

VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

CHAPTER 670

An Act to amend and reenact §§ 19.2-298.1 and 19.2-390.1 of the Code of Virginia, relating to Sex Offender Registry; penalty.

[S 855]

Approved March 21, 1997

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-298.1 and 19.2-390.1 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-298.1. Registration required of persons convicted of certain offenses.

A. Every person convicted on or after July 1, 1994, for a felony in violation of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, including juveniles tried and convicted in the circuit courts pursuant to § 16.1-269, whether sentenced as adults or juveniles, shall be required as a part of the sentence imposed upon conviction to register with the Department of State Police. *The court shall remand the person to the custody of the local law-enforcement agency of the county or city for the purpose of obtaining the person's fingerprints and photographs of a type and kind specified by the Department of State Police for inclusion in the Sex Offender Registry established pursuant to § 19.2-390.1. The court shall order the person to provide to the local law-enforcement agency all information required by the State Police for inclusion in the Registry. It shall be the duty of the local law-enforcement agency to forward to the State Police all the necessary registration information within three days of the date of sentencing.* The order shall also impose a duty to keep the registration current in accordance with this section.

B. Every person serving a sentence of confinement or under community supervision on July 1, 1994, for a felony covered by this section shall be required to register with the Department of State Police and shall be given notice of the duty to register pursuant to § 53.1-116.1 or § 53.1-160.1 as appropriate.

C. The person shall register within thirty days of his release from confinement in a state or local correctional facility or, if a sentence of confinement is not imposed, within thirty days of suspension of the sentence. In addition, all persons convicted of felony violations under the laws of the United States or any other state substantially similar to §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366 shall be required to register with the Department of State Police within thirty days of establishing a residence within the Commonwealth. Any person required to register shall also be required to re-register within thirty days following any change of residence.

D. The registration shall be maintained in the Sex Offender Registry established pursuant to § 19.2-390.1 and shall include the person's name; all aliases which he has used or under which he may have been known; the date and locality of the conviction for which registration is required; his date of birth, *fingerprints*, social security number, *and* current address; *a photograph of the person*; and a description of the offense or offenses for which he was convicted ~~and~~. *The registration shall, if applicable, provide the same information on convictions prior to July 1, 1994, for any of the specified offenses or under a substantially similar law of the United States or any other state.*

E. The knowing and intentional failure to register as provided in this section or knowingly providing materially false information to the Registry shall be punishable as a Class 1 misdemeanor.

§ 19.2-390.1. Sex Offender Registry; maintenance; access.

A. The Department of State Police shall keep and maintain a Sex Offender Registry, separate and apart from all other records maintained by it. The purpose of the Sex Offender Registry shall be to assist the efforts of law-enforcement agencies to protect their communities from repeat sex offenders and to protect children from becoming the victims of repeat sex offenders by helping to prevent such individuals from being hired or allowed to volunteer to work directly with children. The Sex Offender Registry shall include conviction data received from the courts pursuant to § 19.2-390 for felony violations of §§ 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or § 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, including the disposition records for juveniles tried and convicted in the circuit courts pursuant to § 16.1-269.1, and registrations received from persons required to do so by § 19.2-298.1. Promptly upon receipt of a registration or reregistration pursuant to § 19.2-298.1 the State Police shall notify the chief law-enforcement officer of the county, city or town of the locality listed as the person's address on the

registration or reregistration. The State Police shall promulgate regulations governing the giving of notice to the chief local law-enforcement officer, the operation and maintenance of the Sex Offender Registry and the expungement of records on persons who are deceased, whose convictions have been reversed or who have been pardoned, and those for whom an order of expungement has been entered pursuant to § 19.2-298.2 or § 19.2-392.1.

B. Except as provided in ~~subsection~~ *subsections A and C*, Sex Offender Registry information shall be disseminated, upon request, only to authorized officers or employees of (i) a criminal justice agency, as defined by § 9-169; (ii) a public school division; (iii) a private, denominational or parochial school; or (iv) a child-welfare agency or a registered or unregistered small family day-care home as defined in § 63.1-195. The Department of State Police shall make Sex Offender Registry information available, upon request, to criminal justice agencies including local law-enforcement agencies through the Virginia Criminal Information Network (VCIN). Sex Offender Registry information provided under this section shall be used only for the purposes of the administration of criminal justice or for the screening of current or prospective employees or volunteers. Further dissemination of such information or use of the information for purposes not authorized by this section is prohibited and a willful violation of this section shall be punished as a Class 1 misdemeanor. The VCIN and any form or document used by the Department of State Police to disseminate information from the Sex Offender Registry shall provide notice that any further or unauthorized dissemination of the information is a crime punishable as a Class 1 misdemeanor. The Department of State Police may by regulation establish a fee not to exceed fifteen dollars for responding to requests for information from the Sex Offender Registry *pursuant to this subsection or subsection C*. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the Registry.

C. *Notwithstanding subsection B, Registry information regarding a specific person shall be disseminated, upon receipt of an official request form, to any person who is seeking child-minding or day-care services. The official request form shall include the name and address of the person requesting the information and the name, address, social security number and signed consent of the person about whom information is sought and such other information as the State Police may require to ensure reliable identification. Registry information provided under this section shall be used only for the purposes of screening current or prospective employees or volunteers seeking to provide child-minding or day-care services. Further dissemination of such information or use of the information for purposes not authorized by this section is prohibited and a willful violation of this section shall be punished as a Class 1 misdemeanor.*

For purposes of this section, the term "day-care services" means provision of supplementary care and protection during a part of the day for the minor child of another, and "child-minding services" means provision of temporary custodial care or supervisory services for the minor child of another.

2. That the Department of State Police shall develop, prior to July 1, 1997, policies and procedures consistent with and necessary to implementing the requirements of this act, including but not limited to (i) the creation of a reliable identification form to be mailed or sent by facsimile transmission to the Department from a person seeking child-minding or day-care services and (ii) ensuring that such forms shall be provided to local law-enforcement agencies throughout the Commonwealth.