

1 S.13

2 Introduced by Senators Sears and Flory

3 Referred to Committee on

4 Date:

5 Subject: Criminal procedures; sex offender registration

6 Statement of purpose of bill as introduced: This bill proposes a number of
7 changes intended to improve the efficiency and consistency of the Vermont
8 Sex Offender Registry.

9 An act relating to the Vermont Sex Offender Registry

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 Sec. 1. 13 V.S.A. § 5401(10)(B)(viii) is amended to read:

12 (viii) sex trafficking of children or sex trafficking by force, fraud,
13 or coercion as defined in ~~13 V.S.A. § 2635a~~ 13 V.S.A. § 2652;

14 Sec. 2. 13 V.S.A. § 5403 is amended to read:

15 § 5403. ~~REPORTING UPON CONVICTION TO DEPARTMENT OF~~
16 PUBLIC SAFETY

17 (a) Upon conviction and prior to sentencing, the ~~court~~ Court shall order the
18 sex offender to provide the ~~court~~ Court with the following information, which
19 the ~~court~~ Court shall forward to the ~~department~~ Department forthwith:

20 (1) name;

- 1 (2) date of birth;
- 2 (3) ~~general physical description;~~
- 3 (4) current address;
- 4 (5)(4) Social Security number;
- 5 (6) fingerprints;
- 6 (7) ~~current photograph;~~
- 7 (8)(5) current employment; and
- 8 (9)(6) name and address of any postsecondary educational institution at
- 9 which the sex offender is enrolled as a student.

10 (b) Within 10 days after sentencing, the ~~court~~ Court shall forward to the

11 ~~department~~ Department:

12 (1) the sex offender's conviction record, including offense, date of

13 conviction, sentence and any conditions of release or probation;

14 (2) an order, on a form developed by the Court Administrator, to comply

15 with Sex Offender Registry requirements, which shall include:

16 (A) the offense of which the defendant was convicted that requires

17 the placement of his or her name on the Sex Offender Registry;

18 (B) any prior convictions that affect:

19 (i) the defendant's Sex Offender Registry Status;

20 (ii) the length of time that the defendant is required to register as a

21 sex offender; or

1 (iii) whether information regarding the defendant is required to be
2 electronically posted on the Internet under section 5411a of this title;

3 (C) the length of time that the defendant is required to register as a
4 sex offender;

5 (D) whether the defendant is designated as a sexually violent predator
6 under section 5405 of this title;

7 (E) whether the defendant was immediately released or remanded to
8 the custody of the Department of Corrections; and

9 (F) whether information regarding the defendant is required to be
10 electronically posted on the Internet under section 5411a of this title.

11 (c) The Departments of Corrections and of Public Safety shall jointly
12 develop a process for the Department of Corrections to notify the Department
13 of Public Safety when an offender is required to be placed on the Sex Offender
14 Registry because of a conviction that occurred in another jurisdiction of the
15 United States, including a state, territory, commonwealth, the District of
16 Columbia, or military, federal, or tribal court. The report shall include the
17 offense of which the defendant was convicted that requires the placement of
18 his or her name on the Registry.

19 Sec. 3. 13 V.S.A. § 5407 is amended to read:

20 § 5407. SEX OFFENDER'S RESPONSIBILITY TO REPORT

21 * * *

1 (f) A person required to register as a sex offender under this subchapter
2 shall continue to comply with this section for the life of that person, except
3 during periods of incarceration, if that person:

4 * * *

5 (2) has been convicted of a sexual assault as defined in section 3252 of
6 this title or aggravated sexual assault as defined in section 3253 of this title, or
7 a comparable offense in another jurisdiction of the United States, including a
8 state, territory, commonwealth, the District of Columbia, or military, federal,
9 or tribal court; however, if a person convicted under section 3252 is not more
10 than six years older than the victim of the assault and if the victim is 14 years
11 of age or older, then the offender shall not be required to register for life if the
12 age of the victim was the basis for the conviction;

13 * * *

14 Sec. 4. 13 V.S.A. § 5416 is added to read:

15 § 5416. PERSONS SUBJECT TO ERRONEOUS SEX OFFENDER

16 REGISTRY REQUIREMENTS; PETITION TO CORRECT

17 (a) A person may petition the Court for an order declaring that the person
18 has been inadvertently subject to erroneous Sex Offender Registry
19 requirements and directing the Department of Public Safety to correct the
20 error. The petitioner shall provide notice of the petition to the State's Attorney
21 or the Attorney General, who shall be the respondent in the matter.

1 (b) A petition filed under this section shall include:

2 (1) the Court's order issued under subdivision 5403(b)(2) of this title to
3 comply with Sex Offender Registry requirements, if available; and

4 (2) the factual basis for the petitioner's allegation that he or she was
5 subject to an erroneous sex offender registry requirement.

6 (c) The Court shall grant a petition filed under this section if it finds that
7 the petitioner has demonstrated by a preponderance of the evidence that he or
8 she was by Court order subject to an erroneous sex offender registry
9 requirement. As used in this subsection, "erroneous sex offender registry
10 requirement" includes the person's name being erroneously placed on the Sex
11 Offender Registry or the Internet Sex Offender Registry, or the person being
12 erroneously subject to lifetime registration under subsection 5407(f) of this
13 title.

14 (d) If a petition filed under this section is granted, the Court shall enter an
15 order declaring that the person had been inadvertently subject to erroneous Sex
16 Offender Registry requirements. The Court shall provide the order to the
17 Department of Public Safety and direct the Department to take any action
18 necessary to correct the error, including, if appropriate, removing the person's
19 name from the Sex Offender Registry and the Internet Sex Offender Registry.

20 (e) If the Court denies a petition filed under this section, no further petition
21 shall be filed by the person with respect to the alleged error.

1 Sec. 5. EFFECTIVE DATE

2 This act shall take effect on passage.