Public Law 104–236
104th Congress

An Act

To provide for the nationwide tracking of convicted sexual predators, and for other purposes.

Oct. 3, 1996
[S. 1675]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Pam Lychner Sexual Offender Tracking and Identification Act of 1996.
42 USC 13701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pam Lychner Sexual Offender Tracking and Identification Act of 1996".

SEC. 2. OFFENDER REGISTRATION.

(a) ESTABLISHMENT OF FBI DATABASE.—Subtitle A of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended by adding at the end the following new section:

"SEC. 170102. FBI DATABASE.

42 USC 14072.

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'FBI' means the Federal Bureau of Investigation;

"(2) the terms 'criminal offense against a victim who is a minor', 'sexually violent offense', 'sexually violent predator', 'mental abnormality', and 'predatory' have the same meanings as in section 170101(a)(3); and

"(3) the term 'minimally sufficient sexual offender registration program' means any State sexual offender registration program that—

"(A) requires the registration of each offender who is convicted of an offense described in subparagraph (A) or (B) of section 170101(a)(1);

"(B) requires that all information gathered under such program be transmitted to the FBI in accordance with subsection (g) of this section;

"(C) meets the requirements for verification under section 170101(b)(3); and

"(D) requires that each person who is required to register under subparagraph (A) shall do so for a period of not less than 10 years beginning on the date that such person was released from prison or placed on parole, supervised release, or probation.

"(b) ESTABLISHMENT.—The Attorney General shall establish a national database at the Federal Bureau of Investigation to track the whereabouts and movement of—

"(1) each person who has been convicted of a criminal offense against a victim who is a minor;

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"(2) each person who has been convicted of a sexually violent offense; and

"(3) each person who is a sexually violent predator.

"(c) REGISTRATION REQUIREMENT.—Each person described in subsection (b) who resides in a State that has not established a minimally sufficient sexual offender registration program shall register a current address, fingerprints of that person, and a current photograph of that person with the FBI for inclusion in the database established under subsection (b) for the time period specified under subsection (d).

"(d) LENGTH OF REGISTRATION.—A person described in subsection (b) who is required to register under subsection (c) shall, except during ensuing periods of incarceration, continue to comply with this section—

"(1) until 10 years after the date on which the person was released from prison or placed on parole, supervised release, or probation; or

"(2) for the life of the person, if that person—

"(A) has 2 or more convictions for an offense described in subsection (b);

"(B) has been convicted of aggravated sexual abuse, as defined in section 2241 of title 18, United States Code, or in a comparable provision of State law; or

"(C) has been determined to be a sexually violent predator.

"(e) VERIFICATION.—

Guidelines.

"(1) PERSONS CONVICTED OF AN OFFENSE AGAINST A MINOR OR A SEXUALLY VIOLENT OFFENSE.—In the case of a person required to register under subsection (c), the FBI shall, during the period in which the person is required to register under subsection (d), verify the person's address in accordance with guidelines that shall be promulgated by the Attorney General. Such guidelines shall ensure that address verification is accomplished with respect to these individuals and shall require the submission of fingerprints and photographs of the individual.

Applicability.

"(2) SEXUALLY VIOLENT PREDATORS.—Paragraph (1) shall apply to a person described in subsection (b)(3), except that such person must verify the registration once every 90 days after the date of the initial release or commencement of parole of that person.

"(f) COMMUNITY NOTIFICATION.—

"(1) IN GENERAL.—Subject to paragraph (2), the FBI may release relevant information concerning a person required to register under subsection (c) that is necessary to protect the public.

"(2) IDENTITY OF VICTIM.—In no case shall the FBI release the identity of any victim of an offense that requires registration by the offender with the FBI.

"(g) NOTIFICATION OF FBI OF CHANGES IN RESIDENCE.—

"(1) ESTABLISHMENT OF NEW RESIDENCE.—For purposes of this section, a person shall be deemed to have established a new residence during any period in which that person resides for not less than 10 days.

"(2) PERSONS REQUIRED TO REGISTER WITH THE FBI.—Each establishment of a new residence, including the initial establishment of a residence immediately following release from prison,

or placement on parole, supervised release, or probation, by a person required to register under subsection (c) shall be reported to the FBI not later than 10 days after that person establishes a new residence.

"(3) INDIVIDUAL REGISTRATION REQUIREMENT.—A person required to register under subsection (c) or under a minimally sufficient offender registration program, including a program established under section 170101, who changes address to a State other than the State in which the person resided at the time of the immediately preceding registration shall, not later than 10 days after that person establishes a new residence, register a current address, fingerprints, and photograph of that person, for inclusion in the appropriate database, with—

"(A) the FBI; and

"(B) the State in which the new residence is established.

"(4) STATE REGISTRATION REQUIREMENT.—Any time any State agency in a State with a minimally sufficient sexual offender registration program, including a program established under section 170101, is notified of a change of address by a person required to register under such program within or outside of such State, the State shall notify— Notification.

"(A) the law enforcement officials of the jurisdiction to which, and the jurisdiction from which, the person has relocated; and

"(B) the FBI.

"(5) VERIFICATION.—

"(A) NOTIFICATION OF LOCAL LAW ENFORCEMENT OFFICIALS.—The FBI shall ensure that State and local law enforcement officials of the jurisdiction from which, and the State and local law enforcement officials of the jurisdiction to which, a person required to register under subsection (c) relocates are notified of the new residence of such person.

"(B) NOTIFICATION OF FBI.—A State agency receiving notification under this subsection shall notify the FBI of the new residence of the offender.

"(C) VERIFICATION.—

"(i) STATE AGENCIES.—If a State agency cannot verify the address of or locate a person required to register with a minimally sufficient sexual offender registration program, including a program established under section 170101, the State shall immediately notify the FBI. Notification.

"(ii) FBI.—If the FBI cannot verify the address of or locate a person required to register under subsection (c) or if the FBI receives notification from a State under clause (i), the FBI shall—

"(I) classify the person as being in violation of the registration requirements of the national database; and

"(II) add the name of the person to the National Crime Information Center Wanted person file and create a wanted persons record: *Provided,* That an arrest warrant which meets the requirements for entry into the file is issued in connection with the violation. Records.

"(h) FINGERPRINTS.—

"(1) FBI REGISTRATION.—For each person required to register under subsection (c), fingerprints shall be obtained and verified by the FBI or a local law enforcement official pursuant to regulations issued by the Attorney General.

"(2) STATE REGISTRATION SYSTEMS.—In a State that has a minimally sufficient sexual offender registration program, including a program established under section 170101, fingerprints required to be registered with the FBI under this section shall be obtained and verified in accordance with State requirements. The State agency responsible for registration shall ensure that the fingerprints and all other information required to be registered is registered with the FBI.

"(i) PENALTY.—A person required to register under paragraph (1), (2), or (3) of subsection (g) who knowingly fails to comply with this section shall—

"(1) in the case of a first offense—

"(A) if the person has been convicted of 1 offense described in subsection (b), be fined not more than $100,000; or

"(B) if the person has been convicted of more than 1 offense described in subsection (b), be imprisoned for up to 1 year and fined not more than $100,000; or

"(2) in the case of a second or subsequent offense, be imprisoned for up to 10 years and fined not more than $100,000.

"(j) RELEASE OF INFORMATION.—The information collected by the FBI under this section shall be disclosed by the FBI—

"(1) to Federal, State, and local criminal justice agencies for—

"(A) law enforcement purposes; and

"(B) community notification in accordance with section 170101(d)(3); and

"(2) to Federal, State, and local governmental agencies responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a).

"(k) NOTIFICATION UPON RELEASE.—Any State not having established a program described in section 170102(a)(3) must—

"(1) upon release from prison, or placement on parole, supervised release, or probation, notify each offender who is convicted of an offense described in subparagraph (A) or (B) of section 170101(a)(1) of their duty to register with the FBI; and

"(2) notify the FBI of the release of each offender who is convicted of an offense described in subparagraph (A) or (B) of section 170101(a)(1).".

SEC. 3. DURATION OF STATE REGISTRATION REQUIREMENT.

Section 170101(b)(6) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(6)) is amended to read as follows:

"(6) LENGTH OF REGISTRATION.—A person required to register under subsection (a)(1) shall continue to comply with this section, except during ensuing periods of incarceration, until—

"(A) 10 years have elapsed since the person was released from prison or placed on parole, supervised release, or probation; or

"(B) for the life of that person if that person—

"(i) has 1 or more prior convictions for an offense described in subsection (a)(1)(A); or

"(ii) has been convicted of an aggravated offense described in subsection (a)(1)(A); or

"(iii) has been determined to be a sexually violent predator pursuant to subsection (a)(2).".

SEC. 4. STATE BOARDS.

Section 170101(a)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(a)(2)) is amended by inserting before the period at the end the following: ", victim rights advocates, and representatives from law enforcement agencies".

SEC. 5. FINGERPRINTS.

Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071) is amended by adding at the end the following new subsection:

"(g) FINGERPRINTS.—Each requirement to register under this section shall be deemed to also require the submission of a set of fingerprints of the person required to register, obtained in accordance with regulations prescribed by the Attorney General under section 170102(h).".

SEC. 6. VERIFICATION.

Section 170101(b)(3)(A)(iii) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(3)(A)(iii)) is amended by adding at the end the following: "The person shall include with the verification form, fingerprints and a photograph of that person.".

SEC. 7. REGISTRATION INFORMATION. Records.

Section 170101(b)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(2)) is amended to read as follows:

"(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.— The officer, or in the case of a person placed on probation, the court, shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit all information described in paragraph (1) to the Federal Bureau of Investigation for inclusion in the FBI database described in section 170102.". Notification.

SEC. 8. IMMUNITY FOR GOOD FAITH CONDUCT. 42 USC 14073.

State and Federal law enforcement agencies, employees of State and Federal law enforcement agencies, and State and Federal officials shall be immune from liability for good faith conduct under section 170102.

42 USC 14071 note.

SEC. 9. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall issue regulations to carry out this Act and the amendments made by this Act.

42 USC 14071 note.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall become effective 1 year after the date of enactment of this Act.

(b) COMPLIANCE BY STATES.—Each State shall implement the amendments made by sections 3, 4, 5, 6, and 7 of this Act not later than 3 years after the date of enactment of this Act, except that the Attorney General may grant an additional 2 years to a State that is making good faith efforts to implement such amendments.

(c) INELIGIBILITY FOR FUNDS.—

(1) A State that fails to implement the program as described in sections 3, 4, 5, 6, and 7 of this Act shall not receive 10 percent of the funds that would otherwise be allocated to the State under section 506 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756).

(2) Any funds that are not allocated for failure to comply with section 3, 4, 5, 6, or 7 of this Act shall be reallocated to States that comply with these sections.

42 USC 14071 note.

SEC. 11. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Approved October 3, 1996.

LEGISLATIVE HISTORY—S. 1675 (H.R. 3456):

CONGRESSIONAL RECORD, Vol. 142 (1996):
July 25, considered and passed Senate.
Sept. 25, H.R. 3456 considered in House.
Sept. 26, S. 1675 and H.R. 3456 considered and passed House.