**A** **BILL**

TO AMEND SECTIONS 23‑3‑440, 23‑3‑450, 23‑3‑460, 23‑3‑470, 23‑3‑490, 23‑3‑530, AND 23‑3‑555, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO THE STATE’S SEX OFFENDER REGISTRY, SO AS TO DEVOLVE THE RESPONSIBILITY FOR REGISTERING SEX OFFENDERS FROM A COUNTY SHERIFF TO THE DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES.

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

SECTION 1. Section 23‑3‑440 of the 1976 Code is amended to read:

“Section 23‑3‑440. (1) Before an offender’s release from the Department of Corrections after completion of the term of imprisonment, from the Department of Juvenile Justice after completion of the term of confinement, or being placed on parole, SLED, based upon information provided by the Department of Corrections, the Department of Juvenile Justice, the Juvenile Parole Board, or the Department of Probation, Parole and Pardon Services, shall notify the sheriff of the county where the offender intends to reside that the offender is being released and has provided an address within the jurisdiction of the sheriff for that county. The Department of Corrections, the Department of Juvenile Justice, the Juvenile Parole Board, and the Department of Probation, Parole and Pardon Services shall provide verbal and written notification to the offender that he must register with the ~~sheriff~~ Department of Probation, Parole and Pardon Services office of the county in which he intends to reside within one business day of his release. Further, the Department of Corrections, the Department of Juvenile Justice, and the Juvenile Parole Board shall obtain descriptive information of the offender, including a current photograph prior to release. The offender’s photograph must be provided to SLED before he is released.

(2) Based upon information provided by the Department of Probation, Parole and Pardon Services, SLED shall notify the sheriff of the county where an offender is residing when the offender is sentenced to probation or is a new resident of the State who must be supervised by the department. The Department of Probation, Parole and Pardon Services also shall provide verbal and written notification to the offender that he must register with the ~~sheriff~~ Department of Probation, Parole and Pardon Services office of the county in which he intends to reside. An offender who is sentenced to probation must register within one business day of sentencing. Further, the Department of Probation, Parole and Pardon Services shall obtain descriptive information of the offender, including a current photograph that is to be updated annually prior to expiration of the probation sentence.

(3) Based upon information provided by the Department of Juvenile Justice, or the Juvenile Parole Board SLED shall notify the sheriff of the county where an offender is residing when the offender is released from a Department of Juvenile Justice facility or the Juvenile Parole Board, or when the Department of Juvenile Justice or the Juvenile Parole Board is required to supervise the actions of the juvenile. The Department of Juvenile Justice or the Juvenile Parole Board must provide verbal and written notification to the juvenile and his parent, legal guardian, or custodian that the juvenile must register with the ~~sheriff~~ Department of Probation, Parole and Pardon Services office of the county in which the juvenile resides. The juvenile must register within one business day of his release. The parents or legal guardian of a person under seventeen years of age who is required to register under this chapter must ensure that the person has registered.

(4) The Department of Corrections, the Department of Probation, Parole and Pardon Services, and the Department of Juvenile Justice shall provide to SLED the initial registry information regarding the offender prior to his release from imprisonment or relief of supervision. This information shall be collected in the event the offender fails to register with his county ~~sheriff~~ Department of Probation, Parole and Pardon Services office.”

SECTION 2. Section 23‑3‑450 of the 1976 Code is amended to read:

“Section 23‑3‑450. The offender shall register with the ~~sheriff~~ Department of Probation, Parole and Pardon Services office of each county in which he resides, owns real property, is employed, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school, including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school. To register, the offender must provide information as prescribed by SLED. The ~~sheriff~~ Department of Probation, Parole and Pardon Services office in the county in which the offender resides, owns real property, is employed, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school shall forward all required registration information to SLED within three business days. A copy of this information must be kept by the ~~sheriff’s department~~ Department of Probation, Parole and Pardon Services. The county ~~sheriff~~ Department of Probation, Parole and Pardon Services office shall ensure that all information required by SLED is secured and shall establish specific times of the day during which an offender may register. An offender shall not be considered to have registered until all information prescribed by SLED has been provided to the ~~sheriff~~ Department of Probation, Parole and Pardon Services. The ~~sheriff~~ Department of Probation, Parole and Pardon Services office in the county in which the offender resides, owns real property, is employed, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school shall notify all local law enforcement agencies, including college or university law enforcement agencies, within three business days of an offender who resides, owns real property, is employed, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school within the local law enforcement agency’s jurisdiction.”

SECTION 3. Section 23‑3‑460 of the 1976 Code is amended to read:

“Section 23‑3‑460. (A) A person required to register pursuant to this article is required to register biannually for life. For purposes of this article, ‘biannually’ means each year during the month of his birthday and again during the sixth month following his birth month. The person required to register shall register and must reregister at the ~~sheriff’s department~~ Department of Probation, Parole and Pardon Services office in each county where he resides, owns real property, is employed, or attends any public or private school, including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school. A person determined by a court to be a sexually violent predator pursuant to state law is required to verify registration and be photographed every ninety days by the ~~sheriff’s department~~ Department of Probation, Parole and Pardon Services office in the county in which he resides unless the person is committed to the custody of the State, and verification will be held in abeyance until his release.

(B) A person classified as a Tier III offender by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109‑248), the Sex Offender Registration and Notification Act (SORNA), is required to register every ninety days.

(C) If a person required to register pursuant to this article changes his address within the same county, that person must send written notice of the change of address to the ~~sheriff~~ Department of Probation, Parole and Pardon Services office within three business days of establishing the new residence. If a person required to register under this article owns or acquires real property or is employed within a county in this State, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school, including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school, he must register with the ~~sheriff~~ Department of Probation, Parole and Pardon Services office in each county where the real property, employment, or the public or private school is located within three business days of acquiring the real property or attending the public or private school.

(D) If a person required to register pursuant to this article changes his permanent or temporary address into another county in South Carolina, the person must register with the county ~~sheriff~~ Department of Probation, Parole and Pardon Services office in the new county within three business days of establishing the new residence. The person also must provide written notice within three business days of the change of address in the previous county to the ~~sheriff~~ Department of Probation, Parole and Pardon Services office with whom the person last registered. For purposes of this subsection, ‘temporary address’ or ‘residence’ means the location of the individual’s home or other place where the person habitually lives or resides, or where the person lives or resides for a period of ten or more consecutive days. For purposes of this subsection, ‘habitually lives or resides’ means locations at which the person lives with some regularity.

(E) A person required to register pursuant to this article and who is employed by, attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and any vocational, technical, or occupational school, must provide written notice within three business days of each change in attendance, enrollment, volunteer status, intern status, employment, or vocation status at any public or private school in this State. For purposes of this subsection, ‘employed and carries on a vocation’ means employment that is full time or part time for a period of time exceeding fourteen days or for an aggregate period of time exceeding thirty days during a calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit; and ‘student’ means a person who is enrolled on a full‑time or part‑time basis, in a public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and a vocational, technical, or occupational school.

(F) If a person required to register pursuant to this article moves outside of South Carolina, the person must provide written notice within three business days of the change of address to a new state to the county ~~sheriff~~ Department of Probation, Parole and Pardon Services office with whom the person last registered.

(G) A person required to register pursuant to this article who moves to South Carolina from another state establishes residence, acquires real property, is employed in, or attends, is enrolled, volunteers, interns, is employed by, or carries on a vocation at a public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and a vocational, technical, or occupational school in South Carolina, and is not under the jurisdiction of the Department of Corrections, the Department of Probation, Parole and Pardon Services, the Department of Juvenile Justice, or the Juvenile Parole Board at the time of moving to South Carolina must register within three business days of establishing residence, acquiring real property, gaining employment, attending or enrolling, volunteering or interning, being employed by, or carrying on a vocation at a public or private school in this State.

(H) The ~~sheriff~~ Department of Probation, Parole and Pardon Services office of the county in which the person resides must forward all changes to any information provided by a person required to register pursuant to this article to SLED within three business days.

(I) A ~~sheriff~~ Department of Probation, Parole and Pardon Services office who receives registration information, notification of change of permanent or temporary address, or notification of change in employment, or attendance, enrollment, employment, volunteer status, intern status, or vocation status at a public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and a vocational, technical, or occupational school, must notify all local law enforcement agencies, including college or university law enforcement agencies, within three business days of an offender whose permanent or temporary address, real property, or public or private school is within the local law enforcement agency’s jurisdiction.

(J) The South Carolina Department of Motor Vehicles, shall inform, in writing, any new resident who applies for a driver’s license, chauffeur’s license, vehicle tag, or state identification card of the obligation of sex offenders to register. The department also shall inform, in writing, a person renewing a driver’s license, chauffeur’s license, vehicle tag, or state identification card of the requirement for sex offenders to register.”

SECTION 4. Section 23‑3‑470(A) of the 1976 Code is amended to read:

“(A) It is the duty of the offender to contact the ~~sheriff~~ Department of Probation, Parole and Pardon Services in order to register, provide notification of change of permanent or temporary address, or notification of change of employment, or in attendance, enrollment, employment, volunteer status, intern status, or vocation status at any public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and any vocational, technical, or occupational school. If an offender fails to register, provide notification of change of address, or notification of permanent or temporary change in employment, or attendance, enrollment, employment, volunteer status, intern status, or vocation status at any public or private school, as required by this article, he must be punished as provided in subsection (B).”

SECTION 5. Section 23‑3‑490(A) and (C) of the 1976 Code is amended to read:

“(A) Information collected for the offender registry is open to public inspection, upon request to the ~~county sheriff~~ Department of Probation, Parole and Pardon Services. ~~A sheriff~~ The department must release information regarding persons required to register under this article to a member of the public if the request is made in writing, on a form prescribed by SLED. The ~~sheriff~~ department must provide the person making the request with the full names of the registered sex offenders, any aliases, any other identifying physical 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, and the date, city, and state of conviction. A photocopy of a current photograph must also be provided. The ~~sheriff~~ department must provide to a newspaper with general circulation within the county a listing of the registry for publication.

~~A sheriff who~~ If the department provides the offender registry for publication or a newspaper which publishes the registry, or any portion of it, then it is not liable and must not be named as a party in an action to recover damages or seek relief for errors or omissions in the publication of the offender registry~~;~~. However, if the error or omission was done intentionally, with malice, or in bad faith the ~~sheriff~~ department or newspaper is not immune from liability.

(C) Nothing in subsection (A) prohibits ~~a sheriff~~ the department from disseminating information contained in subsection (A) regarding persons who are required to register under this article if the ~~sheriff~~ department or another law enforcement ~~officer~~ agency has reason to believe the release of this information will deter criminal activity or enhance public safety. The ~~sheriff~~ department shall notify the principals of public and private schools, and the administrator of child day care centers and family day care centers of any offender whose address is within one‑half mile of the school or business.”

SECTION 6. Section 23‑3‑530(1) of the 1976 Code is amended to read:

“(1) procedures for the verification of addresses by the ~~sheriff’s~~ ~~department~~ Department of Probation, Parole and Pardon Services office in the county where the person resides; and”

SECTION 7. Section 23‑3‑555(B)(2) of the 1976 Code is amended to read:

“(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~~ Department of Probation, Parole and Pardon Services within three business days of changing the Internet account or Internet identifier. ~~A sheriff who~~ Once the Department of Probation, Parole and Pardon Services office receives notification of change of an Internet account or Internet identifier, it must notify the South Carolina Law Enforcement Division (SLED) within three business days.”

SECTION 8. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 9. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this , and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 10. This act takes effect upon approval by the Governor.

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