

## HOUSE BILL NO. 272

INTRODUCED BY L. JONES, ARNTZEN, HENDRICK, SONJU, WARD

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING DISSEMINATION OF THE PHOTOGRAPH OF A LEVEL 2 OR 3 SEXUAL OFFENDER ~~OR A VIOLENT OFFENDER~~; REQUIRING A NEW PHOTOGRAPH OF A LEVEL 4, 2; OR 3 SEXUAL OFFENDER ~~OR A VIOLENT OFFENDER~~ EVERY ~~3 YEARS~~ YEAR DURING THE REGISTRATION PERIOD; AND AMENDING SECTIONS 46-23-504, 46-23-505, 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) or (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 law enforcement official the offender registers with shall notify the other official 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 law enforcement agency.

(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. The chief of police or sheriff shall require the AN offender GIVEN A LEVEL 2 OR LEVEL 3 DESIGNATION to appear before the chief of police or sheriff for a new photograph every 3-years YEAR.

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

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

(ii) each year to a violent offender or an offender designated as a level 1 or level 2 offender under 46-23-509.

(b) 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, 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.

(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 46-23-505, MCA, is amended to read:

**"46-23-505. Notice of change of address -- duty to inform -- forwarding of information.** If an offender required to register under this part has a change of address, the offender shall within 10 days of the change give written notification of the new address to the agency with whom the offender last registered or, if the offender was initially registered under 46-23-504(1)(b), to the department and to the ~~chief of police of the municipality~~ or sheriff of the county or the chief of police of the municipality from which the offender is moving. The agency or department shall, within 3 days after receipt of the new address, forward it the new address to the department of justice, which shall forward a copy of the new address and photograph to the sheriff having jurisdiction over the new address and to the chief of police of the municipality ~~of where~~ where the new address is located if the new address is located in a municipality. The sheriff or chief of police shall require the AN offender GIVEN A LEVEL 2 OR LEVEL 3 DESIGNATION to appear before the sheriff or chief of police for a new photograph every 3 years YEAR."

**Section 3.** 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 AND~~ AND address, ~~and photograph~~ 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 ~~OR IS A VIOLENT OFFENDER~~, the agency with which the offender is registered may disseminate the offender's name and photograph 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 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."

COORDINATION SECTION. SECTION 4. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 547 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 1 OF THIS ACT] AMENDING 46-23-504 IS VOID AND 46-23-504 AS AMENDED BY [THIS ACT] MUST READ AS FOLLOWS:

**"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) or (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 law enforcement official the offender registers with shall notify the other official 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 law enforcement agency.

(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. 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.

(4) (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; and

(ii) each year to a violent offender or an offender designated as a level 1 or level 2 offender under 46-23-509.

(b) 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, 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.

(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."

COORDINATION SECTION. SECTION 5. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 547 AND

[THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 2 OF THIS ACT] AMENDING 46-23-505 IS VOID AND 46-23-505 AS AMENDED BY [THIS ACT] MUST READ AS FOLLOWS:

**"46-23-505. Notice of change of address -- duty to inform -- forwarding of information.** If an offender required to register under this part has a change of address, the offender shall within 10 days of the change give written notification of the new address to the agency with whom the offender last registered or, if the offender was initially registered under 46-23-504(1)(b), to the ~~department and to the chief of police of the municipality or sheriff of the county~~ registration agency for the county or municipality from which the offender is moving. The agency or department shall, within 3 days after receipt of the new address, forward it to the department of justice, which shall forward a copy of the new address and photograph to the sheriff having jurisdiction over the new address and to the chief of police of the municipality of the new address if the new address is in a municipality. The registration agency shall require the offender to appear before the registration agency for a new photograph every year."

COORDINATION SECTION. SECTION 6. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 547 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 3 OF THIS ACT] AMENDING 46-23-508 IS VOID.

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