

Amendments to House Bill No. 109
1st Reading Copy

Requested by Representative Margaret (Margie) MacDonald

For the House Judiciary Committee

Prepared by David Niss
January 21, 2011 (6:00am)

1. Title, page 1, line 7.
Strike: "AND"

2. Title, page 1, line 8.
Following: "REGISTRATION"
Insert: ", REGISTRATION PROCEDURE, DURATION OF REGISTRATION, AND
DISSEMINATION OF INFORMATION"
Following: "46-23-502,"
Insert: "46-23-504, 46-23-506, 46-23-508,"

3. Page 5.
Following: line 16
Insert: "**Section 3.** Section 46-23-504, MCA, is amended to read:
"**46-23-504. Persons required to register -- procedure.** (1)
Except as provided in 41-5-1513, a sexual or violent offender:
(a) shall register immediately upon conclusion of the
sentencing hearing if the offender is not sentenced to
confinement or is not sentenced to the department and placed in
confinement by the department;
(b) must be registered as provided in 46-23-503 at least 10
days prior to release from confinement if sentenced to
confinement or sentenced to the department and placed in
confinement by the department;
(c) shall register within 3 business days of entering a
county of this state for the purpose of residing or setting up a
temporary residence for 10 days or more or for an aggregate
period exceeding 30 days in a calendar year; and
(d) who is a transient shall register within 3 business
days of entering a county of this state.
(2) Registration under subsection (1)(a), (1)(c), or (1)(d)
must be with the appropriate registration agency. If an offender
registers with a police department, the department shall notify
the sheriff's office of the county in which the municipality is
located of the registration. The probation officer having
supervision over an offender required to register under

subsection (1) (a) shall verify the offender's registration status with the appropriate registration agency.

(3) At the time of registering, the offender shall sign a statement in writing giving the information required by subsections (3) (a) through (3) (g) and any other information required by the department of justice. The registration agency shall fingerprint the offender, unless the offender's fingerprints are on file with the department of justice, and shall photograph the offender, and, if the offender is a sexual offender, collect a biological sample for DNA analysis in accordance with 44-6-103 unless the offender's DNA is already contained in the DNA identification index. Within 3 days, the registration agency shall send copies of the statement, fingerprints, and photographs and the biological sample to the department of justice. The registration agency shall require an offender given a level 2 or level 3 designation to appear before the registration agency for a new photograph every year. The information collected from the offender at the time of registration must include the:

- (a) name of the offender and any aliases used by the offender;
- (b) offender's social security number;
- (c) residence information required by subsection (4);
- (d) name and address of any business or other place where the offender is or will be an employee;
- (e) name and address of any school where the offender will be a student;
- (f) offender's driver's license number; and
- (g) description and license number of any motor vehicle owned or operated by the offender.

(4) (a) If, at the time of registration, the offender regularly resides in more than one county or municipality, the offender shall register with the registration agency of each county or municipality in which the offender resides. If an offender resides in more than one location within the same county or municipality, the registration agency may require the offender to provide all of the locations where the offender regularly resides and to designate one of them as the offender's primary residence.

(b) Registration of more than one residence pursuant to this section is an exception from the single residence rule provided in 1-1-215.

(5) A transient shall report monthly, in person, to the registration agency with which the transient registered pursuant to subsection (1) (d). The transient shall report on a day specified by the registration agency and during the normal business hours of that agency. On that day, the transient shall provide the registration agency with the information listed in subsections (3) (a) through (3) (g). The registration agency to which the transient reports may also require the transient to

provide the locations where the transient stayed during the previous 30 days and may stay during the next 30 days.

(6) (a) The department of justice shall mail a registration verification form:

(i) each 90 days to an offender designated as a level 3 offender under 46-23-509;

(ii) each 180 days to an offender designated as a level 2 offender under 46-23-509; and

(iii) each year to a violent offender or an offender designated as a level 1 offender under 46-23-509.

(b) If the offender is a transient, the department of justice shall mail the offender's registration verification form to the registration agency with which the offender last registered.

(c) The form must require the offender's notarized signature. Within 10 days after receipt of the form, the offender shall complete the form and return it to the registration agency where the offender last registered or, if the offender was initially registered pursuant to subsection (1)(b), to the registration agency in the county or municipality in which the offender is located. A sexual offender shall return the form to the appropriate registration agency in person, and at the time that the sexual offender returns the registration verification form, the registration agency shall take a photograph of the offender.

(7) Within 3 days after receipt of a registration verification form, the registration agency shall provide a copy of the form and most recent photograph to the department of justice.

(8) The offender is responsible, if able to pay, for costs associated with registration. The fees charged for registration may not exceed the actual costs of registration. The department of justice may adopt a rule establishing fees to cover registration costs incurred by the department of justice in maintaining registration and address verification records. The fees must be deposited in the general fund.

(9) The clerk of the district court in the county in which a person is convicted of a sexual or violent offense shall notify the sheriff in that county of the conviction within 10 days after entry of the judgment."

{ Internal References to 46-23-504:

46-23-505x 46-23-505 46-23-509x }"

Insert: "Section 4. Section 46-23-506, MCA, is amended to read:

"46-23-506. Duration of registration. (1) A sexual offender required to register under this part shall register for the remainder of the offender's life, except as provided in subsection (3) or during a period of time during which the offender is in prison.

(2) A violent offender required to register under this part shall register:

(a) for the 10 years following release from confinement or, if not confined following sentencing, for the 10 years following the conclusion of the sentencing hearing, but the offender is not relieved of the duty to register until a petition is granted under subsection (3) (a); or

(b) if convicted during the 10-year period provided in subsection (2) (a) of failing to register or keep registration current or of a felony, for the remainder of the offender's life unless relieved of the duty to register as provided in subsection (3) (b).

(3) (a) An offender required to register for 10 years under subsection (2) (a) may, after the 10 years have passed, petition the sentencing court or the district court for the judicial district in which the offender resides for an order relieving the offender of the duty to register. The petition must be served on the county attorney in the county where the petition is filed. The petition must be granted if the defendant has not been convicted under subsection (2) (b).

(b) Except as provided in subsection (5), at any time after ~~10~~ 15 years of registration for a level 1 sexual offender and at any time after 25 years of registration for a level 2 sexual offender, an offender may petition the sentencing court or the district court for the judicial district in which the offender resides for an order relieving the offender of the duty to register. The petition must be served on the county attorney in the county where the petition is filed. Prior to a hearing on the petition, the county attorney shall mail a copy of the petition to the victim of the last offense for which the offender was convicted if the victim's address is reasonably available. The court shall consider any written or oral statements of the victim. The court may grant the petition upon finding that:

(i) the offender has remained a law-abiding citizen; and
(ii) continued registration is not necessary for public protection and that relief from registration is in the best interests of society.

(4) The offender may move that all or part of the proceedings in a hearing under subsection (3) be closed to the public, or the judge may close them on the judge's own motion. If a proceeding under subsection (3) (b) is closed to the public, the judge shall permit a victim of the offense to be present unless the judge determines that exclusion of the victim is necessary to protect the offender's right of privacy or the safety of the victim. If the victim is present, the judge, at the victim's request, shall permit the presence of an individual to provide support to the victim unless the judge determines that exclusion of the individual is necessary to protect the offender's right to privacy.

(5) Subsection (3) does not apply to an offender who was

convicted of:

- (a) a violation of 45-5-503 if:
 - (i) the victim was compelled to submit by force, as defined in 45-5-501, against the victim or another; or
 - (ii) at the time the offense occurred, the victim was under 12 years of age;
 - (b) a violation of 45-5-507 if at the time the offense occurred the victim was under 12 years of age and the offender was 3 or more years older than the victim;
 - (c) a second or subsequent sexual offense that requires registration; or
 - (d) a sexual offense and was designated as a sexually violent predator under 46-23-509."
- { Internal References to 46-23-506:
41-5-1513x }"

Insert: "Section 4. Section 46-23-508, MCA, is amended to read:

"46-23-508. Dissemination of information. (1) Information maintained under this part is confidential criminal justice information, as defined in 44-5-103, except that:

(a) the name and address of a registered sexual or violent offender are public criminal justice information, as defined in 44-5-103; and

(b) the department of justice or the registration agency shall release any offender registration information that it possesses relevant to the public if the department of justice or the registration agency determines that a registered offender is a risk to the safety of the community and that disclosure of the registration information that it possesses may protect the public and, at a minimum:

(i) if the offender is also a violent offender, the department of justice shall and the registration agency may disseminate to the victim and the public:

(A) the offender's name; and

(B) the offenses for which the offender is required to register under this part;

(ii) if an offender was given a level 1 designation under 46-23-509, the department of justice shall and the registration agency may disseminate to the victim and the public:

(A) the offender's address;

(B) the name, photograph, and physical description of the offender;

(C) the offender's date of birth; and

(D) the offenses for which the offender is required to register under this part;

(iii) if an offender was given a level 1 designation and committed an offense against a minor or was given a level 2 designation under 46-23-509, the department of justice shall and the registration agency may disseminate to the victim and the

public:

- (A) the offender's address;
- (B) the type of victim targeted by the offense;
- (C) the name, photograph, and physical description of the offender;
- (D) the offender's date of birth;
- (E) the license plate number and a description of any motor vehicle owned or operated by the offender;
- (F) the offenses for which the offender is required to register under this part; and
- (G) any conditions imposed by the court upon the offender for the safety of the public; and
- (H) the address of any place where the offender is or will be an employee; and
- (I) the address of any place where the offender is or will be a student;

(iv) if an offender was given a level 3 designation under 46-23-509, the department of justice and the registration agency shall give the victim and the public notification that includes the information contained in subsection (1) (b) (iii). The notification must also include the date of the offender's release from confinement or, if not confined, the date the offender was sentenced, with a notation that the offender was not confined, and must include the community in which the offense occurred.

(c) prior to release of information under subsection (1) (b), a registration agency may, in its sole discretion, request an in camera review by a district court of the determination by the registration agency under subsection (1) (b). The court shall review a request under this subsection (1) (c) and shall, as soon as possible, render its opinion so that release of the information is not delayed beyond release of the offender from confinement.

(2) The identity of a victim of an offense for which registration is required under this part may not be released by a registration agency without the permission of the victim.

(3) Dissemination to the public of information allowed or required by this section may be done by newspaper, paper flyers, the internet, or any other media determined by the disseminating entity. In determining the method of dissemination, the disseminating entity should consider the level of risk posed by the offender to the public.

(4) The department of justice shall develop a model community notification policy to assist registration agencies in implementing the dissemination provisions of this section."

{ Internal References to 46-23-508:

41-5-216x }"

Renumber: subsequent sections

Following: "new"
Insert: "felony"

- END -