

105TH CONGRESS
1ST SESSION

S. 767

To clarify the standards for State sex offender registration programs under the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

IN THE SENATE OF THE UNITED STATES

MAY 20, 1997

Mr. GREGG (for himself and Mr. GRAMM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To clarify the standards for State sex offender registration programs under the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Jacob Wetterling
5 Crimes Against Children and Sexually Violent Offenders
6 Registration Improvements Act of 1997”.

1 **SEC. 2. AMENDMENT OF STANDARDS FOR STATE SEX OF-**
 2 **FENDER REGISTRATION PROGRAMS.**

3 (a) IN GENERAL.—Section 170101(a) of the Violent
 4 Crime Control and Law Enforcement Act of 1994 (42
 5 U.S.C. 14071(a)) is amended—

6 (1) in paragraph (1)—

7 (A) in subparagraph (A), by striking “with
 8 a designated State law enforcement agency”;
 9 and

10 (B) in subparagraph (B), by striking “with
 11 a designated State law enforcement agency”;
 12 and

13 (2) by striking paragraph (2), and inserting the
 14 following:

15 “(2) DETERMINATION BY STATE BOARDS.—

16 “(A) IN GENERAL.—A determination that
 17 a person is a sexually violent predator or a de-
 18 termination that a person is no longer a sexu-
 19 ally violent predator for purposes of this section
 20 shall be made by the sentencing court, after
 21 considering—

22 “(i) the recommendations of the ap-
 23 propriate State board or boards under sub-
 24 paragraph (B)(iii); or

25 “(ii) with respect to a State described
 26 in subparagraph (C), the recommendations

1 of the State, which shall be made in ac-
2 cordance with the procedures described in
3 that subparagraph.

4 “(B) STATE BOARDS.—

5 “(i) IN GENERAL.—Except as pro-
6 vided in subparagraph (C), not later than
7 2 years after the date of enactment of the
8 Jacob Wetterling Crimes Against Children
9 and Sexually Violent Offenders Registra-
10 tion Improvements Act of 1997, each State
11 shall establish 1 or more State boards in
12 accordance with this subparagraph.

13 “(ii) MEMBERSHIP.—Each State
14 board established under this subparagraph
15 shall be composed of—

16 “(I) experts in the behavior and
17 treatment of sex offenders;

18 “(II) victims’ rights advocates;

19 and

20 “(III) representatives of law en-
21 forcement agencies.

22 “(iii) RECOMMENDATIONS.—Upon the
23 request of a sentencing court, a State
24 board established under this subparagraph
25 shall make a recommendation to the sen-

tencing court regarding whether a person is a sexually violent predator or whether a person is no longer a sexually violent predator for purposes of this section.

“(C) WAIVER.—The Attorney General of the United States may waive the requirement that a State establish 1 or more boards in accordance with subparagraph (B), if the State demonstrates to the satisfaction of the Attorney General that the State—

“(i) has established alternative procedures for making recommendations to a sentencing court for purposes of subparagraph (A); and

“(ii) will make a recommendation described in clause (i) with respect to any person, upon the request of the sentencing court.”.

(b) REQUIREMENTS UPON RELEASE, PAROLE, SUPERVISED RELEASE, OR PROBATION.—Section 170101(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(b)) is amended—

(1) in paragraph (1)—

(A) by striking the paragraph designation and heading and inserting the following:

1 “(1) DUTIES OF RESPONSIBLE OFFICIALS.—”;

2 (B) in subparagraph (A)—

3 (i) in the matter preceding clause (i),
 4 by striking “or in the case of probation,
 5 the court” and inserting “a designated
 6 State agency, the court, or other respon-
 7 sible official”;

8 (ii) in clause (ii), by striking “give”
 9 and all that follows before the semicolon
 10 and inserting “report the change of ad-
 11 dress as provided by State law”; and

12 (iii) in clause (iii), by striking “shall
 13 register” and all that follows before the
 14 semicolon and inserting “shall report the
 15 change of address as provided by State law
 16 and comply with any registration require-
 17 ment in the new State of residence”; and

18 (C) in subparagraph (B), by striking “or
 19 the court” and inserting “, the designated State
 20 agency, the court, or other responsible official”;

21 (2) by striking paragraph (2) and inserting the
 22 following:

23 “(2) TRANSFER OF INFORMATION TO FEDERAL
 24 BUREAU OF INVESTIGATION AND TO STATE.—

“(A) IN GENERAL.—A designated State agency, the court, or other responsible official, shall forward the registration information to the agency responsible for registration under State law, in accordance with State procedures that meet the requirements of subparagraph (B).

“(B) STATE PROCEDURES.—State procedures shall ensure that, as promptly as practicable—

“(i) the registration information is provided and made available to a law enforcement agency having jurisdiction where the person expects to reside;

“(ii) the registration information is entered into the appropriate State records or data system; and

“(iii) conviction data and fingerprints for registered persons are transmitted to the Federal Bureau of Investigation.”;

(3) in paragraph (3)(A)—

(A) in the matter preceding clause (i), by inserting after “(a)(1),” the following: “with respect to any person required to register under subsection (a)(1)(A), State procedures shall provide for verification of address not less than

1 annually. Such verification may be effected by
2 providing that,”;

3 (B) in clause (i), by striking “The des-
4 ignated State law enforcement” and inserting
5 “A designated”;

6 (C) in clause (ii), by striking “State law
7 enforcement”;

8 (D) in clause (iii), by striking “to the des-
9 ignated State law enforcement agency”; and

10 (E) in clause (iv), by striking “State law
11 enforcement”;

12 (4) in paragraph (4), by striking “section re-
13 ported” and all that follows before the period at the
14 end and inserting “section shall be reported by the
15 person in the manner provided by State law. State
16 procedures shall ensure that the updated address in-
17 formation is provided promptly to a law enforcement
18 agency having jurisdiction over the location at which
19 the person will reside and that the information is en-
20 tered into the appropriate State records or data sys-
21 tem”;

22 (5) in paragraph (5), by striking “shall reg-
23 ister” and all that follows before the period at the
24 end and inserting “and who moves to another State,
25 shall report the change of address to the responsible

1 agency in the State the person is leaving, and shall
 2 comply with any registration requirement in the new
 3 State of residence. The procedures of the State the
 4 person is leaving shall ensure that notice is provided
 5 promptly to an agency responsible for registration in
 6 the new State, if that State requires registration”;
 7 and

8 (6) by adding at the end the following:

9 “(7) OFFENDERS CROSSING STATE BORDERS.—

10 “(A) IN GENERAL.—

11 “(i) REGISTRATION UNDER LAWS OF
 12 CERTAIN STATES.—Any person who is re-
 13 quired to register in that person’s State of
 14 residence under this section shall also reg-
 15 ister in accordance with the law that gov-
 16 erns the registration, verification, and noti-
 17 fication of sex offenders of each State in
 18 which that person is—

19 “(I) employed or carries on a vo-
 20 cation; or

21 “(II) enrolled as a student.

22 “(ii) DEFINITIONS.—In this subpara-
 23 graph—

24 “(I) the term ‘employed or car-
 25 ries on a vocation’ includes employ-

1 ment that is full-time or part-time, for
2 a period of time exceeding 14 days or
3 for an aggregate period of time ex-
4 ceeding 30 days during any calendar
5 year, whether financially compensated,
6 volunteered, or for the purpose of gov-
7 ernment or educational benefit; and

8 “(II) the term ‘student’ includes
9 any person who is enrolled on a full-
10 or part-time basis, in any public or
11 private educational institution, includ-
12 ing any secondary school, trade or
13 professional institution, or institution
14 of higher education.

15 “(B) NOTIFICATION REQUIREMENTS.—The
16 State authority responsible for the registration
17 of sex offenders in each State shall ensure that
18 each person who is required to register under
19 this paragraph is notified of the requirements
20 of this paragraph and the potential con-
21 sequences of a failure to comply with those re-
22 quirements.

23 “(8) RELOCATING STATE PROBATIONERS AND
24 PAROLEES.—

1 “(A) IN GENERAL.—Notwithstanding any
2 conflicting terms of a probation, parole, or
3 transfer agreement, any person who is serving
4 a sentence of probation, parole, or other super-
5 vised release for conviction of an offense that
6 requires registration under this section, and
7 who is residing in any State other than the
8 State in which that person was sentenced for
9 that offense, shall register in accordance with
10 the law of the State of residence of the offender
11 that governs the registration and notification of
12 sex offenders, regardless of any registration or
13 notification obligation under the law of the
14 State in which that person was sentenced for
15 the offense.

16 “(B) EFFECT OF FAILURE TO COMPLY.—
17 A person required to register under subpara-
18 graph (A) who knowingly fails to comply with
19 this paragraph, not later than 10 days after the
20 date on which the person establishes residence
21 in a State other than the State in which the
22 person was sentenced as described in subpara-
23 graph (A)—

1 “(i) shall be subject to punishment by
2 a State with respect to which the person is
3 registered under subparagraph (A); and

4 “(ii) shall be guilty of an extraditable
5 offense, for which a Federal warrant for
6 unlawful flight to avoid prosecution is
7 available.

8 “(C) NOTIFICATION REQUIREMENTS.—

9 Each State authority responsible for the reg-
10 istration of sex offenders who reside in that
11 State—

12 “(i) shall ensure, during the course of
13 verification of registration information,
14 that each person who is required to reg-
15 ister under this paragraph is notified of
16 the requirements of this paragraph and the
17 potential consequences of a failure to com-
18 ply with those requirements; and

19 “(ii) whether the relocation a of sex
20 offender described in this paragraph occurs
21 under courtesy supervision or otherwise,
22 shall—

23 “(I) notify the authority respon-
24 sible for sex offender registration and
25 notification in the State of relocation

1 of the pending arrival of the offender
2 in that State of relocation; and

3 “(II) provide the authority re-
4 sponsible for sex offender registration
5 and notification in the State of reloca-
6 tion with information relating to the
7 sex offender, including—

8 “(aa) the social security
9 number, physical description,
10 criminal record, terms of super-
11 vision, and any alias of the sex
12 offender; and

13 “(bb) the address, telephone
14 number, and any place of em-
15 ployment of the sex offender in
16 the State of relocation.

17 “(9) REPORTING REQUIREMENT.—Not later
18 than July 1, 1999, a State shall submit a report to
19 the Attorney General that sets forth existing or pro-
20 posed laws, including penalty provisions, regarding
21 stalking crimes against individuals 16 years of age
22 or younger.”.

23 (c) RELEASE OF INFORMATION.—Section
24 170101(d)(3) of the Violent Crime Control and Law En-

1 enforcement Act of 1994 (42 U.S.C. 14071(d)(3)) is amend-
2 ed—

3 (1) by striking “the designated” and all that
4 follows through “State agency” and inserting “the
5 State or any agency authorized by the State”;

6 (2) by inserting “to be disclosed only for crimi-
7 nal justice purposes” after “private data,”; and

8 (3) by adding at the end the following: “The
9 sale or exchange of such information for profit or re-
10 munerat ion is prohibited and shall be subject to
11 prosecution under State law.”.

12 (d) IMMUNITY FOR GOOD FAITH CONDUCT.—Section
13 170101(e) of the Violent Crime Control and Law Enforce-
14 ment Act of 1994 (42 U.S.C. 14071(e)) is amended by
15 striking “and State officials” and inserting “independent
16 contractors acting at the direction of those agencies, and
17 State officials”.

18 (e) FEDERAL OFFENDERS AND MILITARY PERSON-
19 NEL.—Section 170102(g)(3) of the Violent Crime Control
20 and Law Enforcement Act of 1994 (42 U.S.C.
21 14072(g)(3)) is amended—

22 (1) by redesignating subparagraphs (A) and
23 (B) as clauses (i) and (ii) and indenting each clause
24 2 ems to the right;

1 (2) by striking “A person” and inserting the
2 following:

3 “(A) IN GENERAL.—A person”; and

4 (3) by adding at the end the following:

5 “(B) FEDERAL OFFENDERS.—

6 “(i) IN GENERAL.—A person who is
7 released from prison, or placed on parole,
8 supervised release, or probation—

9 “(I) who is convicted under Fed-
10 eral law of—

11 “(aa) a criminal offense
12 against a victim who is a minor;
13 or

14 “(bb) a sexually violent of-
15 fense; or

16 “(II) who has been determined to
17 be a sexually violent predator,
18 shall, in addition to complying with the
19 registration requirement in paragraph (2),
20 register in accordance with the law of the
21 State of residence of that person.

22 “(ii) NOTIFICATION REQUIRE-
23 MENTS.—The Director of the Bureau of
24 Prisons shall ensure that each person who
25 is required to register under this subpara-

graph is notified of the requirements of this subparagraph and the potential consequences of a failure to comply with those requirements.

“(C) MILITARY PERSONNEL.—

“(i) IN GENERAL.—

“(I) REGISTRATION UNDER LAWS OF STATE OF RESIDENCE.—A member of the Armed Forces of the United States who has—

“(aa) been convicted of a criminal offense against a victim who is a minor;

“(bb) been convicted of a sexually violent offense ; or

“(cc) been determined to be a sexually violent predator,

by a court of the United States, a court of a State, or a court-martial under the Uniform Code of Military Justice, shall register with the entities referred to in subclause (II).

“(II) ENTITIES.—The entities referred to in this subclause are—

“(aa) the FBI; and

1 “(bb) the State of residence
2 of the member, and if different
3 from the State of residence, the
4 State in which the member is
5 permanently assigned.

6 “(III) DETERMINATION OF
7 STATE OF RESIDENCE.—For purposes
8 of subclause (II)(bb), the State of res-
9 idence of a member of the Armed
10 Forces of the United States is—

11 “(aa) in the case of a mem-
12 ber whose permanent duty sta-
13 tion is in a State (including such
14 a member who resides on a mili-
15 tary installation or is serving
16 aboard a vessel at sea), the State
17 where the member resides when-
18 ever the member is present at
19 that permanent duty station; and

20 “(bb) in the case of a mem-
21 ber whose permanent duty sta-
22 tion is outside the United States,
23 the State of the member’s home
24 of record (as determined under
25 regulations prescribed by the

1 Secretary of the military depart-
2 ment concerned).

3 “(ii) EFFECT OF FAILURE TO COM-
4 PLY.—A person who is required to register
5 under this subparagraph and who know-
6 ingly fails to comply with this section may
7 be punished—

8 “(I) under section 170102(i)(1);

9 “(II) under the Uniform Code of
10 Military Justice; or

11 “(III) in accordance with the ap-
12 plicable laws of the State with respect
13 to which that person is registered.

14 “(iii) NOTIFICATION REQUIRE-
15 MENTS.—The Secretary of Defense shall
16 ensure that each member of the Armed
17 Forces of the United States who is re-
18 quired to register under this paragraph is
19 notified of the requirements of this para-
20 graph and the potential consequences of a
21 failure to comply with those require-
22 ments.”.

23 **SEC. 3. SENSE OF CONGRESS.**

24 It is the sense of Congress that each State should
25 have in effect a law that makes it a crime to stalk an

- 1 individual under the age of 16 without requiring that such
- 2 individual be physically harmed before a stalker is re-
- 3 strained or punished.

