

South Carolina General Assembly
117th Session, 2007-2008

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R410, H3094

STATUS INFORMATION

General Bill

Sponsors: Reps. Brady, Haskins, Cotty, Mahaffey, Funderburk, Viers, Erickson, Hutson, Clemmons, Mulvaney, Harvin and Bedingfield

Document Path: I:\council\bill\swb\5046cm07.doc

Introduced in the House on January 9, 2007

Introduced in the Senate on March 13, 2008

Last Amended on June 3, 2008

Passed by the General Assembly on June 5, 2008

Governor's Action: June 16, 2008, Signed

Summary: Sex offenders

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/13/2006	House	Prefiled
12/13/2006	House	Referred to Committee on Judiciary
1/9/2007	House	Introduced and read first time HJ-56
1/9/2007	House	Referred to Committee on Judiciary HJ-56
1/11/2007	House	Member(s) request name added as sponsor: Cotty
2/22/2007	House	Member(s) request name added as sponsor: Mahaffey
2/6/2008	House	Member(s) request name added as sponsor: Funderburk
2/12/2008	House	Member(s) request name added as sponsor: Viers, Erickson
2/28/2008	House	Member(s) request name added as sponsor: Hutson
3/5/2008	House	Member(s) request name added as sponsor: Clemmons
3/5/2008	House	Committee report: Favorable with amendment Judiciary HJ-92
3/6/2008	House	Member(s) request name added as sponsor: Mulvaney
3/6/2008		Scrivener's error corrected
3/11/2008	House	Member(s) request name added as sponsor: Harvin, Bedingfield
3/11/2008	House	Amended HJ-86
3/11/2008	House	Read second time HJ-89
3/12/2008		Scrivener's error corrected
3/13/2008	House	Read third time and sent to Senate HJ-23
3/13/2008	Senate	Introduced and read first time SJ-2
3/13/2008	Senate	Referred to Committee on Judiciary SJ-2
3/17/2008	Senate	Referred to Subcommittee: Hawkins (ch), Sheheen, Lourie, Vaughn
5/7/2008	Senate	Committee report: Majority favorable with amend.,

		minority unfavorable Judiciary SJ-8
5/8/2008		Scrivener's error corrected
5/14/2008	Senate	Minority Report Removed SJ-51
5/29/2008	Senate	Committee Amendment Amended and Adopted SJ-65
5/29/2008	Senate	Amended SJ-65
6/3/2008	Senate	Amended SJ-35
6/3/2008	Senate	Read second time SJ-35
6/4/2008		Scrivener's error corrected
6/4/2008	Senate	Read third time and returned to House with amendments SJ-158
6/5/2008	House	Concurred in Senate amendment and enrolled HJ-89
6/10/2008		Ratified R 410
6/16/2008		Signed By Governor

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VERSIONS OF THIS BILL

12/13/2006
 3/5/2008
3/6/2008
 3/11/2008
 3/12/2008
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6/3/2008
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(R410, H3094)

AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 23-3-535 SO AS TO PROVIDE DEFINITIONS FOR CERTAIN TERMS, TO PROVIDE THAT IT IS UNLAWFUL FOR A SEX OFFENDER WHO HAS BEEN CONVICTED OF CERTAIN CRIMES TO RESIDE IN CERTAIN AREAS, TO PROVIDE IF A LOCAL LAW ENFORCEMENT AGENCY DETERMINES THAT A SEX OFFENDER HAS VIOLATED THIS PROVISION, THE AGENCY MUST PROVIDE THE SEX OFFENDER WITH A LIST OF AREAS IN WHICH HE IS NOT PERMITTED TO RESIDE AND THAT HE MUST VACATE HIS RESIDENCE, TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS PROVISION, TO PROVIDE THAT A LOCAL GOVERNMENT MAY NOT ENACT AN ORDINANCE WHOSE PENALTIES EXCEED OR ARE LESS LENIENT THAN THE PENALTIES CONTAINED IN THIS SECTION, TO REQUIRE EACH SCHOOL DISTRICT TO PROVIDE CERTAIN INFORMATION REGARDING SEX OFFENDERS OR THE SEX OFFENDER REGISTRY TO THE PARENTS OR GUARDIANS OF ITS STUDENTS OR ON THE SCHOOL DISTRICT'S WEB SITE, TO PROVIDE THAT LOCAL LAW

ENFORCEMENT AGENCIES MUST DETERMINE WHETHER EACH SCHOOL DISTRICT COMPLIES WITH THIS PROVISION, AND TO PROVIDE A PENALTY FOR SCHOOL DISTRICTS THAT FAIL TO COMPLY WITH THIS PROVISION; AND AMEND SECTION 23-3-470, RELATING TO A SEX OFFENDER'S FAILURE TO REGISTER AS A SEX OFFENDER, SO AS TO REVISE THE PENALTY FOR A FIRST OFFENSE VIOLATION OF THIS PROVISION.

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

Limitations on places of residence for sex offenders

SECTION 1. Article 7, Chapter 3, Title 23 of the 1976 Code is amended by adding:

"Section 23-3-535. (A) As contained in this section:

- (1) 'Children's recreational facility' means a facility owned and operated by a city, county, or special purpose district used for the purpose of recreational activity for children under the age of eighteen.
- (2) 'Daycare center' means an arrangement where, at any one time, there are three or more preschool-age children, or nine or more school-age children receiving child care.
- (3) 'School' does not include a home school or an institution of higher education.
- (4) 'Within one thousand feet' means a measurement made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property on which the sex offender resides to the nearest property line of the premises of a school, daycare center, children's recreational facility, park, or public playground, whichever is closer.

(B) It is unlawful for a sex offender who has been convicted of any of the following offenses to reside within one thousand feet of a school, daycare center, children's recreational facility, park, or public playground:

- (1) criminal sexual conduct with a minor, first degree;
- (2) criminal sexual conduct with a minor, second degree;
- (3) assault with intent to commit criminal sexual conduct with a minor; or
- (4) kidnapping a person under eighteen years of age.

(C) This section does not apply to a sex offender who:

- (1) resided within one thousand feet of a school, daycare center, children's recreational facility, park, or public playground before the effective date of this act;
- (2) resided within one thousand feet of a school, daycare center, children's recreational facility, park, or public playground on property the sex offender owned before the sex offender was charged with any of the offenses enumerated in subsection (B);
- (3) resides within one thousand feet of a school, daycare center, children's recreational facility, park,

or public playground as a result of the establishment of a new school, daycare center, children's recreational facility, park, or public playground;

(4) resides in a jail, prison, detention facility, group home for persons under the age of twenty-one licensed by the Department of Social Services, residential treatment facility for persons under the age of twenty-one licensed by the Department of Health and Environmental Control, or other holding facility, including a mental health facility;

(5) resides in a homeless shelter for no more than one year, a group home for persons under the age of twenty-one licensed by the Department of Social Services, or a residential treatment facility for persons under the age of twenty-one licensed by the Department of Health and Environmental Control, and the site was purchased by the organization prior to the effective date of this act;

(6) resides in a community residential care facility, as defined in Section 44-7-130(6); or

(7) resides in a nursing home, as defined in Section 44-7-130(13).

(D) If upon registration of a sex offender, or at any other time, a local law enforcement agency determines that a sex offender is in violation of this section, the local law enforcement agency must, within thirty days, notify the sex offender of the violation, provide the sex offender with a list of areas in which the sex offender is not permitted to reside, and notify the sex offender that the sex offender has thirty days to vacate the residence. If the sex offender fails to vacate the residence within thirty days, the sex offender must be punished as follows:

(1) for a first offense, the sex offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than thirty days, or fined not more than five hundred dollars, or both;

(2) for a second offense, the sex offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years, or fined not more than one thousand dollars, or both;

(3) for a third or subsequent offense, the sex offender is guilty of a felony and, upon conviction, must be imprisoned for not more than five years, or fined not more than five thousand dollars, or both.

(E) A local government may not enact an ordinance that contains penalties that exceed or are less lenient than the penalties contained in this section.

(F)(1) At the beginning of each school year, each school district must provide:

(a) the names and addresses of every sex offender who resides within one thousand feet of a school bus stop within the school district to the parents or guardians of a student who boards or disembarks a school bus at a stop covered by this subsection; or

(b) the hyperlink to the sex offender registry web site on the school district's web site for the purpose of gathering this information.

(2) Local law enforcement agencies must check the school districts' web sites to determine if each school district has complied with this subsection. If a hyperlink does not appear on a school district web site, the local law enforcement agency must contact the school district to confirm that the school district has provided the parents or guardians with the names and addresses of every sex offender who resides within one thousand feet of a school bus stop within the school district. If the local law enforcement

agency determines that this information has not been provided, the local law enforcement agency must inform the school district that it is in violation of this subsection. If the school district does not comply within thirty days after notice of its violation, the school district is subject to equitable injunctive relief and, if the plaintiff prevails, the district shall pay the plaintiff's attorney's fees and costs."

Failure to register as a sex offender

SECTION 2. Section 23-3-470(B)(1) of the 1976 Code is amended to read:

"(B)(1) A person convicted for a first offense is guilty of a misdemeanor and may be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both."

Severability clause

SECTION 3. If any section, subsection, item, subitem, 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 act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 4. This act takes effect upon approval by the Governor and ninety days after the State Law Enforcement Division has certified that sex offender mapping software has been implemented.

Ratified the 10th day of June, 2008.

President of the Senate

Speaker of the House of Representatives

Approved the _____ day of _____ 2008.

Governor

Signed by Governor Bill 6-08

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