

ARTICLE 7  
Sex Offender Registry

**SECTION 23-3-400.** Purpose.

The intent of this article is to promote the state's fundamental right to provide for the public health, welfare, and safety of its citizens. Notwithstanding this legitimate state purpose, these provisions are not intended to violate the guaranteed constitutional rights of those who have violated our nation's laws.

The sex offender registry will provide law enforcement with the tools needed in investigating criminal offenses. Statistics show that sex offenders often pose a high risk of re-offending. Additionally, law enforcement's efforts to protect communities, conduct investigations, and apprehend offenders who commit sex offenses are impaired by the lack of information about these convicted offenders who live within the law enforcement agency's jurisdiction.

HISTORY: 1994 Act No. 497, Part II, Section 112A; 1996 Act No. 444, Section 16; 1998 Act No. 384, Section 1.

**SECTION 23-3-410.** Registry; contents and purpose; cross-reference alias names.

(A) The registry is under the direction of the Chief of the State Law Enforcement Division (SLED) and shall contain information the chief considers necessary to assist law enforcement in the location of persons convicted of certain offenses. SLED shall develop and operate the registry to: collect, analyze, and maintain information; make information available to every enforcement agency in this State and in other states; and establish a security system to ensure that only authorized persons may gain access to information gathered under this article.

(B) SLED shall include and cross-reference alias names in the registry.

HISTORY: 1994 Act No. 497, Part II, Section 112A; 1996 Act No. 444, Section 16; 1998 Act No. 384, Section 1; 2005 Act No. 141, Section 1.

**SECTION 23-3-420.** Promulgation of regulations.

The State Law Enforcement Division shall promulgate regulations to implement the provisions of this article.

HISTORY: 1994 Act No. 497, Part II, Section 112A; 1996 Act No. 444, Section 16; 1998 Act No. 384, Section 1.

**SECTION 23-3-430.** Sex offender registry; convictions and not guilty by reason of insanity findings requiring registration.

(A) Any person, regardless of age, residing in the State of South Carolina who in this State has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere to an offense described below, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere, or found not guilty by reason of insanity in any comparable court in the United States, or a foreign country, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere, or found not guilty by reason of insanity in the United States federal courts of a similar offense, or who has been convicted of, adjudicated delinquent for, pled guilty or nolo contendere, or found not guilty by reason of insanity to an offense for which the person was required to register in the state where the conviction or plea occurred, shall be required to register pursuant to the provisions of this article. A person who has been found not guilty by reason of insanity shall not be required to register pursuant to the provisions of this article unless and until the person is declared to no longer be insane or is ordered to register by the trial judge. A person who has been convicted, adjudicated delinquent, pled guilty or nolo contendere, or found not guilty by reason of insanity in any court in a foreign country may raise as a defense to a prosecution for failure to register that the

offense in the foreign country was not equivalent to any offense in this State for which he would be required to register and may raise as a defense that the conviction, adjudication, plea, or finding in the foreign country was based on a proceeding or trial in which the person was not afforded the due process of law as guaranteed by the Constitution of the United States and this State.

(B) For purposes of this article, a person who remains in this State for a total of thirty days during a twelve-month period is a resident of this State.

(C) For purposes of this article, a person who has been convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for any of the following offenses shall be referred to as an offender:

(1) criminal sexual conduct in the first degree (Section 16-3-652);

(2) criminal sexual conduct in the second degree (Section 16-3-653);

(3) criminal sexual conduct in the third degree (Section 16-3-654);

(4) criminal sexual conduct with minors, first degree (Section 16-3-655(A));

(5) criminal sexual conduct with minors, second degree (Section 16-3-655(B)). If evidence is presented at the criminal proceeding and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16-3-655(B)(2) provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;

(6) criminal sexual conduct with minors, third degree (Section 16-3-655(C));

(7) engaging a child for sexual performance (Section 16-3-810);

(8) producing, directing, or promoting sexual performance by a child (Section 16-3-820);

(9) criminal sexual conduct: assaults with intent to commit (Section 16-3-656);

(10) incest (Section 16-15-20);

(11) buggery (Section 16-15-120);

(12) peeping, voyeurism, or aggravated voyeurism (Section 16-17-470);

(13) violations of Article 3, Chapter 15, Title 16 involving a minor;

(14) a person, regardless of age, who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in this State, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in a comparable court in the United States, or who has been convicted, adjudicated delinquent, pled guilty or nolo contendere in the United States federal courts of indecent exposure or of a similar offense in other jurisdictions is required to register pursuant to the provisions of this article if the court makes a specific finding on the record that based on the circumstances of the case the convicted person should register as a sex offender;

(15) kidnapping (Section 16-3-910) of a person eighteen years of age or older except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(16) kidnapping (Section 16-3-910) of a person under eighteen years of age except when the offense is committed by a parent;

(17) trafficking in persons (Section 16-3-2020) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense;

(18) criminal sexual conduct when the victim is a spouse (Section 16-3-658);

(19) sexual battery of a spouse (Section 16-3-615);

(20) sexual intercourse with a patient or trainee (Section 44-23-1150);

(21) criminal solicitation of a minor if the purpose or intent of the solicitation or attempted solicitation was to:

(a) persuade, induce, entice, or coerce the person solicited to engage or participate in sexual activity as defined in Section 16-15-375(5);

(b) perform a sexual activity in the presence of the person solicited (Section 16-15-342); or

(22) administering, distributing, dispensing, delivering, or aiding, abetting, attempting, or conspiring to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an

individual with the intent to commit a crime listed in Section 44-53-370(f), except petit larceny or grand larceny.

(23) any other offense specified 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).

(D) Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person of an offense not listed in this article, the presiding judge may order as a condition of sentencing that the person be included in the sex offender registry if good cause is shown by the solicitor.

(E) SLED shall remove a person's name and any other information concerning that person from the sex offender registry immediately upon notification by the Attorney General that the person's adjudication, conviction, guilty plea, or plea of nolo contendere for an offense listed in subsection (C) was reversed, overturned, or vacated on appeal and a final judgment has been rendered.

(F) If an offender receives a pardon for the offense for which he was required to register, the offender must reregister as provided by Section 23-3-460 and may not be removed from the registry except:

(1) as provided by the provisions of subsection (E); or

(2) if the pardon is based on a finding of not guilty specifically stated in the pardon.

(G) If an offender files a petition for a writ of habeas corpus or a motion for a new trial pursuant to Rule 29(b), South Carolina Rules of Criminal Procedure, based on newly discovered evidence, the offender must reregister as provided by Section 23-3-460 and may not be removed from the registry except:

(1) as provided by the provisions of subsection (E); or

(2)(a) if the circuit court grants the offender's petition or motion and orders a new trial; and

(b) a verdict of acquittal is returned at the new trial or entered with the state's consent.

**HISTORY:** 1994 Act No. 497, Part II, Section 112A; 1996 Act No. 444, Section 16; 1998 Act No. 384, Section 1; 1999 Act No. 74, Section 1; 2000 Act No. 363, Section 2; 2004 Act No. 208, Section 14; 2005 Act No. 141, Section 2; 2008 Act No. 335, Section 16, eff June 16, 2008; 2010 Act No. 212, Section 3, eff June 7, 2010; 2010 Act No. 289, Section 8, eff June 11, 2010; 2012 Act No. 255, Section 5, eff June 18, 2012; 2015 Act No. 7 (S.196), Section 6.D, eff April 2, 2015.

Code Commissioner's Note

At the direction of the Code Commissioner, the two 2010 amendments to subsection (C) were read together. Effect of Amendment

The 2008 amendment, in subsections (F) and (G), in the introductory paragraph added "must reregister as provided by Section 23-3-460".

The first 2010 amendment, 2010 Act No. 212, Section 3, added subsection (C)(23) relating to the federal Sex Offender Registration and Notification Act; and made nonsubstantive changes.

The second 2010 amendment, 2010 Act No. 289, Section 8, inserted paragraph (C)(17) and redesignated paragraphs (C)(17) to (C)(21) as paragraphs (C)(18) to (C)(22).

The 2012 amendment in subsection (C), in item (4), substituted "16-3-655(A)" for "16-3-655(1)"; in item (5), added "(16-3-655(B))" and substituted "16-3-655(B)(2)" for "16-3-655(3)"; added item (6) relating to criminal sexual conduct with minors in the third degree; deleted former item (11) relating to committing or attempting lewd act upon child under 16; renumbered former items (7) through (10) as (8) through (11); and made other nonsubstantive changes.

2015 Act No. 7, Section 6.D, in (C)(17), substituted "16-3-2020" for "16-3-930".

**SECTION 23-3-440.** Notification of sheriff of offender's release, probation or change of residence; juvenile offenders.

(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 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 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 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.

HISTORY: 1994 Act No. 497, Part II, Section 112A; 1996 Act No. 444, Section 16; 1998 Act No. 384, Section 1; 2005 Act No. 141, Section 3.

**SECTION 23-3-450.** Offender registration with sheriff; sheriff's notification of local law enforcement agencies.

The offender shall register with the sheriff 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 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. The county sheriff 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. The sheriff 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.

HISTORY: 1994 Act No. 497, Part II, Section 112A; 1996 Act No. 444, Section 16; 1998 Act No. 384, Section 1; 2005 Act No. 141, Section 4; 2010 Act No. 212, Section 4, eff June 7, 2010.

Effect of Amendment

The 2010 amendment rewrote this section.

**SECTION 23-3-460.** Bi-annual registration for life; notification of change of address; notification of local law enforcement agencies.

(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 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 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 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 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 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 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 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 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 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.

HISTORY: 1994 Act No. 497, Part II, Section 112A; 1996 Act No. 444, Section 16; 1998 Act No. 384, Section 1; 2001 Act No. 107, Section 4; 2002 Act No. 310, Section 3; 2005 Act No. 141, Section 5; 2006 Act No. 342, Section 4, eff July 1, 2006; 2010 Act No. 212, Section 5, eff June 7, 2010.

Validity

For the validity of this section, see *Powell v. Keel*, 860 S.E.2d 344 (S.C. 2021).

Editor's Note

2006 Act No. 342, Section 1, provides as follows:

"This act may be cited as the 'Sex Offender Accountability and Protection of Minors Act of 2006'."

Effect of Amendment

The 2006 amendment, in subsection (A), in the first sentence substituted "bi-annually" for "annually" and "during the month of his birthday and again during the sixth month following his birth month" for "within thirty days after the anniversary date of the offender's last registration" and in the second sentence substituted "person required to register shall register and must reregister" for "offender shall register"; and made nonsubstantive and conforming amendments throughout.

The 2010 amendment rewrote this section.

### **SECTION 23-3-465.** Residence in campus student housing.

Any person required to register under this article is prohibited from living in campus student housing at a public institution of higher learning supported in whole or in part by the State.

HISTORY: 2005 Act No. 94, Section 2.

### **SECTION 23-3-470.** Failure to register or provide required notifications; penalties.

(A) It is the duty of the offender to contact the sheriff 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).

(B)(1) A person convicted for a first offense is guilty of a misdemeanor and may be fined not more than one thousand dollars, or imprisoned for not more than three hundred sixty-six days, or both. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, or any other provision of law, a first offense may be tried in magistrates court.

(2) A person convicted for a second offense is guilty of a misdemeanor and must be imprisoned for a mandatory period of three hundred sixty-six days, no part of which shall be suspended nor probation granted.

(3) A person convicted for a third or subsequent offense is guilty of a felony and must be imprisoned for a mandatory period of five years, three years of which shall not be suspended nor probation granted.

**HISTORY:** 1994 Act No. 497, Part II, Section 112A; 1996 Act No. 444, Section 16; 1998 Act No. 384, Section 1; 2005 Act No. 141, Section 6; 2008 Act No. 333, Section 2, eff June 16, 2009; 2010 Act No. 212, Section 6, eff June 7, 2010.

Editor's Note

2008 Act No. 333, Section 4, provides as follows:

"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."

2009 Act No. 77, Section 2 provides as follows:

"SECTION 2 of Act 333 of 2008 shall take effect upon approval of this act by the Governor. All other sections of Act 333 of 2008 shall take effect as provided in SECTION 4 of Act 333 of 2008."

Effect of Amendment

The 2008 amendment, in paragraph (B)(1), substituted "may be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both" for "must be imprisoned for a mandatory period of ninety days, no part of which shall be suspended nor probation granted".

The 2010 amendment rewrote this section.

**SECTION 23-3-475.** Registering with false information; penalties.

(A) Anyone who knowingly and wilfully gives false information when registering as an offender pursuant to this article must be punished as provided in subsection (B).

(B)(1) A person convicted for a first offense is guilty of a misdemeanor and may be fined not more than one thousand dollars, or imprisoned for not more than three hundred sixty-six days, or both. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, or any other provision of law, a first offense may be tried in magistrates court.

(2) A person convicted for a second offense is guilty of a misdemeanor and must be imprisoned for a mandatory period of three hundred sixty-six days, no part of which shall be suspended nor probation granted.

(3) A person convicted for a third or subsequent offense is guilty of a felony and must be imprisoned for a mandatory period of five years, three years of which shall not be suspended nor probation granted.

**HISTORY:** 1996 Act No. 444, Section 16; 1998 Act No. 384, Section 1; 2010 Act No. 212, Section 7, eff June 7, 2010.

Effect of Amendment

The 2010 amendment rewrote subsection (B)(1); and, in subsection (B)(2), substituted "three hundred sixty-six days," for "one year" following "a mandatory period of".

**SECTION 23-3-480.** Notice of duty to register; what constitutes; registration following charge of failure to register not a defense.

(A) An arrest on charges of failure to register, service of an information or complaint for failure to register, or arraignment on charges of failure to register constitutes actual notice of the duty to register. A person charged with the crime of failure to register who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice through arrest, service, or arraignment. Failure to register after notice as required by this article constitutes grounds for filing another charge of failure to register. Registering following arrest, service, or arraignment on charges does not relieve the offender from the criminal penalty for failure to register before the filing of the original charge.

(B) Section 23-3-470 shall not apply to a person convicted of an offense provided in Section 23-3-430 prior to July 1, 1994, and who was released from custody prior to July 1, 1994, unless the person has been served notice of the duty to register by the sheriff of the county in which the person resides. This person shall register within ten days of the notification of the duty to register.

HISTORY: 1994 Act No. 497, Part II, Section 112A; 1996 Act No. 444, Section 16; 1998 Act No. 384, Section 1.

**SECTION 23-3-490.** Public inspection of offender registry.

(A) Information collected for the offender registry is open to public inspection, upon request to the county sheriff. A sheriff 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 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 must provide to a newspaper with general circulation within the county a listing of the registry for publication.

A sheriff who provides the offender registry for publication or a newspaper which publishes the registry, or any portion of 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 or newspaper is not immune from liability.

(B) A person may request on a form prescribed by SLED a list of registered sex offenders residing in a city, county, or zip code zone or a list of all registered sex offenders within the State from SLED. A person may request information regarding a specific person who is required to register under this article from SLED if the person requesting the information provides the name or address of the person about whom the information is sought. SLED shall provide the person making the request with the full names of the requested 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. The State Law Enforcement Division may charge a reasonable fee to cover the cost of copying and distributing sex offender registry lists as provided for in this section. These funds must be used for the sole purpose of offsetting the cost of providing sex offender registry lists.

(C) Nothing in subsection (A) prohibits a sheriff from disseminating information contained in subsection (A) regarding persons who are required to register under this article if the sheriff or another law enforcement officer has reason to believe the release of this information will deter criminal activity or enhance public safety. The sheriff 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.

(D) For purposes of this article, information on a person adjudicated delinquent in family court for an offense listed in Section 23-3-430 must be made available to the public in accordance with the following provisions:

(1) If a person has been adjudicated delinquent for committing any of the following offenses, information must be made available to the public pursuant to subsections (A) and (B):

- (a) criminal sexual conduct in the first degree (Section 16-3-652);
- (b) criminal sexual conduct in the second degree (Section 16-3-653);
- (c) criminal sexual conduct with minors, first degree (Section 16-3-655(A));
- (d) criminal sexual conduct with minors, second degree (Section 16-3-655(B));
- (e) engaging a child for sexual performance (Section 16-3-810);
- (f) producing, directing, or promoting sexual performance by a child (Section 16-3-820);
- (g) kidnapping (Section 16-3-910); or
- (h) trafficking in persons (Section 16-3-2020) except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense.

(2) Information shall only be made available, upon request, to victims of or witnesses to the offense, public or private schools, child day care centers, family day care centers, businesses or organizations that primarily serve children, women, or vulnerable adults, as defined in Section 43-35-10(11), for persons adjudicated delinquent for committing any of the following offenses:

- (a) criminal sexual conduct in the third degree (Section 16-3-654);
- (b) criminal sexual conduct: assaults with intent to commit (Section 16-3-656);
- (c) criminal sexual conduct with a minor: assaults with intent to commit (Section 16-3-656);
- (d) criminal sexual conduct with minors, third degree (Section 16-3-655(C));
- (e) peeping (Section 16-17-470);
- (f) incest (Section 16-15-20);
- (g) buggery (Section 16-15-120);
- (h) violations of Article 3, Chapter 15 of Title 16 involving a minor, which violations are felonies;

or

- (i) indecent exposure.

(3) A person who is under twelve years of age at the time of his adjudication, conviction, guilty plea, or plea of nolo contendere for a first offense of any offense listed in Section 23-3-430(C) shall be required to register pursuant to the provisions of this chapter; however, the person's name or any other information collected for the offender registry shall not be made available to the public.

(4) A person who is under twelve years of age at the time of his adjudication, conviction, guilty plea, or plea of nolo contendere for any offense listed in Section 23-3-430(C) and who has a prior adjudication, conviction, guilty plea, or plea of nolo contendere for any offense listed in Section 23-3-430(C) shall be required to register pursuant to the provisions of this chapter, and all registry information concerning that person shall be made available to the public pursuant to items (1) and (2).

(5) Nothing in this section shall prohibit the dissemination of all registry information to law enforcement.

(E) For purposes of this section, use of computerized or electronic transmission of data or other electronic or similar means is permitted.

**HISTORY:** 1994 Act No. 497, Part II, Section 112A; 1996 Act No. 444, Section 16; 1998 Act No. 384, Section 1; 1999 Act No. 110, Section 2; 2010 Act No. 289, Section 9, eff June 11, 2010; 2012 Act No. 255, Section 6, eff June 18, 2012; 2015 Act No. 7 (S.196), Section 6.E, eff April 2, 2015.

**Effect of Amendment**

The 2010 amendment added subparagraph (D)(1)(h), relating to trafficking in persons.

The 2012 amendment substituted "16-3-655(A)" for "16-3-655(1)" in subsection (D)(1)(c); substituted "16-3-655(B)" for "16-3-655(2) and (3)" in subsection (D)(1)(d); and in subsection (D)(2)(D), substituted "criminal sexual conduct with minors, third degree (Section 16-3-655(C))" for "committing or attempting lewd act upon child under sixteen (Section 16-15-140)".

2015 Act No. 7, Section 6.E, in (D)(1)(h), substituted "16-3-2020" for "16-3-930".

**SECTION 23-3-500.** Psychiatric or psychological treatment for children adjudicated for certain sex offenses.

A court must order that a child under twelve years of age who is convicted of, pleads guilty or nolo contendere to, or is adjudicated for an offense listed in Section 23-3-430(C) be given appropriate psychiatric or psychological treatment to address the circumstances of the offense for which the child was convicted, pled guilty or nolo contendere, or adjudicated.

HISTORY: 1998 Act No. 384, Section 1.

**SECTION 23-3-510.** Persons committing criminal offenses using sex offender registry information; punishment.

A person who commits a criminal offense using information from the sex offender registry disclosed to him pursuant to Section 23-3-490, upon conviction, must be punished as follows:

(1) For a misdemeanor offense, the maximum fine prescribed by law for the offense may be increased by not more than one thousand dollars, and the maximum term of imprisonment prescribed by law for the offense may be increased by not more than six months.

(2) For a felony offense, the maximum term of imprisonment prescribed by law for the offense may be increased by not more than five years.

HISTORY: 1998 Act No. 384, Section 1.

**SECTION 23-3-520.** Immunity of public officials, employees, and agencies for acts or omissions under this article; exceptions; duties regarding disclosure of information.

(A) An appointed or elected public official, public employee, or public agency is immune from civil liability for damages for any act or omission under this article unless the official's, employee's, or agency's conduct constitutes gross negligence.

(B) Nothing in this chapter imposes an affirmative duty on a person to disclose to a member of the public information from the sex offender registry other than on those persons responsible for providing registry information pursuant to their official duties as provided for in this chapter.

(C) Nothing in this section may be construed to mean that information regarding persons on the sex offender registry is confidential except as otherwise provided by law.

HISTORY: 1998 Act No. 384, Section 1.

**SECTION 23-3-525.** Notice by real estate brokerage about obtaining sex offender registry information.

A real estate brokerage and its affiliated licensees is immune from liability for any act or omission related to the disclosure of information under this chapter if the brokerage or its affiliated licensees in a timely manner provides to its clients and customers written notice that they may obtain information about the sex offender registry and persons registered with the registry by contacting the county sheriff. The notice may be included as part of a listing agreement, buyer representation agreement, or sales agreement.

HISTORY: 2005 Act No. 141, Section 7.

**SECTION 23-3-530.** Protocol manual for sex offender registry; contents.

The State Law Enforcement Division shall develop and maintain a protocol manual to be used by contributing agencies in the administration of the sex offender registry. The protocol manual must include, but is not limited to, the following:

(1) procedures for the verification of addresses by the sheriff's department in the county where the person resides; and

(2) specific requirements for registration and reregistration including, but not limited to, the following:

(a) the name, social security number, age, race, sex, date of birth, height, weight, hair and eye color; address of permanent residence, address of current temporary residence, within the State or out of state, including rural route address and post office box, which may not be provided instead of a physical residential address; date and place of employment; vehicle make, model, color, and license tag number, including work vehicles that are used the majority of the employee's work time, and the permanent or frequent location where all vehicles are kept; fingerprints and palm prints; Internet identifiers; passport and immigration documents; and a photograph;

(b) the name, address, and county of each institution of higher learning, including the specific campus location, if the person is enrolled, employed, volunteers, interns, or carries on a vocation there;

(c) the vehicle identification number, license tag number, registration number, and a description, including the color scheme, if the person lives in a motor vehicle, trailer, mobile home, or manufactured home and the permanent or frequent location where all vehicles, trailers, mobile homes, and manufactured homes are kept;

(d) the hull identification number, the manufacturer's serial number, the name of the vessel, live-aboard vessel, or houseboat, the registration number, and a description of the color scheme, if the person lives in a vessel, live-aboard vessel, or houseboat; and

(e) the tail number, manufacturer's serial number, and model of any aircraft, and a description of the aircraft, including the color scheme, and the permanent or frequent location where all aircraft are kept, if the person owns or operates an aircraft.

HISTORY: 1999 Act No. 110, Section 1; 2006 Act No. 342, Section 5, eff July 1, 2006; 2010 Act No. 212, Section 8, eff June 7, 2010.

Editor's Note

2006 Act No. 342, Section 1, provides as follows:

"This act may be cited as the 'Sex Offender Accountability and Protection of Minors Act of 2006'."

Effect of Amendment

The 2006 amendment added items (1) and (2) setting forth required contents.

The 2010 amendment rewrote subsection (2).

**SECTION 23-3-535.** Limitation on places of residence of certain sex offenders; exceptions; violations; local government ordinances; school districts required to provide certain information.

(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;

(4) kidnapping a person under eighteen years of age; or

(5) trafficking in persons of a person under eighteen years of age except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense.

(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:

(1) contains penalties that exceed or are less lenient than the penalties contained in this section; or

(2) expands or contracts the boundaries of areas in which a sex offender may or may not reside as contained in subsection (B).

(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.

HISTORY: 2008 Act No. 333, Section 1, eff June 16, 2008; 2009 Act No. 77, Section 1, eff June 16, 2009; 2010 Act No. 289, Section 10, eff June 11, 2010.

Editor's Note

2008 Act No. 333, Section 4, provides as follows:

"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."

2009 Act No. 77, Section 2 provides as follows:

"SECTION 2 of Act 333 of 2008 shall take effect upon approval of this act by the Governor. All other sections of Act 333 of 2008 shall take effect as provided in SECTION 4 of Act 333 of 2008."

Effect of Amendment

The 2009 amendment, in subsection (E), designated paragraph (1) and added paragraph (2) relating to changing the boundaries in which a sex offender may or may not reside.

The 2010 amendment added paragraph (B)(5), relating to trafficking in persons.

**SECTION 23-3-540.** Electronic monitoring; reporting damage to or removing monitoring device; penalty.

(A) Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16-3-655(A)(1), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C), the court must order that the person, upon release from incarceration, confinement, commitment, institutionalization, or when placed under the supervision of the Department of Probation, Parole and Pardon Services shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(B) Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person for any other offense listed in subsection (G), the court may order that the person upon release from incarceration, confinement, commitment, institutionalization, or when placed under the supervision of the Department of Probation, Parole and Pardon Services shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(C) A person who is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16-3-655(A)(1), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C), and who violates a term of probation, parole, community supervision, or a community supervision program must be ordered by the court or agency with jurisdiction to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(D) A person who is required to register pursuant to this article for any other offense listed in subsection (G), and who violates a term of probation, parole, community supervision, or a community supervision program, may be ordered by the court or agency with jurisdiction to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(E) A person who is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16-3-655(A)(1), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C), and who violates a provision of this article, must be ordered by the court to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(F) A person who is required to register pursuant to this article for any other offense listed in subsection (G), and who violates a provision of this article, may be ordered by the court to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(G) This section applies to a person who has been:

(1) convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for any of the following offenses:

(a) criminal sexual conduct with a minor in the first degree (Section 16-3-655(A));

(b) criminal sexual conduct with a minor in the second degree (Section 16-3-655(B)). If evidence is presented at the criminal proceeding and the court makes a specific finding on the record that the conviction

obtained for this offense resulted from illicit consensual sexual conduct, as contained in Section 16-3-655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, then the convicted person is not required to be electronically monitored pursuant to the provisions of this section;

(c) criminal sexual conduct with a minor in the third degree (Section 16-3-655(C));

(d) engaging a child for sexual performance (Section 16-3-810);

(e) producing, directing, or promoting sexual performance by a child (Section 16-3-820);

(f) criminal sexual conduct: assaults with intent to commit (Section 16-3-656) involving a minor;

(g) violations of Article 3, Chapter 15, Title 16 involving a minor;

(h) kidnapping (Section 16-3-910) of a person under eighteen years of age except when the offense is committed by a parent;

(i) trafficking in persons (Section 16-3-2020) of a person under eighteen years of age except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense; or

(2) ordered as a condition of sentencing to be included in the sex offender registry pursuant to Section 23-3-430(D) for an offense involving a minor, except that the provisions of this item may not be construed to apply to a person eighteen years of age or less who engages in illicit but consensual sexual conduct with another person who is at least fourteen years of age as provided in Section 16-3-655(B)(2).

(H) The person shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device for the duration of the time the person is required to remain on the sex offender registry pursuant to the provisions of this article, unless the person is committed to the custody of the State. Ten years from the date the person begins to be electronically monitored, the person may petition the chief administrative judge of the general sessions court for the county in which the person was ordered to be electronically monitored for an order to be released from the electronic monitoring requirements of this section. The person shall serve a copy of the petition upon the solicitor of the circuit and the Department of Probation, Parole and Pardon Services. The court must hold a hearing before ordering the person to be released from the electronic monitoring requirements of this section, unless the court denies the petition because the person is not eligible for release or based on other procedural grounds. The solicitor of the circuit, the Department of Probation, Parole and Pardon Services, and any victims, as defined in Article 15, Chapter 3, Title 16, must be notified of any hearing pursuant to this subsection and must be given an opportunity to testify or submit affidavits in response to the petition. If the court finds that there is clear and convincing evidence that the person has complied with the terms and conditions of the electronic monitoring and that there is no longer a need to electronically monitor the person, then the court may order the person to be released from the electronic monitoring requirements of this section. If the court denies the petition or refuses to grant the order, then the person may refile a new petition every five years from the date the court denies the petition or refuses to grant the order. A person may not petition the court if the person is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16-3-655(A)(1), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C).

(I) The person shall follow instructions provided by the Department of Probation, Parole and Pardon Services to maintain the active electronic monitoring device in working order. Incidental damage or defacement of the active electronic monitoring device must be reported to the Department of Probation, Parole and Pardon Services within two hours. A person who fails to comply with the reporting requirement of this subsection is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years.

(J) The person shall abide by other terms and conditions set forth by the Department of Probation, Parole and Pardon Services with regard to the active electronic monitoring device and electronic monitoring program.

(K) The person must be charged for the cost of the active electronic monitoring device and the operation of the active electronic monitoring device for the duration of the time the person is required to be electronically monitored. The Department of Probation, Parole and Pardon Services may exempt a person

from the payment of a part or all of the cost during a part or all of the duration of the time the person is required to be electronically monitored, if the Department of Probation, Parole and Pardon Services determines that exceptional circumstances exist such that these payments cause a severe hardship to the person. The payment of the cost must be a condition of supervision of the person and a delinquency of two months or more in making payments may operate as a violation of a term or condition of the electronic monitoring. All fees generated by this subsection must be retained by the Department of Probation, Parole and Pardon Services, carried forward, and applied to support the active electronic monitoring of sex offenders.

(L) A person who intentionally removes, tampers with, defaces, alters, damages, or destroys an active electronic monitoring device is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years. This subsection does not apply to a person or agent authorized by the Department of Probation, Parole and Pardon Services to perform maintenance and repairs to the active electronic monitoring devices.

(M) A person who completes his term of incarceration and the maximum term of probation, parole, or community supervision and who wilfully violates a term or condition of electronic monitoring, as ordered by the court or determined by the Department of Probation, Parole and Pardon Services is guilty of a felony and, upon conviction, must be sentenced in accordance with the provisions of Section 23-3-545.

(N) The Department of Corrections shall notify the Department of Probation, Parole and Pardon Services of the projected release date of an inmate serving a sentence, as described in this section, at least one hundred eighty days in advance of the person's release from incarceration. For a person sentenced to one hundred eighty days or less, the Department of Corrections shall immediately notify the Department of Probation, Parole and Pardon Services.

(O) When an inmate serving a sentence as described in this section is released on electronic monitoring, a victim who has previously requested notification and the sheriff's office in the county where the person is to be released must be notified in accordance with the requirements of Article 15, Chapter 3, Title 16.

(P) As used in this section, "active electronic monitoring device" means an all body worn device that is not removed from the person's body utilized by the Department of Probation, Parole and Pardon Services in conjunction with a web-based computer system that actively monitors and records a person's location at least once every minute twenty-four hours a day and that timely records and reports the person's presence near or within a prohibited area or the person's departure from a specified geographic location. In addition, the device must be resistant or impervious to unintentional or wilful damages. The South Carolina Criminal Justice Academy may offer training to officers of the Department of Probation, Parole and Pardon Services regarding the utilization of active electronic monitoring devices. In areas of the State where cellular coverage requires the use of an alternate device, the Department of Probation, Parole and Pardon Services may use an alternate device.

(Q) Except for juveniles released from the Department of Corrections, all juveniles adjudicated delinquent in family court, who are required to be monitored pursuant to the provisions of this article by the Department of Probation, Parole and Pardon Services, or who are ordered by a court to be monitored must be supervised, while under the jurisdiction of the family court or Board of Juvenile Parole, by the Department of Juvenile Justice. The Department of Probation, Parole and Pardon Services shall report to the Department of Juvenile Justice all violations of the terms or conditions of electronic monitoring for all juveniles supervised by the department, for as long as the family court or Juvenile Parole Board has jurisdiction over the juvenile. If the Department of Juvenile Justice determines that a juvenile has violated a term or condition of electronic monitoring, the department shall immediately notify local law enforcement of the violation.

HISTORY: 2005 Act No. 141, Section 8; 2006 Act No. 342, Section 6, eff July 1, 2006; 2006 Act No. 346, Section 3, eff July 1, 2006; 2008 Act No. 335, Sections 15, 20, eff June 16, 2008; 2010 Act No. 289, Section 11, eff June 11, 2010; 2012 Act No. 255, Section 7, eff June 18, 2012; 2015 Act No. 7 (S.196), Section 6.F, eff April 2, 2015.

Validity

For the validity of this section, see *Powell v. Keel*, 860 S.E.2d 344 (S.C. 2021).

Editor's Note

2006 Act No. 342, Section 1, provides as follows:

"This act may be cited as the 'Sex Offender Accountability and Protection of Minors Act of 2006'."

2006 Act No. 346, Section 6, provides as follows:

"The General Assembly is aware that this act amends sections of the South Carolina Code of Laws that are also amended in S.1267 of 2006 [Act 342], and it is the intent of the General Assembly that the provisions of this act control in their entirety as to those code sections."

Effect of Amendment

Both 2006 amendments rewrote this section; see Editor's Note for provision stating that the second amendment [ by Act No. 346] controls.

The 2008 amendment deleted paragraph (M)(2) relating to admissibility of information gathered by a probation agent and deleted the designation of paragraph (M)(1); and rewrote subsection (P) defining active electronic monitoring device.

The 2010 amendment added subparagraph (G)(1)(i), relating to trafficking in persons.

The 2012 amendment in subsections (A), (C), (E), (G), and (H), substituted references to criminal sexual conduct with a minor in the third degree for committing or attempting a lewd act upon a child under 16; and made other nonsubstantive changes.

2015 Act No. 7, Section 6.F, in (G)(1)(i), substituted "16-3-2020" for 16-3-930".

**SECTION 23-3-545.** Effect of conviction of wilfully violating term or condition of active electronic monitoring.

(A) If a person is convicted of wilfully violating a term or condition of active electronic monitoring pursuant to Section 23-3-540(M), the court may impose other terms and conditions considered appropriate and may continue the person on active electronic monitoring, or the court may revoke the active electronic monitoring and impose a sentence of up to ten years for the violation. A person who is incarcerated for a revocation is eligible to earn work credits, education credits, good conduct credits, and other credits which would reduce the sentence for the violation to the same extent he would have been eligible to earn credits on a sentence of incarceration for the underlying conviction. A person who is incarcerated for a revocation pursuant to the provisions of this subsection is not eligible for parole.

(B) If a person's electronic monitoring is revoked by the court and the court imposes a period of incarceration for the revocation, the person must be placed back on active electronic monitoring when the person is released from incarceration.

(C) A person may be sentenced for successive revocations, with each revocation subject to a ten-year sentence. The maximum aggregate amount of time the person may be required to serve when sentenced for successive revocations may not exceed the period of time the person is required to remain on the sex offender registry.

**HISTORY:** 2006 Act No. 346, Section 4, eff July 1, 2006.

Editor's Note

2006 Act No. 346, Section 9, provides as follows:

"This act takes effect on July 1, 2006, except that the provisions of Section 3 [amending this section] regarding the requirements of active electronic monitoring of certain offenders by the Department of Probation, Parole and Pardon Services does not take effect until the General Assembly funds the department to the extent necessary to implement those provisions."

**SECTION 23-3-550.** Assisting or harboring unregistered sex offender; penalty.

(A) A person who has reason to believe that a person required to register pursuant to the provisions of this article is not complying or has not complied with the requirements of this article, with the intent to assist or harbor the person required to register in eluding a law enforcement agency, is guilty of the offense of assisting or harboring an unregistered sex offender, if the person:

(1) withholds information from or does not notify the law enforcement agency of the noncompliance of the provisions of this article by the person required to register, and, if known, the location of this person;

(2) harbors, attempts to harbor, or assists another person in harboring or attempting to harbor the person required to register;

(3) conceals, attempts to conceal, or assists another in concealing or attempting to conceal the person required to register; or

(4) provides information known to be false to a law enforcement agency regarding the person required to register.

(B) A person who knowingly and wilfully violates the provisions of subsection (A) is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years.

HISTORY: 2005 Act No. 141, Section 9; 2006 Act No. 342, Section 7, eff July 1, 2006.

Editor's Note

2006 Act No. 342, Section 1, provides as follows:

"This act may be cited as the 'Sex Offender Accountability and Protection of Minors Act of 2006'."

Effect of Amendment

The 2006 amendment added subsection (A) and designated the existing text as subsection (B), substituting "violates the provisions of subsection (A)" for "protects, harbors, or conceals an offender who the person knows is not in compliance with the requirements of this article".

**SECTION 23-3-555.** Internet account, access provider, identifiers reporting requirements; notification of change; failure to comply; punishment; information provided to interactive computer services; judicial limitations on Internet usage by certain registered sex offenders.

(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 reregistration, 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 three business 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 three 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 wilfully 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 also must 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 redisclose 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 23-3-510.

(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.

HISTORY: 2010 Act No. 212, Section 2, eff June 7, 2010.