

HOUSE BILL NO. 308
INTRODUCED BY J. MUSGROVE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT A SEXUAL OR VIOLENT OFFENDER MUST PAY THE COSTS OF REGISTERING WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES; PROVIDING THAT A SEXUAL OR VIOLENT OFFENDER WHO IS REQUIRED TO REGISTER MUST ALSO, IF ABLE TO PAY, PAY FOR THE COSTS ASSOCIATED WITH NOTIFYING OR DISSEMINATING INFORMATION TO A VICTIM, PERSON, GROUP, ENTITY, OR THE PUBLIC; PROVIDING THAT THE MONEY MUST BE DEPOSITED IN THE GENERAL FUND OF THE GOVERNMENTAL ENTITY OF WHICH THE AGENCY IS A PART; AND AMENDING SECTIONS 46-23-504 AND 46-23-508, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-23-504, MCA, is amended to read:

"46-23-504. Persons required to register -- procedure. (1) 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 10 days of entering a county of this state for the purpose of residing or setting up a temporary domicile for 10 days or more or for an aggregate period exceeding 30 days in a calendar year.

(2) Registration under subsection (1)(a) must be with the probation office having supervision over the offender. Registration under subsection (1)(c) must be with the chief of police of the municipality or the sheriff of the county if the offender resides in an area other than a municipality. Whichever person an offender registers with under subsection (1)(c) shall notify the other person of the registration.

(3) At the time of registering, the offender shall sign a statement in writing giving the information required by the department of justice. The chief of police or sheriff shall fingerprint the offender, unless the offender's fingerprints are on file with the department of justice, and shall photograph the offender. Within 3 days, the chief of police or sheriff shall send copies of the statement, fingerprints, and photographs to the department of justice.

(4) The department of justice shall mail a registration verification form each 90 days to an offender designated as a level 3 offender under 46-23-509 and each year to a violent offender or an offender designated

as a level 1 or level 2 offender under 46-23-509. The form must require the offender's current address and notarized signature. Within 10 days after receipt of the form, the offender shall complete the form and return it to the department.

(5) The offender ~~is responsible~~, if able to pay, shall pay for costs associated with registration, and the agencies processing registrations and maintaining the records shall charge and collect a fee to cover their costs. 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 collected by the department of justice must be deposited in the state general fund. Fees collected by a local agency must be deposited in the general fund of the political subdivision of which the agency is a part.

(6) 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."

Section 2. 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) a law enforcement agency shall release any offender registration information relevant to the public if the agency determines that a registered offender is a risk to the safety of the community and that disclosure of the registration information may protect the public and, at a minimum:

(i) if an offender was given a level 1 designation under 46-23-509, the agency with which the offender is registered shall notify the agency in whose jurisdiction the offense occurred of the registration;

(ii) if an offender was given a level 2 designation under 46-23-509, the agency with which the offender is registered may disseminate the offender's name to the public with the notation that the offender is a sexual or violent offender and may notify a victim of the offense and any agency, organization, or group serving persons who have characteristics similar to those of a previous victim of the offender of:

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

(E) any conditions imposed by the court upon the offender for the safety of the public; and

(iii) if an offender was given a level 3 designation under 46-23-509, the agency shall give the victim and the public notification that includes the information contained in subsection (1)(b)(ii). The agency shall 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 shall include the community in which the offense occurred.

(c) ~~Prior~~ prior to release of information under subsection (1)(b), a law enforcement agency may, in its sole discretion, request an in camera review by a district court of the determination by the law enforcement 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 law enforcement agency without the permission of the victim.

(3) A state or local law enforcement agency may use the internet to disseminate the information allowed by this section to the public.

(4) The offender, if able to pay, shall pay for the costs associated with notifying or disseminating information to a victim, person, group, entity, or the public. A local government agency giving notice or disseminating information shall charge the offender a fee to cover its costs. The fees charged may not exceed the actual costs of notification or dissemination. The fees must be deposited in the general fund of the political subdivision of which the notifying or disseminating entity is a part."

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