COMMITTEE REPORT

April 21, 2010

**S. 973**

Introduced by Senators Campsen, Rose and Elliott

S. Printed 4/21/10--S.

Read the first time January 12, 2010.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 973) to amend Title 23, Chapter 3, Article 7 of the Code of Laws of South Carolina, 1976, to enact the “Electronic Securing and Targeting of Online Predators Act (E-STOP)”, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. This act may be cited as the “Electronic Securing and Targeting of Online Predators Act (E‑STOP)”.

SECTION 2. Article 7, Chapter 3, Title 23 of the 1976 Code is amended by adding:

“Section 23‑3‑555. (A) As used in this section:

(1) ‘Interactive computer service’ means an information service, system, or access software provider that offers users the capability of generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via an Internet access provider, including a service or system that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(2) ‘Internet access provider’ means a business, organization, or other entity providing directly to consumers a computer and communications facility through which a person may obtain access to the Internet. An Internet access provider does not include a business, organization, or other entity that provides only telecommunications services, cable services, or video services, or any system operated or services offered by a library or educational institution.

(3) ‘Internet identifier’ means an electronic mail address, user name, screen name, or similar identifier used for the purpose of Internet forum discussions, Internet chat room discussions, instant messaging, social networking, or similar Internet communication.

(B)(1) A sex offender who is required to register with the sex offender registry pursuant to this article must provide, upon registration and each re‑registration, information regarding the offender’s Internet accounts with Internet access providers and the offender’s Internet identifiers.

(2) A sex offender who is required to register with the sex offender registry pursuant to this article and who changes an Internet account with an Internet access provider or changes an Internet identifier must send written notice of the change to the appropriate sheriff within ten days of changing the Internet account or Internet identifier. A sheriff who receives notification of change of an Internet account or Internet identifier must notify the South Carolina Law Enforcement Division (SLED) within five business days.

(3) A sex offender who fails to provide Internet account or Internet identifier information, or who fails to provide notification of change of an Internet account or an Internet identifier, must be punished as provided for in Section 23‑3‑470. An offender who knowingly and willfully gives false information regarding an Internet account or Internet identifier must be punished as provided for in Section 23‑3‑475.

(C)(1) An interactive computer service may request from SLED, on a form prescribed by SLED, a list of all registered sex offenders or information regarding specific registered sex offenders. In order to receive such information, the interactive computer service must provide identifying information as prescribed by SLED, including, but not limited to, the name, address, telephone number, legal nature, and corporate form of the interactive computer service.

(2) SLED must release information requested by an interactive computer service, including, but not limited to, the full names of the registered sex offenders, any aliases, any other identifying characteristics, each offender’s date of birth, the home address on file, the offense for which the offender was required to register pursuant to Section 23‑3‑430, the date, city, and state of conviction, and any Internet identifiers. A photocopy of a current photograph must also be provided.

(3) SLED may charge a reasonable fee to cover the cost of copying and distributing information as provided for in this section. These funds must be used for the sole purpose of offsetting the cost of providing such information.

(4) SLED is not liable and must not be named as a party in an action to recover damages or seek relief for errors or omissions related to the distribution of information pursuant to this section; however, if the error or omission was done intentionally, with malice, or in bad faith, SLED is not immune from liability.

(5) The interactive computer service may use the information obtained from SLED to prescreen persons wanting to register for its service, identify sex offenders wanting to register for its service or using its service, prevent sex offenders from registering for its service, block sex offenders from using its service, disable sex offenders from using its service, remove sex offenders from its service, or to advise law enforcement or other governmental entities of potential violations of law or threats to public safety. An interactive computer service must not publish or in any way disclose or re‑disclose any information provided to the interactive computer service by SLED. A person who commits a criminal offense using information disclosed to the person pursuant to this section must be punished as provided for in Section 23‑3‑520.

(6) An interactive computer service is not liable and must not be named as a party in an action to recover damages or seek relief for:

(a) making or not making a request for information as permitted by this section;

(b) prescreening or not prescreening a person wanting to register for its service;

(c) identifying, blocking, or otherwise preventing a person from registering for its service based on a good faith belief that such person’s Internet account information or Internet identifier appears in the information obtained from SLED, the National Sex Offender Registry, or any analogous state registry;

(d) not identifying, blocking, or otherwise preventing a person from registering for its service whose Internet account information or Internet identifier appears in the information obtained from SLED, the National Sex Offender Registry, or any analogous state registry;

(e) identifying, blocking, disabling, removing, or otherwise affecting a user based on a good faith belief that such user’s Internet account information or internet identifier appears in the information obtained from SLED, the National Sex Offender Registry, or any analogous state registry;

(f) not identifying, blocking, disabling, removing, or otherwise affecting a user, whose Internet account information or internet identifier appears in the information obtained from SLED, the National Sex Offender Registry, or any analogous state registry; or

(g) using or not using the information obtained from SLED to advise law enforcement or other governmental entities of potential violations of law or threats to public safety.

(D) If a person commits a sexual offense in which the victim is under the age of eighteen at the time of the offense or the person reasonably believes is under the age of eighteen at the time of the offense, and the offender is required to register with the sex offender registry for the offense, then, upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere, the judge must order as a condition of probation or parole that the person is prohibited from using the Internet to access social networking websites, communicate with other persons or groups for the purpose of promoting sexual relations with persons under the age of eighteen, and communicate with a person under the age of eighteen when the person is over the age of eighteen. The judge may permit a person to use the Internet to communicate with a person under the age of eighteen when such a person is the parent or guardian of a child under the age of eighteen, or the grandparent of a grandchild under the age of eighteen, and the person is not otherwise prohibited from communicating with the child or grandchild.”

SECTION 3. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

LARRY A. MARTIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

See Below

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

State Law Enforcement Division

The division indicates that enactment of this bill will have an impact on the general fund of approximately $25,000 in onetime costs for establishing a secure electronic means of storing, updating and distributing files to the verified requestors. There will be an annualized cost of $10,000 thereafter for system programming, maintenance, sustainment and other related costs associated with the system.

Department of Corrections

The department indicates that enactment of this bill will have a minimal impact on the General Fund of the State, which the agency can absorb at their current level of funding.

The Judicial Department, Department of Probation, Parole and Pardon Services and the Attorney General’s Office indicate that this bill will have no impact on the General Fund of the State or on federal and/or other funds.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

A BILL TO AMEND TITLE 23, CHAPTER 3, ARTICLE 7 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “ELECTRONIC SECURING AND TARGETING OF ONLINE PREDATORS ACT (E‑STOP)”, BY ADDING SECTION 23‑3‑555, SO AS TO PROVIDE THAT A SEX OFFENDER WHO IS REQUIRED TO REGISTER WITH THE SEX OFFENDER REGISTRY MUST PROVIDE INFORMATION REGARDING THE OFFENDER’S INTERNET ACCOUNTS WITH INTERNET ACCESS PROVIDERS AND THE OFFENDER’S INTERNET IDENTIFIERS, AND TO PROVIDE THAT AN AUTHORIZED INTERNET ENTITY MAY REQUEST CERTAIN SEX OFFENDER REGISTRY INFORMATION FROM SLED, AND TO PROVIDE THAT SLED MUST PROVIDE CERTAIN SEX OFFENDER REGISTRY INFORMATION TO AN AUTHORIZED INTERNET ENTITY, AND TO PROVIDE THAT CERTAIN SEX OFFENDERS MUST, AS A CONDITION OF PROBATION OR PAROLE, BE PROHIBITED FROM USING THE INTERNET TO ACCESS SOCIAL NETWORKING WEBSITES, COMMUNICATE WITH OTHER PERSONS OR GROUPS FOR THE PURPOSE OF PROMOTING SEXUAL RELATIONS WITH PERSONS UNDER THE AGE OF EIGHTEEN, AND COMMUNICATE WITH PERSONS UNDER THE AGE OF EIGHTEEN.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Electronic Securing and Targeting of Online Predators Act (E‑STOP)”.

SECTION 2. Title 23, Chapter 3, Article 7 of the 1976 Code is amended by adding:

“Section 23‑3‑555. (A) As used in this section:

(1) ‘Authorized Internet entity’ means a business, organization, or other entity providing or offering a service over the Internet, which permits persons under eighteen years of age to access, meet, congregate, or communicate with other users for the purpose of social networking. An authorized Internet entity does not include a business, organization, or other entity that provides only general electronic mail services.

(2) ‘Internet access provider’ means a business, organization, or other entity providing or offering a computer and communications facility through which a person may obtain access to the Internet. An Internet access provider does not include a business, organization, or other entity that provides only telecommunications services.

(3) ‘Internet identifier’ means an electronic mail address or designation used for the purpose of Internet chatting, instant messaging, social networking, or other similar Internet communication.

(B)(1) A sex offender who is required to register with the sex offender registry pursuant to this article must provide, upon registration and each re‑registration, information regarding the offender’s Internet accounts with Internet access providers and the offender’s Internet identifiers.

(2) A sex offender who is required to register with the sex offender registry pursuant to this article and who changes an Internet account with an Internet access provider or changes an Internet identifier must send written notice of the change to the appropriate sheriff within ten days of changing the Internet account or Internet identifier. A sheriff who receives notification of change of an Internet account or Internet identifier must notify the South Carolina Law Enforcement Division (SLED) within five business days.

(3) A sex offender who fails to provide Internet account or Internet identifier information, or who fails to provide notification of change of an Internet account or an Internet identifier, must be punished as provided for in Section 23‑3‑470. An offender who knowingly and willfully gives false information regarding an Internet account or Internet identifier must be punished as provided for in Section 23‑3‑475.

(C)(1) An authorized Internet entity may request from SLED, on a form prescribed by SLED, a list of all registered sex offenders or information regarding specific registered sex offenders. The authorized Internet entity must provide information as prescribed by SLED, including, but not limited to, the name, address, telephone number, legal nature, and corporate status of the authorized Internet entity.

(2) SLED must release information requested by an authorized Internet entity, including, but not limited to, the full names of the registered sex offenders, any aliases, any other identifying characteristics, each offender’s date of birth, the home address on file, the offense for which the offender was required to register pursuant to Section 23‑3‑430, the date, city, and state of conviction, and any Internet identifiers. A photocopy of a current photograph must also be provided.

(3) SLED may charge a reasonable fee to cover the cost of copying and distributing sex offender registry information as provided for in this section. These funds must be used for the sole purpose of offsetting the cost of providing sex offender registry information.

(4) SLED is not liable and must not be named as a party in an action to recover damages or seek relief for errors or omissions related to the distribution of sex offender registry information to an authorized Internet entity pursuant to this section; however, if the error or omission was done intentionally, with malice, or in bad faith, SLED is not immune from liability.

(5) The authorized Internet entity may use the sex offender registry information obtained from SLED to prescreen or remove sex offenders from its services or to advise law enforcement or other governmental entities of potential violations of law or threats to public safety. An authorized Internet entity must not publish or in any way disclose or re‑disclose any sex offender registry information provided to the entity by SLED pursuant to this section. A person who commits a criminal offense using information from the sex offender registry disclosed to the person pursuant to this section must be punished as provided for in Section 23‑3‑520.

(D) If a person commits a sexual offense in which the victim is under the age of eighteen or the person uses the Internet to facilitate the commission of the offense, and the offender is required to register with the sex offender registry for the offense pursuant to this article, then upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of the offender for the offense, the judge must order as a condition of probation or parole that the offender is prohibited from using the Internet to access social networking websites, communicate with other persons or groups for the purpose of promoting sexual relations with persons under the age of eighteen, and communicate with a person under the age of eighteen when the offender is over the age of eighteen. The judge may permit an offender to use the Internet to communicate with a person under the age of eighteen when such an offender is the parent of a child under the age of eighteen and the offender is not otherwise prohibited from communicating with the child.”

SECTION 3. This act takes effect upon approval by the Governor.

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