

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1985 Session of 2014

INTRODUCED BY MARSICO AND CALTAGIRONE, JANUARY 27, 2014

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JANUARY 28, 2014

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in registration of sex
3 offenders, further providing for legislative findings and
4 declaration of policy, for definitions, for applicability,
5 for sexual offenses and tier system, for period of
6 registration and for assessments.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 9799.11(b) of Title 42 of the
10 Pennsylvania Consolidated Statutes is amended to read:

11 § 9799.11. Legislative findings and declaration of policy.

12 * * *

13 (b) Declaration of policy.--The General Assembly declares as
14 follows:

15 (1) It is the intention of the General Assembly to
16 substantially comply with the Adam Walsh Child Protection and
17 Safety Act of 2006 and to further protect the safety and
18 general welfare of the citizens of this Commonwealth by
19 providing for increased regulation of sexual offenders,
20 specifically as that regulation relates to registration of

1 sexual offenders and community notification about sexual
2 offenders.

3 (2) It is the policy of the Commonwealth to require the
4 exchange of relevant information about sexual offenders among
5 public agencies and officials and to authorize the release of
6 necessary and relevant information about sexual offenders to
7 members of the general public as a means of assuring public
8 protection and shall not be construed as punitive.

9 (3) It is the intention of the General Assembly to
10 address the Pennsylvania Supreme Court's decision in
11 Commonwealth v. Neiman, No.74 MAP 2011 (Pa.2013), by amending
12 this subchapter in the act of (in preparing this act for
13 printing in the Laws of Pennsylvania and the Pennsylvania
14 Consolidated Statutes, the Legislative Reference Bureau shall
15 insert in lieu of this statement the date which is the date
16 of enactment, pamphlet law page number and act number of this
17 amendatory act).

18 Section 2. The definition of "sexually violent predator" in
19 section 9799.12 of Title 42 is amended to read:

20 § 9799.12. Definitions.

21 The following words and phrases when used in this subchapter
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 * * *

25 "Sexually violent predator." An individual determined to be
26 a sexually violent predator under section 9795.4 (relating to
27 assessments) prior to the effective date of this subchapter or
28 an individual convicted of an offense specified in:

29 (1) section 9799.14(b)(1), (2), (3), (4), (5), (6), (8),
30 (9) or (10) (relating to sexual offenses and tier system) or

1 an attempt, conspiracy or solicitation to commit any offense
2 under section 9799.14(b)(1), (2), (3), (4), (5), (6), (8),
3 (9) or (10);

4 (2) section 9799.14(c)(1), (1.1), (1.2), (2), (3), (4),
5 (5) or (6) or an attempt, conspiracy or solicitation to
6 commit an offense under section 9799.14(c)(1), (1.1), (1.2),
7 (2), (3), (4), (5) or (6); or

8 (3) section 9799.14(d)(1), (2), (3), (4), (5), (6), (7),
9 (8) or (9) or an attempt, conspiracy or solicitation to
10 commit an offense under section 9799.14(d)(1), (2), (3), (4),
11 (5), (6), (7), (8) or (9)

12 who, on or after the effective date of this subchapter, is
13 determined to be a sexually violent predator under section
14 9799.24 (relating to assessments) due to a mental abnormality or
15 personality disorder that makes the individual likely to engage
16 in predatory sexually violent offenses. The term includes an
17 individual determined to be a sexually violent predator or
18 similar designation where the determination occurred in another
19 jurisdiction, a foreign country or by court martial following a
20 judicial or administrative determination pursuant to a process
21 similar to that under section 9799.24. In addition, the term
22 shall include any person convicted between January 23, 2005, and
23 December 19, 2012, of any offense set forth in section
24 9799.13(3.1) (relating to applicability) determined by a court
25 to be a sexually violent predator due to a mental abnormality or
26 personality disorder that made the person likely to engage in
27 predatory sexually violent offenses, which person shall be
28 deemed a sexually violent predator under this subchapter.

29 * * *

30 Section 3. Section 9799.13(3) of Title 42 is amended and the

1 section is amended by adding paragraphs to read:

2 § 9799.13. Applicability.

3 The following individuals shall register with the
4 Pennsylvania State Police as provided in sections 9799.15
5 (relating to period of registration), 9799.19 (relating to
6 initial registration) and 9799.25 (relating to verification by
7 sexual offenders and Pennsylvania State Police) and otherwise
8 comply with the provisions of this subchapter:

9 * * *

10 (3) [An individual who is required to register or was
11 required to register and failed to register with the
12 Pennsylvania State Police under this subchapter prior to the
13 effective date of this section and who has not fulfilled the
14 period of registration as of the effective date of this
15 section.] An individual who:

16 (i) was required to register with the Pennsylvania
17 State Police pursuant to this subchapter prior to
18 December 20, 2012, and who had not fulfilled the
19 individual's period of registration as of December 20,
20 2012; or

21 (ii) was required to register with the Pennsylvania
22 State Police pursuant to this subchapter prior to
23 December 20, 2012, and did not register.

24 (3.1) The following:

25 (i) An individual who between January 23, 2005, and
26 December 19, 2012, was:

27 (A) convicted of a sexually violent offense;

28 (B) released from a period of incarceration
29 resulting from a conviction for a sexually violent
30 offense; or

1 (C) under the supervision of the Pennsylvania
2 Board of Probation and Parole or county probation or
3 parole as a result of a conviction for a sexually
4 violent offense.

5 (ii) For purposes of this paragraph, the term
6 "sexually violent offense" shall have the meaning set
7 forth in section 9799.12 (relating to definitions),
8 except that it shall not include:

9 (A) Convictions:

10 (I) Under the following provisions of 18
11 Pa.C.S. (relating to crimes and offenses):

12 Section 2902(b) (relating to unlawful
13 restraint).

14 Section 2903(b) (relating to false
15 imprisonment).

16 Section 2904 (relating to interference
17 with custody of children).

18 Section 3122.1 (relating to statutory
19 sexual assault).

20 Section 6301 (relating to corruption of
21 minors).

22 Section 7507.1 (relating to invasion of
23 privacy).

24 (II) For a comparable military offense or
25 similar offense under the laws of another
26 jurisdiction or foreign country or under a former
27 law of this Commonwealth prior to December 8,
28 2008.

29 (B) A conviction under 18 Pa.C.S. § 3126
30 (relating to indecent assault) where the crime is

1 graded as a misdemeanor of the second degree or where
2 the conviction occurred between January 22, 2006, and
3 January 1, 2007, when the crime is graded as a felony
4 of the third degree.

5 (3.2) An individual who between December 8, 2008, and
6 December 19, 2012, was:

7 (i) convicted of conspiracy or solicitation to
8 commit a sexually violent offense as defined in
9 paragraph (3.1);

10 (ii) released from serving a period of incarceration
11 resulting from a conviction for conspiracy or
12 solicitation to commit a sexually violent offense as
13 defined in paragraph (3.1); or

14 (iii) under the supervision of the Pennsylvania
15 Board of Probation and Parole or county probation or
16 parole as a result of a conviction for conspiracy or
17 solicitation to commit a sexually violent offense as
18 defined in paragraph (3.1).

19 * * *

20 (8.2) An individual who between January 23, 2005, and
21 December 19, 2012, established a residence or was a transient
22 in this Commonwealth, was employed within this Commonwealth,
23 or was a student in this Commonwealth, and who was required
24 to register in a sexual offender registry as a result of an
25 adjudication of delinquency for an offense which occurred in
26 a foreign country or another jurisdiction and that required
27 the individual to register in that foreign country or other
28 jurisdiction.

29 * * *

30 Section 4. Section 9799.14(c)(18) of Title 42 is amended to

1 read:

2 § 9799.14. Sexual offenses and tier system.

3 * * *

4 (c) Tier II sexual offenses.--The following offenses shall
5 be classified as Tier II sexual offenses:

6 * * *

7 (18) An attempt, conspiracy or solicitation to commit an
8 offense listed in paragraph (1), (1.1), (1.2), (2), (3), (4),
9 (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15),
10 (16) or (17).

11 * * *

12 Section 5. Section 9799.15 of Title 42 is amended by adding
13 a subsection to read:

14 § 9799.15. Period of registration.

15 * * *

16 (a.1) Credit for time on registry.--The following apply:

17 (1) An individual subject to registration under this
18 subchapter shall receive credit for any time registered with
19 the Pennsylvania State Police prior to December 20, 2012.

20 (2) An individual subject to registration under this
21 subchapter shall register with the Pennsylvania State Police
22 for the period of time set forth in subsection (a), except
23 that:

24 (i) An individual registered pursuant to section
25 9799.13(2), (2.1), (3), (3.1) or (3.2) for a sexually
26 violent offense shall register for the period set forth
27 in subsection (a), less any credit for time spent
28 registered pursuant to this subchapter for that offense
29 prior to December 20, 2012.

30 (ii) An individual registered pursuant to section

1 9799.13(7), (7.1) or (7.2) for a sexually violent offense
2 shall register for the period set forth in subsection
3 (a), less any credit as a result of time registered in a
4 sexual offender registry for that sexually violent
5 offense in the foreign country or other jurisdiction
6 where the individual was convicted.

7 (iii) An individual registered pursuant to section
8 9799.13(8), (8.1) or (8.2) as a result of an adjudication
9 of delinquency occurring in a foreign country or other
10 jurisdiction shall register for the period set forth in
11 subsection (a), less any credit as a result of time
12 registered in a sexual offender registry in the foreign
13 country or other jurisdiction where the individual was
14 adjudicated delinquent.

15 * * *

16 Section 6. Section 9799.24(c) of Title 42 is amended to
17 read:

18 § 9799.24. Assessments.

19 * * *

20 (c) Release of information.--All State, county and local
21 agencies, offices and entities in this Commonwealth, including
22 juvenile probation officers, shall cooperate by providing copies
23 of records and information as requested by the board in
24 connection with the court-ordered assessment and the assessment
25 requested by the Pennsylvania Board of Probation and Parole or
26 the assessment of a delinquent child under section 6358
27 (relating to assessment of delinquent children by the State
28 Sexual Offenders Assessment Board). For assessments of
29 delinquent children conducted by the board pursuant to section
30 6358 from January 23, 2005, to December 19, 2012, all State,

1 county and local agencies, offices and entities, including
2 juvenile probation officers, are subject to the release of
3 information requirements set forth in this subsection.

4 * * *

5 Section 7. The amendment or addition of the following
6 provisions shall be retroactive to December 20, ~~2010~~ 2012: <--

7 (1) The definition of "sexually violent predator" in 42
8 Pa.C.S. § 9799.12.

9 (2) 42 Pa.C.S. § 9799.13(3), (3.1), (3.2) and (8.2).

10 (3) 42 Pa.C.S. § 9799.14(c)(18).

11 (4) 42 Pa.C.S. § 9799.15(a.1).

12 (5) 42 Pa.C.S. § 9799.24(c).

13 Section 8. This act shall take effect immediately.