdiction, or committed to an agency similar to the FIA for that offense.

The bill added to the definition of "listed offense" sodomy (MCL 750.158), if the victim is under 18 years old; except for a juvenile disposition or

adjudication, gross indecency between males, females, or males and females (MCL 750.338, 750.338a, or 750.338b), if the victim is under 18 years old; kidnapping (MCL 750.349), if the victim is under 18 years old; kidnapping a child under 14 years of age (MCL 750.350); and, soliciting and accosting (MCL 750.448), if the victim is under 18.

Registration Information

Under the Act, a person's registration must contain his or her name, Social Security number, date of birth, and address or expected address; a brief description of the person's convictions for listed offenses, including where an offense occurred and the original charge if the conviction was for a lesser offense; and a complete physical description of the person. The bill added that a person who is in a witness protection and relocation program is required only to use the name and identifying information reflecting his or her new identity in a registration. The registration and compilation databases may not contain any information identifying the person's prior identity or locale. The Department must request each person to provide his or her birth date if it is not included in the registration, and that person must comply within 10 days.

In addition, the bill requires that the brief summary of a person's convictions be included, regardless of when the conviction occurred, and that the registration include a digitized photograph, and the person's fingerprints if not already on file with the Department. A person required to be registered on September 1, 1999, was required to have his or her fingerprints taken by September 12, 1999, if not already on file with the Department. The Department is required to forward a copy of the person's fingerprints to the Federal Bureau of Investigation (FBI), if not already on file with the FBI.

The Act requires the registration form to contain a statement explaining the duty of a person being registered to provide notice of a change of address and the procedures for providing that notice. The bill requires that a verification form also include this information as well as the bill's verification procedures. The Act previously permitted a person to sign a registration or notice. Under the bill, a person is required to sign a registration and notice as well as a verification. The registration, notice, or verification, however, must be forwarded to the State Police regardless of whether the person signs it. The Act prohibits a person from knowingly providing false or misleading information concerning a registration or notice. The bill added that a person may not knowingly provide false or misleading information on a verification.

Registration Procedure

The Act specifies a registration procedure for persons who were convicted of a listed offense on or before October 1, 1995. The bill added that for a person convicted on or before September 1, 1999, of an offense that was added on that date to the definition of "listed offense", the following were or are required to register that person:

- The person's probation officer or parole officer by September 12, 1999, if the person was on probation or parole on September 1, 1999, for the listed offense.
- The sheriff or his or her designee by September 12, 1999, if the person was committed to jail on September 1, 1999, for the listed offense.
- The Department of Corrections by November 30, 1999, if the person was under the jurisdiction of the DOC on September 1, 1999.
- The family court, the FIA, or the county juvenile agency by November 30, 1999, if the person was within the jurisdiction of the family court or committed to the FIA or the county juvenile agency on September 1, 1999.
- A probation officer, before sentencing or assignment, if the person is sentenced or assigned to youthful trainee status for that offense after September 1, 1999.
- A probation or parole officer, within 14 days after a transfer, if a person's probation or parole for the listed offense is transferred to the State after September 1, 1999.
- The family court, before the disposition order is entered, if the person is placed within the court's jurisdiction or committed to the FIA for the listed offense after September 1, 1999.

Under the Act, a person convicted of a listed offense after October 1, 1995, must register before sentencing, entry of the disposition order, or assignment to youthful trainee status. A probation officer or the juvenile division of the probate court (now the family court) must give the person the registration form after the person is convicted, explain the duty to register, and accept the completed registration for processing. The bill also requires the probation officer or the court to explain the person's duty to verify his or her address and provide notice of address changes. The bill prohibits the court from imposing sentence, entering the disposition order, or assigning the person to youthful trainee status until it determines that the person's registration has been forwarded to the Department of State Police as required under the Act.

The Act requires a person convicted of a listed offense in another state or country after October 1, 1995, to register with the local law enforcement agency, the State Police, or the sheriff's department within 14 working days after becoming domiciled or

temporarily residing in the State. The bill added that a person required to be registered as a sex offender or a predator in another state must register under the Act within 14 days of working or being a student for the periods specified in the bill.

Change of Residence or Domicile

Under the Act, a person who is required to be registered must notify the local law enforcement agency in which his or her new address is located, or the State Police or sheriff's department of the person's new address, within 10 days of changing an address, being paroled, or being released from the jurisdiction of the DOC; or being transferred to a community residential program or into a minimum custody correctional facility of any kind. The bill refers to "residence or domicile" instead of "address". In addition, the bill requires a person to notify a local law enforcement agency or sheriff's department if he or she changes a place of work or education.

Under the bill, a person required to be registered under the Act must notify the Department of State Police on a form prescribed by it not later than 10 days before he or she changes his or her domicile or residence to another state. The person must indicate the new state and, if known, the new address. The Department is required to update the registration and compilation data bases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. If the person's probation or parole is transferred to another state or is transferred from a State correctional facility to any correctional facility or probation or parole in another state, the DOC promptly must notify the state police and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The State Police must update the registration and compilation databases.

Duration of Compliance

Except as otherwise provided, a person must comply with the Act's notification requirements for 25 years after the date of initially registering. Under the bill, if the person is in a State correctional facility, he or she will have to comply with the notification requirements for either 10 years after release from the correctional facility, or for 25 years, whichever is longer.

A person must comply with the registration and notification requirements for life if he or she is convicted of a second or subsequent listed offense after October 1, 1995, regardless of when the first offense occurred. The bill also requires that a person comply with the reporting requirements for life if he or she is convicted of any of the following or a substantially similar offense under a law of the

United States, any state, or any country or under tribal or military law: first-degree criminal sexual conduct (CSC) (MCL 750.520b); second-degree CSC, when the victim is under 13 years of age (MCL 750.520c(1)(a)); kidnapping, if the victim is under 18 years of age (MCL 750.349); kidnapping a child under 14 years of age (MCL 750.350); involvement in or distribution of child sexually abusive activity or material (MCL 750.145c); or an attempt or conspiracy to commit one of these offenses. The bill also provides that a person is not required to comply with the life reporting requirements if his or her first or second listed offense was for a conviction on or before September 1, 1999, for an offense that was added on that date to the definition of "listed offense", unless he or she is convicted of a subsequent listed offense after September 1, 1999.

Notification of Requirements

Under the bill, by September 1, 1999, Department of State Police was required to mail a notice to each person registered under the Act who was not in a State correctional facility, explaining the person's duties under the Act and the procedure for registration, notification, and verification.

The bill provides that upon the release of a person registered under the Act who is in a State correctional facility, the DOC must give that person written notice explaining his or her duties under the Act and the procedure for registration, notification, and verification. The person must sign and date the notice. The DOC must maintain a copy of the signed and dated notice in the person's file, and forward the original notice to the State Police within 30 days, regardless of whether the person signed it.

The Department of State Police is required to prescribe the form for the notices and verification procedures required under the bill.

Verification/Proof of Residence

By January 15, 2000, a person registered under the Act who was not incarcerated was required by the bill to report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she was domiciled or resided, or to the State Police post in or nearest to the county where he or she was domiciled or resided. The person was required to present proof of domicile or residence and update any information that changed since registration. A person registered under the Act who was incarcerated on January 15, 2000, must report at least 10 days after he or she is released.

Following initial verification, or registration after January 15, 2000, a person required to be registered who is not incarcerated must report in person to the

local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the State Police post in or nearest to the county where he or she is domiciled or resides for verification of domicile or residence as described below.

If the person is registered only for one or more misdemeanor listed offenses, he or she must report not earlier than January 1 or later than January 15 of each year after the initial verification or registration. "Misdemeanor listed offense" means a listed offense that is any of the following:

- Accosting, enticing or soliciting a child for immoral purposes (MCL 750.145a); knowingly possessing any child sexually abusive material (MCL 750.145c(4)); engaging in indecent or obscene conduct in a public place (MCL 750.167(1)(f)); or soliciting and accosting (MCL 750.448).
- Indecent exposure (MCL 750.335a), other than a violation committed by a person who was, at the time of the offense, a sexually delinquent person as defined in the Penal Code. ("Sexually delinquent person" means any person whose sexual behavior is characterized by repetitive or compulsive acts that indicate a disregard of consequences or the recognized rights of others, or by the use of force upon another person in attempting sex relations of a heterosexual or homosexual nature, or by the commission of sexual aggressions against children under 16.)
- A violation of a municipality's local ordinance that substantially corresponds to the above provisions.
- A violation of a State law or a local ordinance that by its nature constitutes a sexual offense against an individual under 18, if the violation is not specifically designated a felony and is punishable by imprisonment for one year or less.
- An attempt or conspiracy to commit an offense described above.
- An offense substantially similar to an offense described above under a law of the United States, any state, or any country, or under tribal or military law.

If the person is registered for one or more felony listed offenses, he or she must register not before the first day or after the 15th day of each April, July, October, and January following initial verification or registration. "Felony listed offense" means a listed offense that is any of the following:

- Persuading, inducing, enticing, coercing, causing, or knowingly allowing a child to engage in a child sexually abusive activity for

the purpose of producing any child sexually abusive material (MCL 750.145c(2)) or distributing or promoting, or financing the distribution or promotion of, or receiving to distribute or promote any child sexually abusive material or activity (MCL 750.145c(3)); kidnapping (MCL 750.349); kidnapping a child under 14 (MCL 750.350); pandering (MCL 750.455); committing first-, second-, third- or fourth-degree CSC (MCL 750.520b - 750.520e); or, committing an assault with intent to commit CSC (MCL 750.520g); or a second offense of accosting, enticing, or soliciting a child for immoral purposes (MCL 750.145b).

- Indecent exposure (MCL 750.335a), committed by a person who was, at the time of the offense, a sexually delinquent person.
- A violation of a State law that, by its nature, constitutes a sexual offense against a person under 18, if the violation is specifically designated a felony or is punishable by imprisonment for more than one year.
- An attempt or conspiracy to commit an offense described above.
- An offense substantially similar to an offense described above under a law of the United States, any state, or any country, or under tribal or military law.

When a person reports under the bill, an officer or an authorized employee of the law enforcement agency, sheriff's department, or State Police post, must verify the person's residence or domicile. The officer or employee must sign and date a verification form, and give the person a copy of the signed form showing the verification date. The officer or employee then must forward the verification information to the State Police by the Law Enforcement Information Network (LEIN) in the manner prescribed by the State Police. The State Police will have to revise the data bases maintained under the Act as necessary, and indicate verification in the data base compilation of registered persons.

Maintaining Valid Identification

A person required to be registered must maintain either a valid operator's or chauffeur's license issued under the Michigan Vehicle Code, or an official State personal identification card issued under Public Act 222 of 1972, with the person's current address. The license or card may be used as proof of domicile or residence under the bill. In addition, the law enforcement officer or authorized employee may require the person to produce another document bearing his or her name and address, including voter registration or a utility or other bill. The Department may specify other satisfactory proof of domicile or residence.

Digitized Photograph

The bill required that, not before January 1, 2000, or after January 15, 2000, a person registered under the Act who was not incarcerated report in person to a Secretary of State office and have his or her digitized photograph taken. A registered person who was incarcerated on January 15, 2000, must report not less than 10 days after he or she is released. The person is not required to report if he or she had a digitized photograph taken for an operator's or chauffeur's license or official State personal identification card before January 1, 2000, or within two years before he or she is released. The photograph must be used on the person's operator's or chauffeur's license or official State personal identification card. The person must have a new photograph taken when he or she renews the license or identification card as provided by law. The Secretary of State must make the digitized photograph available to the Department of State Police for a registration under the Act.

Registry Compilation

The Act requires the Department of State Police to maintain a computerized data base of required registrations. The Department also must maintain a separate data base that is a compilation of some identifying information in the registry that is available for public review. Previously, the Act allowed the Department to make the compilation, or information from it, available to police agencies by electronic, computerized, or other similar means. The bill requires, rather than allows, the State Police to make this information or compilation available both to police agencies and to the public. It also requires that the electronic, computerized, or other similar means of access provide for a search by both name and zip code.

Under the Act, juvenile offenses are excluded from the publicly available compilation. The bill specifies, however, that the juvenile offense exclusion does not apply to a disposition for first- or second-degree CSC, after the individual reaches 18 years of age.

Failure to Report or Register

If a person does not report under the bill, the Department must notify the local law enforcement agency. An appearance ticket may be issued for the person's failure to report as provided in Chapter IV (Arrest) of the Code of Criminal Procedure (MCL 764.9a-764.9g).

Previously, under the Act, a person who was required to be registered who willfully violated the Act was guilty of a felony punishable by imprisonment for up to four years and/or a fine of up to \$2,000. Under

the bill, a person who willfully violates the Act is guilty of a felony punishable as follows:

- Imprisonment for up to four years and/or a fine of up to \$2,000, if the person has no prior convictions for a violation of the Act, other than a failure to comply with the bill's reporting requirements.
- Imprisonment for up to seven years and/or a fine of up to \$5,000, if the person has one prior conviction for a violation of the Act, other than a failure to comply with the reporting requirements.
- Imprisonment for up to 10 years and/or a fine of up to \$10,000, if the person has two or more prior convictions for violations of the Act, other than a failure to comply with the reporting requirements.

A person who fails to comply with the bill's reporting requirements is guilty of a misdemeanor punishable by imprisonment for up to 90 days and/or a fine of up to \$500. A person who willfully fails to sign a registration, notice, or verification as provided in the bill is guilty of a misdemeanor punishable by imprisonment for up to 93 days and/or a fine of up to \$500.

A person's failure to register or a violation of the bill's provisions on change of residence or domicile, or transfer to another correctional facility, may be prosecuted in the judicial district of any of the following: the person's last registered address or residence, the person's actual address or residence, or where the person had been arrested for the violation.

State Police Studies

The bill requires the Department of State Police to conduct a study to determine the feasibility of providing for a search by alias and of providing mapping technology to show an address. The study will have to consider the costs, programming issues, and other similar issues.

The Department also must conduct a study of the feasibility of compiling a list of individuals convicted of a listed offense before September 1, 1999, who are alive and not required to be registered and the feasibility of including that list, known addresses, and summary information in the publicly available compilation of the sex offender registry. The study will have to include the records available for the information, costs, employee hours required, programming issues, time frame, and other similar issues.

The Department must forward both studies to the Legislature by September 1, 2000.

Senate Bill 567

The juvenile code prohibits the family court from ordering a disposition for a juvenile offense for which fingerprinting is required or issuing a judgment of sentence for a conviction until the court has determined that the juvenile's fingerprints have been taken and forwarded to the Department of State Police as required in the bureau of criminal identification law. The bill included reference to fingerprinting requirements of the Sex Offenders Registration Act in this provision.

In addition, if a juvenile is under the jurisdiction of the family court for a violation that would be a crime if committed by an adult, but the offense is not one for which registration under the Sex Offenders Registration Act is explicitly required, the bill requires that the court determine if the offense, by its nature, constitutes a sexual offense against an individual who is less than 18 years old. If the court determines that the offense is of that nature, then the order of disposition is considered to be for a listed offense under the Sex Offenders Registration Act and the court must include the basis for its determination on the record and in the order of disposition.

Senate Bill 568

The bill amended the Code of Criminal Procedure to specify that, if a defendant is sentenced for an offense other than one specifically listed in the Sex Offenders Registration Act, the court must determine if the offense is a violation that, by its nature, constitutes a sexual offense against a person under 18 years of age. If so, the conviction is a listed offense under the Sex Offenders Registration Act. The court must include the basis for that determination on the record and include the determination in the judgment of sentence.

The bill also provides that, as part of the sentence for a conviction of a listed offense under the Sex Offenders Registration Act, the court must order that the person's fingerprints be taken and forwarded to the Department of State Police, as provided in that Act, if that has not already been done.

Senate Bill 569

The Vehicle Code allows an applicant for a driver's license to have his or her image captured or reproduced when applying. The bill requires that an applicant for a driver's license have his or her image captured or reproduced when an application for a driver's license is made, if the applicant is required to maintain a valid driver's license or official State personal identification card under the Sex Offenders Registration Act, pursuant to Senate Bill 566.

The bill requires the Department of State Police to provide to the Secretary of State updated lists of persons required to be registered under the Sex Offenders Registration Act. The Secretary of State must make the images of those persons available to the Department of State Police as provided in that Act.

The Vehicle Code allows the Secretary of State to issue a renewal of a driver's license by mail for one additional four-year period, unless the renewing licensee has a driving record with a conviction or civil infraction determination obtained in the 48 months preceding renewal. The bill also prohibits renewal by mail if the renewing licensee is a person required to maintain a valid driver's license or official State personal identification card under the Sex Offenders Registration Act, pursuant to Senate Bill 566.

The bill requires the Department of State Police to provide to the Secretary of State updated lists of person required, under Senate Bill 566, to maintain a valid driver's license or official State personal identification card.

Senate Bill 570

The bill requires that the Department of State Police provide to the Secretary of State updated lists of persons required, under the Sex Offenders Registration Act pursuant to Senate Bill 566, to maintain a valid driver's license or an official State personal identification card. The Secretary of State must make images of those people available to the Department of State Police as provided in Senate Bill 566.

Public Act 222 of 1972 allows a person to apply for a renewal of an official State identification card by mail or other methods prescribed by the Secretary of State. The bill specifies that the Secretary of State must require in-person renewal by a person required, under Senate Bill 566, to maintain a valid driver's license or official State personal identification card.

Senate Bill 571

Previously, under the Code of Criminal Procedure's sentencing guidelines provisions, failure to register as a sex offender was categorized as a Class G felony against the public order, with a statutory maximum sentence of four years' imprisonment. Under the bill, a first offense of failure to register is classified as a Class F felony against the public order, with a statutory maximum of four years. A second offense of failure to register is a Class D felony against the public order, with a statutory maximum sentence of seven years' imprisonment, pursuant to Senate Bill 566. A third or subsequent offense of failure to register is a Class D felony

against the public order, with a statutory maximum sentence of 10 years' imprisonment, pursuant Senate Bill 566.

MCL 28.722 et al. (S.B. 566)
712A.18 (S.B. 567)
769.1 & 769.16a (S.B. 568)
257.307 (S.B. 569)
28.292 (S.B. 570)
777.11 (S.B. 571)

Legislative Analyst: P. Affholter

BACKGROUND

Origins of the Sex Offenders Registration Act

Public Act 295 of 1994 created the Sex Offenders Registration Act to require a person convicted of a "listed offense" to register information about his or her identity, address, and conviction. The Act's registration requirements apply to all of the following:

- A person who was convicted of, or a juvenile found responsible for, a listed offense after October 1, 1995.
- A person convicted of, or a juvenile found responsible for, a listed offense on or before October 1, 1995, who, on or after that date, was on probation or parole, was committed to jail, was committed to the jurisdiction of the DOC, or was under the jurisdiction of the juvenile court or the Department of Social Services (now the FIA) for that offense.
- A person convicted of, or a juvenile found responsible for, an attempt or conspiracy to commit a listed offense whose probation or parole was transferred to Michigan after October 1, 1995.

"Listed offense" originally included any of the following:

- Accosting, enticing, or soliciting a child for immoral purposes.
- Involvement in child sexually abusive activity or material.
- A third or subsequent violation of any combination of the following: engaging in indecent or obscene conduct in a public place, indecent exposure, or a local ordinance substantially corresponding to either of those offenses.
- Criminal sexual conduct in the first, second, third, or fourth degree.
- Assault with intent to commit CSC.
- An attempt or conspiracy to commit an offense enumerated above.
- An offense substantially similar to a listed offense under the laws of the United States,

any other state, or any country.

Under the original Act, a registration was considered confidential and was not open to inspection, except for law enforcement purposes. The registration and all included material were exempt from disclosure under the Freedom of Information Act. An individual whose registration was revealed in violation of the Sex Offenders Registration Act had a civil cause of action against the responsible party for treble damages.

Publicly Available Compilation

Despite the fact that the Sex Offenders Registration Act, as enacted in 1994, explicitly stated that it was to be used solely for law enforcement purposes, Public Act 494 of 1996 expanded the law to require the development of a compilation of registered individuals for public availability. Proponents of this change suggested that community safety would be enhanced if members of the public had access to a list of registered offenders.

The 1996 legislation requires that the Department of State Police maintain a computerized data base of registered individuals and that a compilation of the registry be indexed by zip codes and contain the name, aliases, address, physical description, birth date, and listed offenses of each registered individual residing within a zip code area. Public Act 494 also requires the Department to make the compilation available to State Police posts, local law enforcement agencies, and sheriff's departments; those entities then must make the information from the compilation available for public inspection.

The 1996 revisions also authorize the State Police to make information from the compilation available through electronic, computerized, or other accessible means. Consequently, the Department has developed a web site at which anyone with Internet access may view the compilation for any particular zip code area (<http://www.mipsor.state.mi.us/>).

Federal Law: Funding Eligibility

The Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (Wetterling Act), enacted as part of the 1994 Federal Crime Act, provides a financial incentive for states to establish specific requirements for registration systems for convicted child molesters and other sexually violent offenders. Failure to comply with these Federal guidelines within the specified time period will result in a mandatory 10% reduction of Byrne Formula Grant funding, and any funds not allocated to noncomplying states are to be reallocated to those states that are in compliance.

Under the Wetterling Act, states are to submit to the Bureau of Justice Assistance (BJA) certification to demonstrate that the states' offense coverage provisions comply with the Federal requirements. This certification is considered part of each state's overall submission to the BJA of its sex offender registration and community notification provisions, which should demonstrate compliance with the Wetterling Act.

In 1999, Michigan was awarded approximately \$16 million in Byrne Grant funding. In the past, this funding has been used to help sustain various programs, including community policing and school liaison officers; Drug Abuse Resistance Education (D.A.R.E.); zero-tolerance drug offender testing; and criminal justice record improvement. Byrne Grant money also contributed to funding personnel and vehicles for multijurisdictional drug teams, a money-laundering investigative team, the Statewide Information System (STATIS), and Training and Coordinating Effort (TRACE) for narcotics investigation training. In addition, Byrne Grant funding was awarded to county prosecutors for training, equipment, and personnel costs.

FISCAL IMPACT

Senate Bills 566 and 571 establish penalties and graduated sentencing guidelines criteria for the felony of failing to register as a sex offender based on the number of previous offenses. For offenders with no previous convictions who fail to register as a sex offender, the sentencing guidelines grid will increase from the "G" grid with a maximum minimum sentence of 7-23 months to the "F" with a maximum minimum sentence of 17-30 months. As a result, costs or fine revenues for the State or local units of government will increase.

In 1997, there were 16 dispositions involving failure to register as a sex offender, with nine offenders given a prison sentence. There are no data available to indicate how many times the offenders had previously been convicted of the same crime, nor are there data to indicate how many more people might be convicted of this offense as a result of the bills' changes.

To the extent that Senate Bill 566 requires minimum sentences of one year for first-time offenders, two years for second-time offenders, and five years for subsequent offenders, the minimum sentence range established in the sentencing guidelines will not control the lowest minimum sentence imposed. Assuming that the number of dispositions in 1997 remains constant, that offenders serve a term of [S9900s566es](#)

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

incarceration in State facilities equal to the required minimum sentence for the number of previous violations, and that one-third of the offenders have never been convicted, one-third of the offenders have one prior conviction, and one-third have two or more prior convictions, given that the average annual cost of incarceration is \$22,000, the cost to incarcerate offenders for this offense will be \$880,000 per year.

The Department of State Police will incur additional costs to provide necessary computer programming revisions, feasibility studies, and reports required under Senate Bill 566.

Senate Bills 567 through 570 will have a minimal fiscal impact on State departments and local law enforcement agencies. The bills will require some minor additional costs for departments and agencies that already assume similar duties under the Sex Offenders Registration Act. These costs include clerical and information programming costs.

The package of bills also features requirements that are mandated by the Federal Jacob Wetterling Act, that, if not placed in State law, could have resulted in a 10% reduction to the State of Federal grant funding under the Edward Byrne Memorial State and Local Law Enforcement Assistance Program. Failure to enact the Federal mandates in these bills could have resulted in a loss of \$1.6 million in Federal funds to State and local agencies.

Fiscal Analyst: K. Firestone
B. Baker