

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 184 Session of 2013

INTRODUCED BY PAYNE, C. HARRIS, HAGGERTY, MILLARD, KNOWLES, FABRIZIO, READSHAW, KAUFFMAN, CONKLIN, HARHART, SWANGER, SIMMONS, V. BROWN, BOBACK, HESS, GOODMAN, TALLMAN, KORTZ, GILLEN, PETRI, R. BROWN, MILNE, HICKERNELL, DENLINGER, MOUL, MATZIE, MURT AND DEASY, JANUARY 22, 2013

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 22, 2013

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
 2 Judicial Procedure) of the Pennsylvania Consolidated
 3 Statutes, further providing for rape and for involuntary
 4 deviate sexual intercourse; providing for loss of property
 5 rights by certain offenders and for conduct relating to sex
 6 offenders; further providing for failure to comply with
 7 sexual offender registration requirements; defining "GPS" and
 8 "GPS tracking device"; further providing for registration and
 9 for registration procedures and applicability; providing for
 10 GPS tracking, for restricted travel, for alert system and for
 11 child protective zones; and further providing for offenses
 12 against infant persons, for information made available on the
 13 Internet and for global positioning system technology.

14 The General Assembly of the Commonwealth of Pennsylvania
 15 hereby enacts as follows:

16 Section 1. Sections 3121(e) and 3123(d) of Title 18 of the
 17 Pennsylvania Consolidated Statutes are amended and the sections
 18 are amended by adding subsections to read:

19 § 3121. Rape.

20 * * *

21 (e) Sentences.--Notwithstanding the provisions of section
 22 1103 (relating to sentence of imprisonment for felony), except

1 as set forth in subsection (f), a person convicted of an offense
2 under:

3 (1) Subsection (c) shall be sentenced to a term of
4 imprisonment which shall be fixed by the court at not less
5 than 25 years nor more than [40] 75 years.

6 (2) Subsection (d) shall be sentenced [up] to a minimum
7 term of 50 years and a maximum term of life imprisonment with
8 no possibility of parole.

9 (f) Multiple victims.--A consecutive term of imprisonment
10 shall be imposed for each victim of an offense under subsection
11 (c) or (d).

12 § 3123. Involuntary deviate sexual intercourse.

13 * * *

14 (d) Sentences.--Notwithstanding the provisions of section
15 1103 (relating to sentence of imprisonment for felony), except
16 as set forth in subsection (d.1), a person convicted of an
17 offense under:

18 (1) Subsection (b) shall be sentenced to a term of
19 imprisonment which shall be fixed by the court at not less
20 than 25 years nor more than [40] 75 years.

21 (2) Subsection (c) shall be sentenced [up] to a minimum
22 term of 50 years and to a maximum term of life imprisonment
23 with no possibility of parole.

24 (d.1) Multiple victims.--A consecutive term of imprisonment
25 shall be imposed for each victim of an offense under subsection
26 (b) or (c).

27 * * *

28 Section 2. Section 4915(b) of Title 18 is amended to read:

29 § 4915. Failure to comply with registration of sexual offenders
30 requirements.

1 * * *

2 (b) Grading for offenders who must register for ten years.--

3 (2) Except as set forth in paragraph (3), an individual
4 subject to registration under 42 Pa.C.S. § 9795.1(a) who
5 commits a violation of subsection (a)(1) [or (2)], (2) or (3)
6 commits a felony of the [third] second degree.

7 (3) An individual subject to registration under 42
8 Pa.C.S. § 9795.1(a) who commits a violation of subsection (a)
9 (1) [or (2)], (2) or (3) and who has previously been
10 convicted of an offense under subsection (a)(1) or (2) or a
11 similar offense commits a felony of the [second] first
12 degree.

13 [(4) An individual subject to registration under 42
14 Pa.C.S. § 9795.1(a) who violates subsection (a)(3) commits a
15 felony of the second degree.]

16 * * *

17 Section 3. Section 9718 heading and (a) of Title 42 are
18 amended to read:

19 § 9718. Sentences for offenses against [infant persons]
20 children.

21 (a) Mandatory sentence.--

22 (1) A person convicted of the following offenses when
23 the victim is under 16 years of age shall be sentenced to a
24 mandatory term of imprisonment as follows:

25 18 Pa.C.S. § 2702(a)(1) and (4) (relating to
26 aggravated assault) - not less than [two years.] ten
27 years for a first offense, 20 years for a second offense
28 or 40 years for a third offense.

29 18 Pa.C.S. § 3121(a)(1), (2), (3), (4) and (5)
30 (relating to rape) - not less than ten years for a first

1 offense, 20 years for a second offense or 40 years for a
2 third offense.

3 18 Pa.C.S. § 3123 (relating to involuntary deviate
4 sexual intercourse) - not less than ten years for a first
5 offense, 20 years for a second offense or 40 years for a
6 third offense.

7 18 Pa.C.S. § 3125(a) (1) through (6) (relating to
8 aggravated indecent assault) - not less than [five years]
9 ten years for a first offense, 20 years for a second
10 offense or 40 years for a third offense.

11 (2) A person convicted of the following offenses when
12 the victim is less than 13 years of age shall be sentenced to
13 a mandatory term of imprisonment as follows:

14 18 Pa.C.S. § 2702(a) (1) - not less than [five years]
15 ten years for a first offense, 20 years for a second
16 offense or 40 years for a third offense.

17 (3) A person convicted of the following offenses shall
18 be sentenced to a mandatory term of imprisonment as follows:

19 18 Pa.C.S. § 3121(c) and (d) - not less than ten
20 years for a first offense, 20 years for a second offense
21 or 40 years for a third offense.

22 18 Pa.C.S. § 3125(a) (7) - not less than [five years]
23 ten years for a first offense, 20 years for a second
24 offense or 40 years for a third offense.

25 18 Pa.C.S. § 3125(b) - not less than ten years[.] for
26 a first offense, 20 years for a second offense or 40
27 years for a third offense.

28 (4) An offender designated as a "sexually violent
29 predator" as defined in section 9792 (relating to
30 definitions) who commits any of the offenses in paragraph (1)

1 or (2) shall be sentenced to a mandatory term of imprisonment
2 as follows: 25 years for a first offense, 50 years for a
3 second offense or 75 years for a third offense.

4 * * *

5 Section 4. Section 9792 of Title 42 is amended by adding
6 definitions to read:

7 § 9792. Definitions.

8 The following words and phrases when used in this subchapter
9 shall have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 * * *

12 "GPS." A global positioning system operated by the United
13 States Department of Defense which provides specially coded
14 satellite signals that can be processed by a receiver to compute
15 location.

16 "GPS tracking device." A device which enables the location
17 of the offender to be monitored through use of GPS and related
18 technology and which is designed so that it:

19 (1) actively and continuously monitors, identifies and
20 reports location data within a 100-mile radius;

21 (2) permits the Pennsylvania State Police and any local
22 police department to receive location data, record it
23 securely and confidentially and retain it indefinitely;

24 (3) can be worn around the wrist or ankle; and

25 (4) cannot be removed without:

26 (i) employing specialized equipment specifically
27 designed for that purpose; and

28 (ii) alerting the Pennsylvania State Police and each
29 local police department that it has been removed.

30 * * *

1 Section 5. Section 9795.2 heading, (a) and (d) of Title 42
2 are amended and the section is amended by adding subsections to
3 read:

4 § 9795.2. Registration procedures [and], applicability,
5 probationary supervision, alert system and child
6 protection zone.

7 (a) Registration.--

8 (1) Offenders and sexually violent predators shall be
9 required to register with the Pennsylvania State Police upon
10 release from incarceration, upon parole from a State or
11 county correctional institution or upon the commencement of a
12 sentence of intermediate punishment or probation. For
13 purposes of registration, offenders and sexually violent
14 predators shall provide the Pennsylvania State Police with
15 all current or intended residences[,]. If the offender or
16 sexually violent predator's place of residence is a motor
17 vehicle, trailer, mobile home or manufactured home, the
18 offender or sexually violent predator shall also provide the
19 vehicle identification number, the license tag number, the
20 registration number and a description, including color
21 scheme, of the motor vehicle, trailer, mobile home or
22 manufactured home. If the offender or sexually violent
23 predator's place of residence is a vessel, live-aboard vessel
24 or houseboat, the offender or sexually violent predator shall
25 also provide the hull identification number, the
26 manufacturer's serial number, the name of the vessel, live-
27 aboard vessel or houseboat, the registration number and a
28 description, including color scheme, of the vessel, live-
29 aboard vessel or houseboat. The registration process also
30 requires offenders and sexually violent predators to disclose

1 all information concerning current or intended employment and
2 all information concerning current or intended enrollment as
3 a student.

4 (2) Offenders and sexually violent predators shall
5 inform the Pennsylvania State Police within 48 hours of:

6 (i) Any change of residence or establishment of an
7 additional residence or residences.

8 (ii) Any change of employer or employment location
9 for a period of time that will exceed 14 days or for an
10 aggregate period of time that will exceed 30 days during
11 any calendar year, or termination of employment.

12 (iii) Any change of institution or location at which
13 the person is enrolled as a student, or termination of
14 enrollment.

15 (iv) Becoming employed or enrolled as a student if
16 the person has not previously provided that information
17 to the Pennsylvania State Police.

18 (2.1) Registration with a new law enforcement agency
19 shall occur no later than 48 hours after establishing
20 residence in another state.

21 (2.2) Persons required to comply with registration
22 provisions pursuant to a conviction for a sexual offense
23 under the laws of the United States or one of its territories
24 or possessions, another state, the District of Columbia, the
25 Commonwealth of Puerto Rico or a foreign nation shall
26 register with the Pennsylvania State Police no later than 48
27 hours after establishing residence in this Commonwealth.

28 (3) The ten-year registration period required in section
29 9795.1(a) (relating to registration) shall be tolled when an
30 offender is recommitted for a parole violation or sentenced

1 to an additional term of imprisonment. In such cases, the
2 Department of Corrections or county correctional facility
3 shall notify the Pennsylvania State Police of the admission
4 of the offender.

5 (4) This paragraph shall apply to all offenders and
6 sexually violent predators:

7 (i) Where the offender or sexually violent predator
8 was granted parole by the Pennsylvania Board of Probation
9 and Parole or the court or is sentenced to probation or
10 intermediate punishment, the board or county office of
11 probation and parole shall collect registration
12 information from the offender or sexually violent
13 predator and forward that registration information to the
14 Pennsylvania State Police. The Department of Corrections
15 or county correctional facility shall not release the
16 offender or sexually violent predator until it receives
17 verification from the Pennsylvania State Police that it
18 has received the registration information. Verification
19 by the Pennsylvania State Police may occur by electronic
20 means, including e-mail or facsimile transmission. Where
21 the offender or sexually violent predator is scheduled to
22 be released from a State correctional facility or county
23 correctional facility because of the expiration of the
24 maximum term of incarceration, the Department of
25 Corrections or county correctional facility shall collect
26 the information from the offender or sexually violent
27 predator no later than ten days prior to the maximum
28 expiration date. The registration information shall be
29 forwarded to the Pennsylvania State Police.

30 (ii) Where the offender or sexually violent predator

1 scheduled to be released from a State correctional
2 facility or county correctional facility due to the
3 maximum expiration date refuses to provide the
4 registration information, the Department of Corrections
5 or county correctional facility shall notify the
6 Pennsylvania State Police or police department with
7 jurisdiction over the facility of the failure to provide
8 registration information and of the expected date, time
9 and location of the release of the offender or sexually
10 violent predator.

11 * * *

12 (c.1) GPS tracking device.--

13 (1) Upon classification as a sexually violent predator,
14 the sexually violent predator shall be fitted with a GPS
15 tracking device and subject to GPS monitoring.

16 (2) An individual subject to registration under section
17 9795.1(a) or (b) and who fails to register with the
18 Pennsylvania State Police in violation of 18 Pa.C.S. § 4915
19 (relating to failure to comply with registration of sexual
20 offenders requirements) shall be fitted with a GPS tracking
21 device and subject to GPS monitoring.

22 (3) Any individual fitted with a GPS tracking device
23 pursuant to this section shall be supervised by the
24 appropriate probation or parole authority or the Pennsylvania
25 State Police.

26 (4) The Pennsylvania State Police shall combine data
27 collected by use of GPS tracking devices and retain the data
28 in a single database which can be searched by date, time and
29 location. Information in the database is confidential and
30 shall be accessed only by authorized law enforcement

1 personnel in connection with official investigation of cases
2 in which the status of an individual fitted with a GPS
3 tracking device may be relevant to the investigation.

4 (d) Penalty.--

5 (1) An individual subject to registration under section
6 9795.1(a) or (b) who fails to register with the Pennsylvania
7 State Police as required by this section may be subject to
8 prosecution under 18 Pa.C.S. § 4915 [(relating to failure to
9 comply with registration of sexual offenders requirements)].

10 (2) An individual who is required to wear a GPS tracking
11 device under subsection (c.1) and who, without a court order,
12 removes, alters, tampers with, interferes with the operation
13 of, damages or destroys a GPS tracking device commits a
14 felony of the third degree.

15 (3) An individual who fails to immediately notify the
16 nearest police department that a sexually violent predator's
17 GPS tracking device has been removed commits a felony of the
18 third degree.

19 * * *

20 (f) Travel restricted.--No person subject to section 9795.1
21 who is on parole, commencing a sentence of intermediate
22 punishment or subject to probationary supervision shall be
23 permitted to travel out of the person's county of residence
24 without specific permission of the court of record.

25 (g) Alert system.--The Pennsylvania State Police shall
26 establish and maintain an alert system which provides prompt
27 notification to the general public and law enforcement
28 authorities and assists in identifying and locating persons
29 subject to GPS tracking who fail to register as required by this
30 chapter or who violate subsection (d)(2) or (h). The

1 Pennsylvania State Police shall establish such protocols and
2 procedures as are necessary for the effective operation of the
3 alert system and shall educate and inform local law enforcement
4 agencies and the public with regard to its availability. Owners,
5 licensees, operators and employees of any communication medium,
6 including telephone, radio, television, newspaper, digital
7 communications network or global communications network shall be
8 immune from civil liability for good faith conduct while
9 participating in accordance with this subsection.

10 (h) Child protective zone.--A person subject to the
11 registration requirements of section 9795.1 who intentionally or
12 knowingly enters into an area within 2,000 feet of a school,
13 playground, beach, park or day-care center commits a felony of
14 the third degree.

15 Section 6. Sections 9798.1 and 9798.3 of Title 42 are
16 amended to read:

17 § 9798.1. Information made available on the Internet.

18 (a) Legislative findings.--It is hereby declared to be the
19 finding of the General Assembly that public safety will be
20 enhanced by making information about sexually violent predators,
21 lifetime registrants and other sex offenders available to the
22 public through the Internet. Knowledge of whether a person is a
23 sexually violent predator, lifetime registrant or other sex
24 offender could be a significant factor in protecting oneself and
25 one's family members, or those in care of a group or community
26 organization, from recidivist acts by sexually violent
27 predators, lifetime registrants and other sex offenders. The
28 technology afforded by the Internet would make this information
29 readily accessible to parents and private entities, enabling
30 them to undertake appropriate remedial precautions to prevent or

1 avoid placing potential victims at risk. Public access to
2 information about sexually violent predators, lifetime
3 registrants and other sex offenders is intended solely as a
4 means of public protection and shall not be construed as
5 punitive.

6 (b) Internet posting of sexually violent predators, lifetime
7 registrants and other offenders.--The Commissioner of the
8 Pennsylvania State Police shall, in the manner and form directed
9 by the Governor:

10 (1) Develop and maintain a system for making the
11 information described in subsection (c) publicly available by
12 electronic means so that the public may, without limitation,
13 obtain access to the information via an Internet website to
14 view an individual record or the records of all sexually
15 violent predators, lifetime registrants and other offenders
16 who are registered with the Pennsylvania State Police.

17 (2) Ensure that the Internet website contains warnings
18 that any person who uses the information contained therein to
19 threaten, intimidate or harass another or who otherwise
20 misuses that information may be criminally prosecuted.

21 (3) Ensure that the Internet website contains an
22 explanation of its limitations, including statements advising
23 that a positive identification of a sexually violent
24 predator, lifetime registrant or other offender whose record
25 has been made available may be confirmed only by
26 fingerprints; that some information contained on the Internet
27 website may be outdated or inaccurate; and that the Internet
28 website is not a comprehensive listing of every person who
29 has ever committed a sex offense in Pennsylvania.

30 (4) Strive to ensure that:

1 (i) the information contained on the Internet
2 website is accurate;

3 (ii) the data therein is revised and updated as
4 appropriate in a timely and efficient manner; and

5 (iii) instructions are included on how to seek
6 correction of information which a person contends is
7 erroneous.

8 (5) Provide on the Internet website general information
9 designed to inform and educate the public about sex offenders
10 and sexually violent predators and the operation of this
11 subchapter as well as pertinent and appropriate information
12 concerning crime prevention and personal safety, with
13 appropriate links to other relevant Internet websites
14 operated by the Commonwealth of Pennsylvania.

15 (6) Identify when the victim is a minor with a special
16 designation. The identity of a victim of a sex offense shall
17 not be published or posted on the Internet website.

18 (7) Provide current or prospective Commonwealth
19 residents the ability to search the database of an Internet
20 website by inputting a home address. This type of Internet
21 search shall enable current or prospective residents to input
22 an address and discover if persons required to register under
23 section 9795.1 (relating to registration) live within five
24 miles of their residence. This function shall allow current
25 or prospective Commonwealth residents the ability to view the
26 location of the residence of those required to register under
27 section 9795.1 in relation to their own by electronic map.

28 (c) Information permitted to be disclosed regarding
29 individuals.--Notwithstanding 18 Pa.C.S. Ch. 91 (relating to
30 criminal history record information), the Internet website shall

1 contain the following information on each individual:

2 (1) For sexually violent predators, the following
3 information shall be posted on the Internet website:

4 (i) name and all known aliases;

5 (ii) year of birth;

6 (iii) the street address, municipality, county and
7 zip code of all residences, including, where applicable,
8 the name of the prison or other place of confinement;

9 (iv) the street address, municipality, county, zip
10 code and name of any institution or location at which the
11 person is enrolled as a student;

12 (v) the municipality, county and zip code of any
13 employment location;

14 (vi) a photograph of the offender, which shall be
15 updated not less than annually;

16 (vii) a physical description of the offender,
17 including sex, height, weight, eye color, hair color and
18 race;

19 (viii) any identifying marks, including scars,
20 birthmarks and tattoos;

21 (ix) the license plate number and description of any
22 vehicle owned or registered to the offender;

23 (x) whether the offender is currently compliant with
24 registration requirements;

25 (xi) whether the victim is a minor;

26 (xii) a description of the offense or offenses which
27 triggered the application of this subchapter; and

28 (xiii) the date of the offense and conviction, if
29 available.

30 (2) For all other lifetime registrants and offenders

1 subject to registration, the information set forth in
2 paragraph (1) shall be posted on the Internet website.

3 (d) Duration of Internet posting.--

4 (1) The information listed in subsection (c) about a
5 sexually violent predator shall be made available on the
6 Internet for the lifetime of the sexually violent predator.

7 (2) The information listed in subsection (c) about an
8 offender who is subject to lifetime registration shall be
9 made available on the Internet for the lifetime of the
10 offender unless the offender is granted relief under section
11 9795.5 (relating to exemption from certain notifications).

12 (3) The information listed in subsection (c) about any
13 other offender subject to registration shall be made
14 available on the Internet for the entire period during which
15 the offender is required to register, including any extension
16 of this period pursuant to 9795.2(a)(3) (relating to
17 registration procedures and applicability).

18 (e) Use of information to commit offense.--Use of
19 information published on the Internet in accordance with this
20 section with intent to facilitate commission of a criminal
21 offense shall constitute an offense of the same grade and degree
22 as the underlying criminal offense.

23 § 9798.3. Global positioning system technology.

24 [The] Except as otherwise provided under section 9795.2(c.1)
25 (relating to registration procedures, applicability,
26 probationary supervision, alert system and child protection
27 zone), the Pennsylvania Board of Probation and Parole and county
28 probation authorities may impose supervision conditions that
29 include offender tracking through global positioning system
30 technology.

1 Section 7. This act shall take effect in 60 days.