

BY: Judicial Proceedings Committee

AMENDMENTS TO HOUSE BILL NO. 343

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 6, strike “an”; in the same line, strike “offender” and substitute “certain persons”; in the same line, after the semicolon insert “requiring a court to determine, under certain circumstances, if a certain person is a sexually violent predator; authorizing a sexually violent predator to request a reevaluation after a certain time period;”; in line 7, after the semicolon, insert “requiring certain persons to register with local law enforcement agencies;”; in the same line, strike the second “the”; in line 8, strike “offender” and substitute “a certain person”; in the same line, strike the second “offender” and substitute “person”; in line 11, after “of” insert “certain”; in line 14, strike “an”; in the same line, strike “offender” and substitute “a registrant”; strike beginning with “requiring” in line 15 down through the first semicolon in line 22 and substitute “providing for certain disclosures and notices concerning registration statements;”; in line 23, strike “an”; in the same line, strike “offender” and substitute “a registrant”; in line 26, strike “registered”; and in line 27, strike “offender” and substitute “registrant”.

On page 2, in line 2, after the second semicolon insert “providing for the construction of this Act; requiring a certain study;”; and in line 3, after “of” insert “certain”.

AMENDMENT NO. 2

On page 2, in line 25, strike the opening bracket.

On page 3, in line 5, strike the closing bracket; after line 5, insert:

“(3) “CONVICTED” INCLUDES:

(I) A PROBATION BEFORE JUDGMENT AFTER A FINDING OF GUILT FOR AN OFFENSE IF THE COURT, AS A CONDITION OF PROBATION, ORDERS COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION; AND

(Over)

(II) A FINDING OF NOT CRIMINALLY RESPONSIBLE FOR AN OFFENSE.”; in lines 6, 8, 11, and 17, strike “(2)”, “(3)”, “(4)”, and “(5)”, respectively, and substitute “(4)”, “(5)”, “(6)”, and “(7)”, respectively; in line 17, after “WHO” insert “IS ORDERED BY THE COURT TO REGISTER UNDER THIS SECTION AND WHO”; strike in their entirety lines 25 through 28, inclusive; strike beginning with the comma in line 30 down through “SECTION” in line 31; in lines 29, 32, 34, and 35, strike “(VI)”, “(VII)”, “(VIII)”, and “(IX)”, respectively, and substitute “(IV)”, “(V)”, “(VI)”, and “(VII)”, respectively.

On page 4, in lines 1, 4, and 12, strike “(X)”, “(XI)”, and “(XIV)”, respectively, and substitute “(VIII)”, “(IX)”, and “(X)”, respectively; strike in their entirety lines 6 through 11, inclusive; in line 5, strike “(X)” and substitute “(VIII)”; in the same line, after the semicolon insert “OR”; in line 14, strike “(XI)” and substitute “(IX)”; after line 14 insert:

“(8) “REGISTRANT” MEANS A PERSON WHO IS:

(I) A CHILD SEXUAL OFFENDER;

(II) AN OFFENDER;

(III) A SEXUALLY VIOLENT OFFENDER; OR

(IV) A SEXUALLY VIOLENT PREDATOR.

(9) “SEXUALLY VIOLENT OFFENSE” MEANS:

(I) A VIOLATION OF ANY OF THE PROVISIONS OF § 462, § 463, § 464, § 464A, § 464B, OR § 464F OF THIS ARTICLE; OR

(II) ASSAULT WITH INTENT TO COMMIT RAPE IN THE FIRST OR SECOND DEGREE OR A SEXUAL OFFENSE IN THE FIRST OR SECOND DEGREE AS PREVIOUSLY PROSCRIBED UNDER FORMER § 12 OF THIS ARTICLE.

(10) “SEXUALLY VIOLENT OFFENDER” MEANS A PERSON WHO:

(I) HAS BEEN CONVICTED OF A SEXUALLY VIOLENT OFFENSE;

(II) HAS BEEN CONVICTED OF AN ATTEMPT TO COMMIT A SEXUALLY VIOLENT OFFENSE; OR

(III) HAS BEEN CONVICTED IN ANOTHER STATE OF AN OFFENSE THAT, IF COMMITTED IN THIS STATE, WOULD CONSTITUTE A SEXUALLY VIOLENT OFFENSE.

(11) "SEXUALLY VIOLENT PREDATOR" MEANS A PERSON WHO:

(I) IS CONVICTED OF A SECOND OR SUBSEQUENT SEXUALLY VIOLENT OFFENSE; AND

(II) HAS BEEN DETERMINED IN ACCORDANCE WITH THIS SECTION TO BE AT RISK OF COMMITTING A SUBSEQUENT SEXUALLY VIOLENT OFFENSE."; in line 15, strike "(6)" and substitute "(12)"; in line 22, after "(iii)" strike "If" and substitute "EXCEPT AS PROVIDED IN SUBPARAGRAPH (VIII) OF THIS PARAGRAPH, IF"; and in line 31, strike "OR".

AMENDMENT NO. 3

On page 4, in line 35, after "SERVICES" strike the period and substitute "; OR

(VIII) IF THE REGISTRANT IS UNDER THE SUPERVISION OF THE DIVISION OF PAROLE AND PROBATION, THE DIRECTOR OF PAROLE AND PROBATION.

(B) (1) SUBJECT TO PARAGRAPHS (3) AND (4) OF THIS SUBSECTION, IF A PERSON IS CONVICTED OF A SECOND OR SUBSEQUENT SEXUALLY VIOLENT OFFENSE, THE STATE'S ATTORNEY MAY REQUEST THE COURT TO DETERMINE BEFORE SENTENCING WHETHER THE PERSON IS A SEXUALLY VIOLENT PREDATOR.

(2) IF THE STATE'S ATTORNEY MAKES A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL DETERMINE BEFORE SENTENCING WHETHER THE PERSON IS A SEXUALLY VIOLENT PREDATOR.

(3) IN MAKING A DETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL CONSIDER:

(I) ANY EVIDENCE THAT THE COURT CONSIDERS APPROPRIATE TO THE DETERMINATION OF WHETHER THE INDIVIDUAL IS A SEXUALLY VIOLENT PREDATOR, INCLUDING THE PRESENTENCING INVESTIGATION AND SEXUALLY VIOLENT OFFENDER'S INMATE RECORD;

(II) ANY EVIDENCE INTRODUCED BY THE PERSON CONVICTED;
AND

(III) AT THE REQUEST OF THE STATE'S ATTORNEY, ANY EVIDENCE PRESENTED BY A VICTIM OF THE SEXUALLY VIOLENT OFFENSE.

(4) THE STATE'S ATTORNEY MAY NOT REQUEST A COURT TO DETERMINE IF A PERSON IS A SEXUALLY VIOLENT PREDATOR UNDER THIS SUBSECTION UNLESS THE STATE'S ATTORNEY SERVES WRITTEN NOTICE OF INTENT TO MAKE THE REQUEST ON THE DEFENDANT OR THE DEFENDANT'S COUNSEL AT LEAST 30 DAYS BEFORE TRIAL."

On page 10, in line 26, after "(1)" insert "(I)"; in line 29, strike "(2)" and substitute "(II)"; after line 31, insert:

"(2) (I) EVERY 90 DAYS, THE LOCAL LAW ENFORCEMENT AGENCY SHALL MAIL A VERIFICATION FORM, WHICH MAY NOT BE FORWARDED, TO THE LAST REPORTED ADDRESS OF A SEXUALLY VIOLENT PREDATOR.

(II) WITHIN 10 DAYS AFTER RECEIVING THE VERIFICATION FORM, THE SEXUALLY VIOLENT PREDATOR SHALL SIGN THE FORM AND MAIL IT TO THE LOCAL LAW ENFORCEMENT AGENCY."

AMENDMENT NO. 4

On page 2, strike in their entirety lines 31 through 34, inclusive; in line 35, strike "(iv)" and substitute "(III)"; strike beginning with the comma in line 35 down through the first comma in line

36; strike beginning with “and” in line 36 down through “section” in line 38 and substitute “FOR AN OFFENSE INVOLVING AN INDIVIDUAL UNDER THE AGE OF 15 YEARS AND HAS BEEN ORDERED BY THE COURT TO REGISTER UNDER THIS SECTION”; and in line 38, after the semicolon insert “OR”.

On page 3, strike beginning with “(v)” in line 1 down through “(vi)” in line 3 and substitute “(IV)”.

On page 4, in lines 16, 19, 22, 25, and 27, strike “offender” and substitute “REGISTRANT”; in line 30, strike “offender’s” and substitute “REGISTRANT’S”; and in line 32, strike “OFFENDER” and substitute “REGISTRANT”.

On page 5, in lines 14, 15, 17, 22, 23, 27, 31, and 35, strike “offender” and substitute “REGISTRANT”; in line 23, strike “AN” and substitute “A”; and in lines 27 and 35, strike the second “offender” and substitute “REGISTRANT”.

On page 6, in lines 6, 7, 20, and 35, strike “AN” and substitute “A”; in lines 6, 8, 9, 20, 22, and 30, strike “offender” and substitute “REGISTRANT”; in line 8, strike the second “offender” and substitute “REGISTRANT”; and in lines 23, 31, and 35, strike “OFFENDER” and substitute “REGISTRANT”.

On page 7, in lines 1, 2, 3, 7, 8, 9, 11, and 14, strike “OFFENDER” and substitute “REGISTRANT”; in line 15, strike “AN” and substitute “A”; in lines 16, 19, 21, 23, 26, and 29, strike “offender” and substitute “REGISTRANT”; in lines 17 and 27, strike “offender’s” and substitute “REGISTRANT’S”; in line 7, strike the second “OFFENDER” and substitute “REGISTRANT”; and in line 36 strike “offenders” and substitute “REGISTRANTS”.

On page 8, in line 1, strike “offenders” and substitute “REGISTRANTS”; in line 4, strike “AN” and substitute “A”; and in line 5, strike “OFFENDER” and substitute “REGISTRANT”.

On page 9, in lines 1 and 23, strike “OFFENDER” and substitute “REGISTRANT”; and in line 23, strike “OFFENDER’S” and substitute “REGISTRANT’S”.

(Over)

On page 10, in lines 9, 32, 34, and 40, strike “offender” and substitute “REGISTRANT”; in lines 9, 19, 32, 33, and 40, strike “AN” and substitute “A”; and in line 9, strike “offender” and substitute “REGISTRANT”.

On page 11, in line 7, strike “an” and substitute “a”; and in the same line strike “offender” and substitute “registrant”.

AMENDMENT NO. 5

On page 11, after line 16, insert:

“SECTION 6. AND BE IT FURTHER ENACTED, Except as provided in this Act, this Act may not be construed to impose a duty on or otherwise require a person to disclose that an individual is registered under this Act.

SECTION 7. AND BE IT FURTHER ENACTED, That the Department of Fiscal Services shall report to the Senate Judicial Proceedings Committee and the House Judiciary Committee, on or before July 1, 1999, on:

(1) The number of requests for registration statements received by the Department of Public Safety and Correctional Services and local law enforcement agencies; and

(2) The fiscal impact on the Department of Public Safety and Correctional Services and local law enforcement agencies of complying with the requests for registration statements.”;

and in line 17, strike “6.” and substitute “8.”.

AMENDMENT NO. 6

On page 10, after line 39, insert:

“(K) (1) A SEXUALLY VIOLENT PREDATOR WHO HAS BEEN REGISTERED UNDER THIS SECTION FOR AT LEAST 10 YEARS MAY FILE A PETITION REQUESTING A COURT TO RULE THAT THE PERSON IS NO LONGER A SEXUALLY VIOLENT PREDATOR.

(2) A PETITION UNDER THIS SUBSECTION SHALL BE FILED IN THE CIRCUIT COURT FOR THE COUNTY WHERE THE SEXUALLY VIOLENT PREDATOR WAS

CONVICTED OR HAS A RESIDENCE.

(3) ON THE FILING OF A PETITION UNDER THIS SUBSECTION, THE COURT SHALL CONSIDER ANY EVIDENCE THAT THE COURT CONSIDERS APPROPRIATE.

(4) WITHIN 30 DAYS AFTER THE FILING OF A PETITION UNDER THIS SUBSECTION, THE COURT SHALL:

(I) DISMISS THE PETITION; OR

(II) ISSUE AN ORDER STATING THAT THE REGISTRANT IS NO LONGER CONSIDERED A SEXUALLY VIOLENT PREDATOR.

(5) IF A PETITION IS DISMISSED UNDER PARAGRAPH (4)(I) OF THIS SUBSECTION, THE SEXUALLY VIOLENT PREDATOR MAY FILE A SUBSEQUENT PETITION SUBJECT TO THE SAME PROCEDURES AFTER EACH 5-YEAR PERIOD AFTER THE DISMISSAL.”.

AMENDMENT NO. 7

On page 6, in line 13, strike “(c)” and substitute “(D)”.

On page 7, in line 15, strike “(d)” and substitute “(E)”.

On page 8, in line 23, strike “(e)” and substitute “(F)”.

On page 10, in lines 9, 19, 26, 32, and 40, strike “(F)”, “(G)”, “(H)”, “(I)”, and “(J)”, respectively, and substitute “(G)”, “(H)(1)”, “(I)”, “(J)”, and “(L)”, respectively.

On page 11, in line 3, strike “(K)” and substitute “(M)”.

On page 7, after line 14, insert:

“(4) (I) WITHIN 7 DAYS AFTER RELEASE, A CHILD SEXUAL OFFENDER

(Over)

SHALL ALSO REGISTER WITH THE LOCAL LAW ENFORCEMENT AGENCY OF THE COUNTY WHERE THE OFFENDER WILL RESIDE.

(II) A LOCAL LAW ENFORCEMENT AGENCY MAY REQUIRE A CHILD SEXUAL OFFENDER TO PROVIDE ADDITIONAL INFORMATION IN THE REGISTRATION BESIDES THE INFORMATION REQUIRED UNDER SUBSECTION (E) OF THIS SECTION.”.

On page 8, after line 2, insert:

“(4) WITHIN 5 DAYS AFTER RECEIVING A REGISTRATION STATEMENT, THE DEPARTMENT SHALL SEND A COPY OF THE REGISTRATION STATEMENT TO THE LOCAL LAW ENFORCEMENT AGENCY OF THE COUNTY WHERE THE CHILD SEXUAL OFFENDER WILL RESIDE, AND IF APPLICABLE, A MUNICIPAL POLICE FORCE.”;

in line 3, strike “(4)” and substitute “(5)”; in line 8, strike “(5)” and substitute “(6)”; and in line 19, strike “(6)” and substitute “(7)”.

AMENDMENT NO. 8

On pages 4 through 5, strike in their entirety the lines beginning with line 36 on page 4 down through line 11 on page 5, inclusive.

On page 5, strike beginning with “(3)” in line 12 down through “sent” in line 13, and substitute:

“(C) (1) AS SOON AS POSSIBLE AND IN NO EVENT LATER THAN 5 WORKING DAYS AFTER THE DEPARTMENT RECEIVES A REGISTRATION STATEMENT UNDER SUBSECTION (E)(3) OF THIS SECTION, THE DEPARTMENT SHALL SEND A COPY OF THE REGISTRATION STATEMENT”.

AMENDMENT NO. 9

On page 8, in line 24, strike the opening bracket; in line 25, strike “[THE DEPARTMENT”]; strike beginning with the colon in line 26 down through the closing bracket in line 30; in line 31, strike the opening bracket; in the same line, strike the closing bracket and substitute “SEXUAL”; in

line 33, strike the opening bracket; in the same line, strike “] DEPARTMENT”; in line 35, strike the first “the” and substitute “THOSE”; and in line 36, after “superintendent” insert “THAT THE SUPERINTENDENT CONSIDERS NECESSARY TO PROTECT THE STUDENTS OF A SCHOOL FROM A CHILD SEXUAL OFFENDER”.

On page 9, in line 19, after “(7)” strike “(I)”; and strike in their entirety lines 24 through 27, inclusive.

AMENDMENT NO. 10

On page 5, in line 20, strike “(4)” and substitute “(2)”; in line 21, strike “(3)” and substitute “(1)”; in line 23, strike “(5)” and substitute “(3)”; in line 29, strike “(3)” and substitute “(1)”; and in line 31, strike “(6)” and substitute “(4)”.

On page 6, in line 1, strike “(3)” and substitute “(1)”; in line 3, strike “(7)” and substitute “(5)”; in line 4, strike “(3)”, “(5)”, and “(6)”, respectively, and substitute “(1)”, “(3)”, and “(4)”, respectively; in line 5, strike “(3)” and substitute “(1)”; in line 6, strike “(8)” and substitute “(6)”; and in line 23, after “ON” insert “OR BEFORE”.

On page 8, in line 24, after the first “a” insert “CHILD SEXUAL OFFENDER”.

AMENDMENT NO. 11

On page 10, in line 19, strike “offender” and substitute “CHILD SEXUAL OFFENDER, OFFENDER, AND SEXUALLY VIOLENT OFFENDER”; in lines 21, 22, and 24, strike “(1)”, “(2)”, and “(3)”, respectively, and substitute “(I)”, “(II)”, and “(III)”, respectively; and after line 25, insert:

“(2) A SEXUALLY VIOLENT PREDATOR SHALL REGISTER WITH THE DEPARTMENT EVERY 90 DAYS IN ACCORDANCE WITH SUBSECTION (I)(2) OF THIS SECTION UNTIL THE PERSON IS NO LONGER CONSIDERED A SEXUALLY VIOLENT PREDATOR.”;

in line 28, strike “OFFENDER” and substitute “CHILD SEXUAL OFFENDER, OFFENDER, AND SEXUALLY VIOLENT OFFENDER”; and in line 30, strike “OFFENDER” and substitute “CHILD”

(Over)

SEXUAL OFFENDER, OFFENDER, OR SEXUALLY VIOLENT OFFENDER”.