

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN DOES #1-6, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

File No. 2:16-cv-13137

Hon. Robert H. Cleland

GRETCHEN WHITMER¹, Governor of the
State of Michigan, and COL. JOSEPH
GASPAR, Director of the Michigan State
Police, in their official capacities,

Mag. J. David R. Grand

Defendants.

Statement on Concurrence

Pursuant to Local Rule 7.1, on September 23, 2019, plaintiffs sought concurrence from defendants in the relief sought. Defendants' counsel denied concurrence.

**PLAINTIFFS' MOTION FOR
DECLARATORY AND INJUNCTIVE RELIEF**

1. In July 2018, plaintiffs moved for partial summary judgment on their ex post facto claim. R. 40. At the request of the parties, who were pursuing a legislative solution that would bring Michigan's Sex Offenders Registration Act (SORA),

¹ Pursuant to Fed. R. Civ. Proc. 25(d), Governor Gretchen Whitmer and Michigan State Police Director Colonel Joseph Gaspar are automatically substituted for their predecessors.

M.C.L. § 28.721, *et seq.*, into compliance with the Sixth Circuit’s and this Court’s decisions in *Does #1-5 v. Snyder (Does I)*, 834 F.3d 696 (6th Cir. 2016), *reh. denied* (2016), *cert. denied*, 138 S. Ct. 55 (2017), this Court repeatedly adjusted the briefing schedule.

2. In May 2019—almost one year later—the parties filed a Stipulated Order for Declaratory Judgment and for 90-Day Deferral of Decision on Injunctive Relief to Provide Opportunity for Legislative Resolution. R. 55. The Court declared the 2006 and 2011 SORA amendments unconstitutional as to the ex post facto subclasses, but deferred ruling on injunctive relief and on severability for 90 days “[i]n order to avoid interfering with the Michigan legislature’s efforts to address the *Does I* decisions and their findings of constitutional deficiencies with SORA.” *Id.*, Pg.ID #783. (The Court subsequently terminated the partial summary judgment motion as moot. R. 61.)

3. The legislature has failed to pass a new statute.

4. The Sixth Circuit held that SORA is punishment and the retroactive application of its 2006 and 2011 amendments must cease.

5. The 2011 amendments are deeply embedded in the statute, which is incomprehensible without them. The 2011 amendments are not severable.

6. SORA therefore cannot be applied or enforced against the ex post facto subclasses, i.e., persons whose registration is based on offenses committed before April

12, 2011.

7. The 2006 amendments cannot be applied to members of the pre-2006 ex post facto subclass.

8. Notice to class members and law enforcement is necessary to prevent ongoing constitutional violations.

WHEREFORE, pursuant to Fed. R. Civ. P. 23, 56 and 65, and 28 U.S.C. §§ 2201 and 2202, plaintiffs John Does #1-5, on behalf of themselves and the ex post facto subclasses, now ask this Court to:

A. Declare that the 2011 amendments to Michigan's Sex Offenders Registration Act (SORA) are not severable and the statute is null and void as applied to the ex post facto subclasses, i.e., people who are subject to registration based on offenses committed before April 12, 2011.

B. Enjoin the defendants, their officers, agent, servants, employees and attorneys, and all other persons who are in active concert or participation with them from applying or enforcing SORA against John Does #1-5 and members of the pre-2006 and 2006-2011 ex post facto subclasses. Should the Court believe that its severability ruling will spur the legislature into action at long last, the Court could make the injunction effective in 60 days, which is more than enough time—given the exhaustive, but so far unsuccessful legislative conversations to date—for passage of a new SORA statute.

C. In the alternative, should the Court certify the severability question to the Michigan Supreme Court, it should order interim relief for the ex post facto subclasses based on the terms of the final judgment in *Does I* in order to prevent further unconstitutional retroactive punishment of pre-2011 registrants and to ensure that they are not being required to comply with an unconstitutionally vague law while the Michigan Supreme Court considers the severability question.

D. This Court should also enjoin defendants, their officers, agent, servants, employees and attorneys, and all other persons who are in active concert or participation with them from applying or enforcing the 2006 amendments to John Does #1-3, and members of the pre-2006 ex post facto subclass. In order to comply with the requirements of Fed. R. Civ. P. 65(d)(1) that an injunction state its terms specifically and describe the acts restrained or required in reasonable detail, the injunction should bar application and enforcement of M.C.L. §§ 28.733-.736 and the second sentence of M.C.L. § 28.730(3) (governing electronic notice to members of the public who request it when registrants move into, e.g., a certain zip code). While such relief would be subsumed in an injunction barring any enforcement of SORA against all pre-2011 registrants, plaintiffs' entitlement to this relief is clear, and it should be separately ordered to ensure that plaintiffs receive this relief in the event of any further proceedings related to the severability of the 2011 amendments.

E. Pursuant to Fed. R. Civ. Proc. 23(c)(2) and 23(d)(1), the Court should order defendants within 30 days after a decision on this motion to provide notice of any relief granted here, as well as of the declaratory relief granted in this Court's prior order, R. 55, to all members of the ex post facto subclasses. The Court should order the parties jointly to prepare proposed notices, or separate notices, with any disputes to be resolved by the Court.

F. The Court should further order defendants within 30 days to provide class counsel with a class list, which should indicate which class members are also in one of the ex post facto subclasses. The Court should order the parties within 15 days to file a proposed stipulated order, or separate proposed orders, addressing what additional information should be provided to class counsel about each class member. That proposed order may include protective order protections if necessary.

G. Finally, pursuant to Fed. R. Civ. Pr. 23(d)(1) and 65(d)(2), the Court should order defendants to provide notice of any relief granted here, as well as of the declaratory relief granted in this Court's prior order, R. 55, to all prosecutors and all law enforcement personnel in this state who have responsibility for enforcing SORA.

Respectfully submitted,

s/ Alyson L. Oliver (P55020)

Oliver Law Group P.C.
363 W. Big Beaver Rd., Suite 200
Troy, MI 48226
(248) 327-6556
notifications@oliverlg.com

s/ Paul D. Reingold (P27594)

Michigan Clinical Law Program
363 Legal Research Building
801 Monroe Street
Ann Arbor, MI 48109
(734) 763-4319
pdr@umich.edu

Dated: September 24, 2019

s/ Miriam J. Aukerman (P63165)

American Civil Liberties Union
Fund of Michigan
1514 Wealthy SE
Grand Rapids, MI 49506
(616) 301-0930
maukerman@aclumich.org

s/ Daniel Korobkin (P72842)

American Civil Liberties Union
Fund of Michigan
2966 Woodward Avenue
Detroit, MI 48201
(313) 578-6824
dkorobkin@aclumich.org

Attorneys for Plaintiffs

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**PLAINTIFFS' BRIEF IN SUPPORT OF MOTION
FOR DECLARATORY AND INJUNCTIVE RELIEF**

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In re Apportionment of State Legislature-1982, 321 N.W.2d 565 (Mich. 1982)

Kolender v. Lawson, 461 U.S. 352 (1983)

Introduction

In August 2016, the Sixth Circuit held that Michigan's Sex Offenders Registration Act (SORA), M.C.L. § 28.721 *et seq.*, imposes punishment in violation of the Ex Post Facto Clause, and that retroactive application of its 2006 and 2011 amendments must cease. *Does #1-5 v. Snyder (Does I)*, 834 F.3d 696 (6th Cir. 2016), *cert. denied*, 138 S. Ct. 55 (2017). This Court also held various other SORA provisions violated due process and the First Amendment. *Does #1-5 v. Snyder*, 101 F. Supp. 3d 672 (E.D. Mich. 2015); 101 F. Supp. 3d 722 (E.D. Mich. 2015).

Plaintiffs and this Court have waited for three years for the state legislature to amend SORA to cure its constitutional defects. The legislature has failed to do so. Instead, SORA continues to be applied as written, and tens of thousands of people are being subjected daily to unconstitutional punishment. The legislature's abdication of responsibility means that this Court must now declare SORA null and void and enjoin its enforcement for all pre-2011 registrants. The Court should also separately enjoin retroactive enforcement of the 2006 amendments, and order notice.

Background

A. Procedural History

This class action was filed in August 2016, to ensure that the *Does I* decisions were applied to all Michigan registrants. The currently operative second amended complaint, filed in June 2018, R. 34, sought class-wide relief on four issues on which

the *Does I* plaintiffs had prevailed, either before this Court or the Sixth Circuit: (1) vagueness; (2) strict liability; (3) First Amendment; (4) Ex Post Facto Clause. *Id.* The complaint further alleged, *inter alia*, that the 2011 amendments cannot be severed, and as a result, that there is no statute in effect based on conduct occurring before April 12, 2011. *Id.*, ¶¶ 202-206, Pg.ID#386-87.

In September 2018, this Court, by stipulation, certified a primary class of all people who are or will be subject to registration under SORA, and two subclasses:

- a. The “pre-2006 ex post facto subclass” is defined as members of the primary class who committed their offense or offenses requiring registration before January 1, 2006, and who have committed no registrable offense since.
- b. The “2006-2011 ex post facto subclass” is defined as members of the primary class who committed their offense or offenses requiring registration on or after January 1, 2006, but before April 12, 2011, and who have committed no registrable offense since.

Class Certification Order, R. 46, Pg.ID#693.

In July 2018, plaintiffs moved for partial summary judgment for the ex post facto subclasses, seeking declaratory and injunctive relief, but deferring the severability question. R. 40. Plaintiffs then invited defendants to work together to develop proposed legislation that the parties could jointly send to the legislature. Plaintiffs argued that because the 2011 amendments are not severable, and SORA is incomprehensible in their absence, the Act must be entirely re-written. The parties agreed to focus their resources on legislative reform, rather than litigating severability first. At

the parties' joint request, the Court repeatedly adjusted the briefing schedule to permit legislative negotiations. R. 41, 44, 45, 47, 51, 54.

In May 2019, the Court granted declaratory relief through a stipulated order that declared the 2006 and 2011 amendments to be unconstitutional as to the ex post facto subclasses, but deferred rulings on injunctive relief and severability for 90 days “[i]n order to avoid interfering with the Michigan legislature’s efforts to address the *Does I* decisions and their findings of constitutional deficiencies with SORA.” Order for Declaratory Judgment and for 90-Day Deferral of Decision on Injunctive Relief to Provide Opportunity for Legislative Resolution. R. 55, Pg.ID#783. In August 2019, after the 90 days had passed, the Court entered a Stipulated Order Setting Briefing Schedule Pending Legislative Action to Replace or Amend Michigan’s SORA, noting that “while a working group of state stakeholders has made significant progress on proposed new legislation, no replacement or amended law has yet been introduced.” R. 60, Pg.ID#795.

B. Legislative Reform Efforts

Counsel can represent to the Court that there have been many meetings (with multiple state departments and stakeholders) that have produced several drafts of a revised SORA. There is broad consensus to create one basic statute for all registrants, rather than several versions that impose different restrictions based on a registrant’s offense date. The current draft bill eliminates many changes made in 2006 and 2011

that the Sixth Circuit and this Court identified as unconstitutional, while retaining past ameliorative changes (e.g., the 2011 change eliminating registration for children under 14). What remains unclear is whether the legislature will reform SORA or, if it does, whether what it passes will be constitutional.

C. Litigation in the Michigan Supreme Court and Sixth Circuit

In March 2019, the Michigan Supreme Court heard argument on whether to grant leave in criminal appeals concerning SORA's retroactive application. Michigan's Attorney General filed an amicus brief adopting the appellants' position that SORA is punishment.² Br. of Mich. Atty. Gen., *People v. Betts*, No. 148981 (Mich.) (Feb. 8, 2019). The Attorney General did not take a position on severability, other than to say that severability "is a complex issue because [the 2011 amendments] are fairly embedded in the SORA." *Id.* at 3.

The Court granted leave in *People v. Betts*, 928 N.W.2d 699 (Mich. 2019), ordering briefing on, *inter alia*, whether SORA violates the Ex Post Facto Clause; whether SORA became punitive only upon enactment of certain provisions; whether any ex post facto violation can be cured by applying an earlier version of SORA or whether some different remedy applies; and whether SORA's remaining provisions can be given retroactive effect without applying the stricken provisions.

² Separate counsel from the Attorney General's office represented the county prosecutor in one of the cases, arguing the opposite.

Meanwhile, a challenge filed by an individual registrant seeking coverage under *Does I* reached the Sixth Circuit Court of Appeals. *See Lewis v. Whitmer*, No. 18-1912 (6th Cir.). That case was filed *in pro per*, and the district court adopted a report and recommendation barring application of the 2006 and 2011 amendments, but permitting the remainder of SORA to apply. *Lewis v. Snyder*, No. 17-cv-10808, R.31 (E.D. Mich., July 10, 2018) (Ludington, J.). The Sixth Circuit appointed counsel for the plaintiff, who now argues that, due the severability issue, SORA cannot be applied to him. *See Lewis*, Appellant’s Brief, R.19, No. 18-1912 (6th Cir., Sept. 5, 2019). The state defendants have not yet responded.

Argument

I. Because SORA’s 2011 Amendments Are Not Severable, the Court Should Declare that SORA Is Void as to Pre-2011 Registrants.

Plaintiffs ask this Court to declare that SORA’s 2011 amendments are not severable, and that the statute therefore is null and void as applied to people who are subject to registration based on offenses committed before April 12, 2011.

A. The 2011 Amendments Are Not Severable.

1. The Legal Standard for Severability

When confronted with an unconstitutional statute, a court must balance two competing concerns. It must restrain itself from “rewriting state law to conform it to constitutional requirements” and must avoid “quintessentially legislative work[.]” *Ayotte v. Planned Parenthood of Northern New England*, 546 U.S. 320, 329 (2006).

At the same time, a court should “try not to nullify more of a legislature’s work than is necessary,” severing unconstitutional provisions if possible. *Id.* Whether a court would be involved in impermissible legislative rewriting, or whether instead a law can be salvaged through severance, depends on how embedded the unconstitutional provisions are in the statutory fabric. “State law governs the question of severability.” *Memphis Planned Parenthood, Inc. v. Sundquist*, 175 F.3d 456, 466 (6th Cir. 1999).

Under Michigan law, severance requires that “the valid portion of the statute must be independent of the invalid sections, forming a complete act within itself.” *Pletz v. Sec’y of State*, 336 N.W.2d 789, 808 (Mich. Ct. App. 1983). If the “unconstitutional portions are so entangled with the others that they cannot be removed without adversely affecting the operation of the act,” then the whole act is unconstitutional. *Blank v. Dep’t of Corrections*, 611 N.W.2d 530, 540 (Mich. 2000).

SORA does not contain a severability clause.³ But Michigan has a general severability statute:

In the construction of the statutes of this state the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the legislature, that is to say:

If any portion of an act or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity

³ M.C.L. § 28.728(8) does provide that if public availability of SORA information is unconstitutional, the website must be revised accordingly.

shall not affect the remaining portions or application, *provided such remaining portions are not determined by the court to be inoperable*, and to this end acts are declared to be severable.

M.C.L. § 8.5 (emphasis added).

Thus, this Court must determine whether, if SORA's invalid portions are stricken, the remaining portions can function on their own. Importantly, the severability question is not whether the legislature could pass some registration statute that would pass constitutional muster, but rather whether SORA, as written today, can operate in the absence of the offending provisions without the Court engaging in statutory redrafting to make what is left of the law constitutional.

2. The 2011 Amendments Are So Deeply Embedded in SORA that the Statute Is Unintelligible Without Them.

The 2011 amendments are not severable. They entirely rewrote SORA and are completely embedded in the statute. Indeed, as a highlighted version of the law shows, the 2011 amendments make up nearly half the statute. *See* 2006 and 2011 SORA Amendments, Ex. A. Those amendments created the three-tier system. Key definitional terms, which are used throughout the statute and trigger SORA's obligations, were added or rewritten. For example, Mich. Pub. Act 17, Sec. 3 (2011), codified as M.C.L. § 28.723, specifies who must register (namely those convicted of "listed offenses"). Section (2)(k) of the Act, codified as M.C.L. § 28.722(k), defines "listed offense" to mean "a tier I, tier II, or tier III offense." Similarly, Sections 5(10)-(12), codified as M.C.L. §§ 28.725(10)-(12), key the length of registration to

tier classification, and Section 5a(3), codified as M.C.L. § 28.725a(3), keys the frequency of registration to tier classification.

If every piece of SORA that was added in 2011 is excised, the remaining statute is an incomprehensible amalgam of provisions referencing excised sections, leaving the Act inoperable within the meaning of M.C.L. § 8.5. For example, tier I registrants must report once a year, tier II registrants twice a year, and tier III registrants quarterly. M.C.L. § 28.725a. Without the tiering language, SORA does not specify how often a registrant must report. Similarly, the duration of registration is keyed to a person's tier level, with tier I registrants reporting for 15 years, tier IIs for 25 years, and tier IIIs for life. M.C.L. §§28.725(10)-(12). Without tiering, SORA does not state how long one must register. The statute is incomprehensible without the tier structure, yet that structure was added in 2011 and the Sixth Circuit found it to be punitive. *Does I*, 834 F.3d at 705.

Where, as here, unconstitutional provisions are embedded in a statute, courts regularly find that such provisions are not severable. In *Associated Builders & Contractors v. Perry*, 869 F. Supp. 1239, 1254 (E.D. Mich. 1994), *rev'd on other grounds* 115 F.3d 386 (6th Cir. 1997), this Court held that impermissible sections of a statute were so interwoven with permissible provisions that they were not severable, making the statute unenforceable in its entirety. *See also In re Apportionment*

of State Legislature-1982, 321 N.W.2d 565, 582 (Mich. 1982) (once state apportionment formula was declared illegal, “all the apportionment rules fell because they are inextricably related”). Here, excising the 2011 amendments would leave a nonsensical alphabet soup, incomprehensible to registrants and police alike. The amendments “are not like a collection of bricks, some of which may be taken away without disturbing the [provisions that existed before], but rather are like the interwoven threads constituting the warp and woof of a fabric, one set of which cannot be removed without fatal consequences to the whole.” *Carter v. Carter Coal Co.*, 298 U.S. 238, 315 (1936). SORA’s remaining provisions are not “otherwise complete in [themselves] and [are not] capable of being carried out without reference to the unconstitutional [sections].” *Blank*, 611 N.W.2d at 540.

3. The Court Cannot Rewrite the Statute.

Because the 2011 amendments cannot be severed, the statute “cannot be judicially enforced because doing so requires the Court to impose its own prerogative on an act of the Legislature.” *Stone v. Williamson*, 753 N.W.2d 106, 115 (Mich. 2008). Given how sweeping the 2011 amendments were, it is simply impossible to know whether the legislature would have passed the law without the provisions that have been declared unconstitutional, or what the legislature will do now that those amendments cannot be retroactively enforced.

The U.S. Supreme Court has said that, “mindful that our constitutional mandate and institutional competence are limited, we restrain ourselves from rewrit[ing] state law to conform it to constitutional requirements even as we strive to salvage it.” *Ayotte*, 546 U.S. at 329 (citation omitted). Further, “making distinctions in a murky constitutional context, or where line-drawing is inherently complex, may call for a far more serious invasion of the legislative domain than we ought to undertake.” *Id.* Judicial deference is particularly appropriate where, as here, the legislature is already contemplating a statutory overhaul. In this situation, “a federal court, on reviewing a state statute, does not assume the task of making such choices for the state legislature.” *Eubanks v. Wilkinson*, 937 F.2d 1118, 1127 (6th Cir. 1991). Rather, the court should allow the “State [to] pursue its own policy choices in fashioning new legislation,” while ensuring that affected individuals “remain[] free of undue burden while the legislature redesigns its statute.” *Id.*

B. “Reviving” Earlier Versions of SORA Would Make It Impossible for Registrants to Know What Their Obligations Are, and Would Contravene the Legislature’s Intent.

1. A “Revived” Statute Would Be Void for Vagueness.

Defendants may argue that although the 2011 amendments cannot be severed, some earlier version of SORA could be “revived.” The problem with this theory is that no one—not registrants, not police, not prosecutors, not defense counsel, and not judges—has any idea what SORA means absent the amendments.

As an initial matter, it is unclear what version of SORA would “revive”: would it be the pre-2006 or pre-2011 statute? Does the prior statute “revive” only for pre-2011 registrants or for post-2011 registrants as well? If only for pre-2011 registrants, would there be two versions of SORA in effect simultaneously: one version for pre-2011 and one for post-2011 registrants? Will all pre-2011 registrants be covered by the same “revived” statute? Or will the 2005 version apply to pre-2006 registrants, the 2010 version to pre-2011 registrants, and the current version to everyone else, so that there are actually three different statutes in effect? There is no way to know. How registrants can determine what law to follow, or law enforcement can know what version of the statute to enforce, is a mystery.

The problem is compounded by the fact that old versions of SORA no longer exist in a form that can be located or consulted.⁴ Without the text of a law to look at, no one will know what registrants’ obligations are.

Moreover, if there are multiple versions of the law simultaneously in effect,

⁴ One cannot piece together the pre-2006 law by looking at the public acts adopted in 2006. Instead, one has to work backward, consulting multiple public acts. One can find the then-operative § 8 in Mich. Pub. Act 238 (2004); §§ 4, 4a, 5a, 5b and 5c and 9 in Mich. Pub. Act 237 (2004), §§11, 13 and 14 in Mich. Pub. Act 239 (2004), and §§ 2, 4, 5, 5a, 8, 8c, 8d, and 10 in Mich. Pub. Act 240 (2004). For other sections, one must go even further back. Searching through these acts to determine which provisions were in effect at any given time is challenging, even for counsel who have spent years working with this statute. Neither registrants nor police officers will have any idea where to look, or how to read what they find.

law enforcement would not easily be able to determine what version of the statute applies in a particular registrant's case, because that would be triggered by the registrant's offense date—information that is typically buried in court files. For example, a police officer who discovers that a registrant with a 2007 conviction is living in an exclusion zone would not know if this is a crime without first determining whether the underlying registrable offense occurred before the 2006 amendments. Similarly, the fact that a registrant has a 2012 conviction does not make it a crime to fail to report a Facebook account. What matters is whether the offense itself occurred after April 12, 2011, something that an officer won't know without reviewing files—files which could be in a dusty archive in some far-off jurisdiction.

“Reviving” some unspecified past version of SORA—the text of which is not available and the applicability of which requires file research—would violate the void-for-vagueness doctrine. A statute is unconstitutionally vague if it (1) does not provide a person of ordinary intelligence notice of what conduct is prohibited, and (2) does not provide clear guidance for those who enforce its prohibitions. *Kolender v. Lawson*, 461 U.S. 352, 357 (1983). These requirements reflect the two primary goals of the void-for-vagueness doctrine: “to ensure fair notice to the citizenry” and “to provide standards of enforcement by the police, judges, and juries.” *Columbia Nat. Res. Inc. v. Tatum*, 58 F.3d 1101, 1104 (6th Cir. 1995).

With respect to notice to the citizenry:

The dividing line between what is lawful and unlawful cannot be left to conjecture....The crime, and the elements constituting it, must be so clearly expressed that the ordinary person can intelligently choose, in advance, what course it is lawful for him to pursue.

Connally v. Gen. Constr. Co., 269 U.S. 385, 393 (1926). With respect to clear law enforcement standards, vague laws give “law enforcement officers, courts and jurors unfettered freedom to act on nothing but their own preferences and beliefs,” *United States v. Salisbury*, 983 F.2d 1369, 1378 (6th Cir. 1993), allowing for “arbitrary and discriminatory application” of the law. *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972).

Without the 2011 amendments, basic requirements—like when to register—are unclear. A tier III registrant born in February would, under the current statute, be required to report in February, May, August and November. M.C.L. § 28.725a. But under a “revived” statute the registrant might be required to report in January, April, July, and October. Mich. Pub. Act 240, Sec. 5a(4) (2004). A registrant who guessed wrong about when to report—which seems inevitable when there is no copy of the law available—could go to prison. Similarly, current law requires reporting address changes within three days, M.C.L. § 28.722(g); § 28.725(1)(a), but previously SORA allowed ten days. *See* Mich. Pub. Act 132, Sec. 5(1) (2006). If a registrant reports on day seven, is that a crime?

In sum, a revival approach would require registrants to comply with and police to enforce some unknown, unfindable version of SORA, defying the core constitu-

tional command that “[n]o one may be required at peril of life, liberty, or property to speculate as to the meaning of penal statutes. All are entitled to be informed as to what the State commands or forbids.” *Cramp v. Bd. of Pub. Instruction*, 368 U.S. 278, 287 (1961).

2. A “Revived” Statute Would Contravene Legislative Intent.

Michigan has adopted an anti-revival approach: “Whenever a statute, or any part thereof shall be repealed by a subsequent statute, such statute, or any part thereof, so repealed, shall not be revived by the repeal of such subsequent repealing statute.” M.C.L. § 8.4. Here, the 2011 amendments effectively repealed large portions of the earlier SORA. Now that *Does I* bars retroactive application of those amendments, M.C.L. § 8.4 indicates that this “judicial repeal” should not result in revival of the previous law.

Nor is there any evidence that today’s legislature wants the 2005 or 2010 laws enforced as written. The legislature has repeatedly revised SORA over the past fourteen years, including removing “Romeo and Juliet” (consensual teen) offenders and children under the age of 14, making registration for older youth non-public, and altering the offenses that result in registration. *See, e.g.*, Mich. Pub. Act 239, 240 (2004); Mich. Pub. Acts 17, 18 (2011). While “reviving” an earlier statute would eliminate provisions this Court found unconstitutionally punitive, it would also “revive” some of the registry’s most punitive provisions, undermining the legisla-

ture’s intent and leading to further litigation and. *See also McGuire v. Strange*, 83 F. Supp. 3d 1231, 1271 (M.D. Ala. 2015) (rejecting revival approach where revisions to Alabama SORA were “so extensive and far-reaching as to relegate the prior statute to mere irrelevance”).

Stakeholder discussions to date strongly suggest that the legislature wants one unified *Does I*-compliant statute for all registrants, which has the advantage of administrative simplicity and allows the legislature to cure not just the ex post facto problem, but other constitutional violations. While the Sixth Circuit’s decision that the 2006 and 2011 amendments cannot be applied retroactively impacts only pre-2006 and pre-2011 registrants, this Court found other SORA provisions unconstitutional for all registrants. Reviving earlier versions of the law to cure the ex post facto problem would not address those other violations.

Moreover, while one cannot know what new statute will pass until it passes, “reviving” earlier versions would result in exactly what the legislature does not want: three different complex schemes (for pre-2006 registrants, 2006-2011 registrants, and post-2011 registrants) that are not even written down. The fact that offense dates—which would determine what rules apply—are typically buried in court files and not readily accessible to law enforcement, would make this administrative nightmare even worse. Revival contravenes legislative intent.

C. It Is Unnecessary and Inappropriate to Certify the Severability Question to the Michigan Supreme Court.

Although the Court could certify the severability question to the Michigan Supreme Court, the usual standard for certification is not met here. The Eastern District of Michigan's Local Rules provide for certification where:

- 1) the issue certified is an unsettled issue of State law, and
- 2) the issue certified will likely control the outcome of the federal suit, and
- 3) certification of the issue will not cause undue delay or prejudice.

L.R. 83.40(a). *See also* Mich. Ct. R. 7.308(A)(2)(B).

With respect to the first factor, certification is intended to “allow[] a federal court faced with a *novel* state-law question to put the question directly to the State’s highest court.” *Arizonans for Official English v. Arizona*, 520 U.S. 43, 75-76 (1997) (emphasis added). But the federal courts “will not trouble our sister state courts every time an arguably unsettled question of state law comes across our desks. When we see a reasonably clear and principled course, we will seek to follow it ourselves.” *Pennington v. State Farm Mut. Auto. Ins. Co.*, 553 F.3d 447, 450 (6th Cir. 2009); *see City of Houston, Tex. v. Hill*, 482 U.S. 451, 470-71 (1987) (inappropriate to “certify a question in a case where ... there is no uncertain question of state law”).

There is a well-articulated body of Michigan law on severability. While Michigan courts have not precisely addressed severability of the 2011 SORA amendments, “[t]he state court need not have addressed the exact question, so long as well-established principles exist to govern a decision.” *State Auto Prop. & Cas. Ins. Co.*

v. Hargis, 785 F.3d 189, 194 (6th Cir. 2015). It is clear under Michigan law that the 2011 amendments are so embedded in SORA that they cannot be severed. And it is clear under federal law that enforcing some other unknowable, unfindable version of SORA would be unconstitutional on vagueness grounds.

With respect to the second factor—whether certification will “control the outcome of the federal suit”—severability is relevant only to the scope of relief on one of four claims. It does not control the outcome of the “suit” as a whole.

Third, certification here would cause undue delay and prejudice. For the past three years, thousands of people have been subjected to unconstitutional punishment because the legislature has failed to pass a new law. They have lived as “moral lepers” consigned to “existence on the margins” under a “byzantine code governing” their lives “in minute detail.” *Does I*, 834 F.3d at 697, 705. Plaintiffs have repeatedly agreed to defer the severability issue to give the legislature time to act. They can wait no longer, and certification would likely delay a decision for many more months. Moreover, a certification order could result in staying the entire case, *see* L.R. 83.40(b), meaning that plaintiffs could not even get relief on their other claims (that do not involve severability).

Certification could delay a decision until mid-to-late 2020. L.R. 83.40; Mich. Ct. R. 7.308(A)(2)-(5). Plaintiffs should not continue to be punished for another year (not to mention that fall 2020 is an inauspicious time for legislative reform).

Plaintiffs recognize that certification is within the Court's discretion, *Hargis*, 785 F.3d at 194, and that there may be prudential reasons to certify severability, given that the Michigan Supreme Court is considering similar questions in *Betts*. If the Court does certify, plaintiffs request, at a minimum, that the Court grant interim relief to protect them during the pendency of those proceedings. *See* Part III.

II. This Court Should Enjoin Defendants from Retroactively Enforcing SORA Against the Ex Post Facto Subclasses.

Plaintiffs seek a permanent injunction to prevent the retroactive application of SORA to the ex post facto subclasses, unless or until the legislature amends SORA (to bring it into compliance with *Does I.*) Fed. R. Civ. P. 65. Plaintiffs must demonstrate (1) that they have suffered an irreparable injury; (2) that remedies available at law are inadequate to compensate for the injury; (3) that considering the balance of hardships between the parties, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction. *See eBay Inc. v. Merc-Exchange, LLC*, 547 U.S. 388, 391 (2006). That standard is easily met here.

First, with respect to irreparable injury, if “a constitutional right is being threatened or impaired, a finding of irreparable injury is mandated.” *ACLU of Kentucky v. McCreary County*, 354 F.3d 438, 445 (6th Cir. 2003). Since retroactive enforcement of SORA is unconstitutional, such enforcement constitutes irreparable harm. *See Overstreet v. Lexington-Fayette Urban Cnty. Gov't*, 305 F.3d 566, 578 (6th Cir. 2002) (“denial of an injunction will cause irreparable harm if the claim is

based upon a violation of the plaintiff's constitutional rights"). The Sixth Circuit found that SORA causes not just legal injury but actual *punishment*—the very definition of irreparable harm.

Despite the *Does I* decisions and even after this Court's declaratory judgment, R. 55, Michigan continues to apply SORA to all registrants. Defendants continue to label registrants by tiers on the public registry, to apply the retroactively lengthened registration terms, and to enable the public to subscribe to electronic notifications. 2d Am. Compl., ¶¶ 25, 34, 44, 98, R.34, Pg.ID# 349-50, 351, 353, 363; Redacted SORA Pages for Named Plaintiffs, Ex. B. Defendants continue to inform registrants that they must comply with *all* of SORA's requirements. The "Explanation of Duties" form being provided to registrants under M.C.L. § 28.725a still sets forth the registrant's tier classification and describes the length of registration based on that classification. *See* Explanation of Duties (EOD) for Named Plaintiffs, April/May 2018, R. 34-9; Does #2-3 EODs, July & Sept. 2019, Ex. C; Lewis EOD, July 2019, filed in *Lewis v. Whitmer*, No. 18-1912 (6th Cir.), Ex. D. It also tells them that they cannot live, work or "loiter" in exclusion zones; that they must report in person within three days of certain events; and that they must report before traveling for more than seven days. *Id.* All of these provisions violate *Does I*.

In short, defendants continue to require all registrants—under threat of felony prosecution—to comply with the very provisions of SORA that the Sixth Circuit

said cannot be applied retroactively, and continue to operate the registry as if *Does I* had never been decided. And indeed, state prosecutors continue to bring criminal charges against registrants for conduct that is perfectly legal under *Does I*. See, e.g., *Roe v. Snyder*, 240 F. Supp. 3d 697 (E.D. Mich. 2017) (granting preliminary injunction where plaintiff was threatened with prosecution if she continued to work near a school); Decl. of Atty. Farkas, Ex. E (describing three recent cases in one county); Decl. of Atty. VanGelderren, Ex. F (describing prosecution and conviction in last year of pre-2006 registrant who watched grandchildren's soccer game).

Absent an injunction, plaintiffs will suffer ongoing deprivation of their constitutional rights. Indeed, in *Roe* the Eastern District held that a pre-2006 registrant who was subjected to SORA suffered irreparable harm because she had to comply with the post-2006 SORA amendments and was listed on the registry as a tier III offender. *Roe*, 240 F. Supp. 3d at 711. See also *Preston v. Thompson*, 589 F.2d 300, 303 n.3 (7th Cir. 1978) (a continuing constitutional violation is irreparable harm).

Thus, unless this Court grants injunctive relief, plaintiffs and the ex post facto subclasses must continue to obey the letter of the 2006 and 2011 amendments, and will remain at risk of criminal charges or prosecution—as well as loss of jobs, home, and family relationships—if they do not conform with all aspects of SORA. All ex post facto subclass members will suffer irreparable harm until injunctive relief is granted.

Second, in order for a legal remedy to suffice, it “must not only be plain, speedy and adequate, but as adequate to meet the ends of justice as that which the restraining power of equity is competent to grant.” *Harris Stanley Coal & Land Co. v. Chesapeake and O. Ry. Co.*, 154 F.2d 450, 453 (6th Cir. 1946). There are simply no such adequate legal remedies where government officials have imposed and continue to impose unconstitutional retroactive punishment.

Third, the balance of the hardships between the parties definitively tips in plaintiffs’ favor. They and the subclasses are suffering not just grave harm, but actual *punishment*. In contrast, defendants have no legitimate interest in enforcement of unconstitutional laws. While the state might be harmed if the enforcement of a *constitutional* law were enjoined, the statute involved in this case has already been held to be unconstitutional. *See Connection Distrib. Co. v. Reno*, 154 F.3d 281, 288 (6th Cir. 1998). Moreover, three years after the Sixth Circuit decision, the state cannot argue that it should be given yet more time to come into compliance.

Fourth, it is well established that the vindication of constitutional rights serves the public interest. *See, e.g., G & V Lounge, Inc. v. Mich. Liquor Control, Comm’n*, 23 F.3d 1071, 1079 (6th Cir. 1994) (“it is always in the public interest to prevent violation of a party’s constitutional rights”); *Preston*, 589 F.2d at 303 n.3 (“The existence of a continuing constitutional violation constitutes proof of an irreparable harm, and its remedy certainly would serve the public interest.”); *Caspar v. Snyder*,

77 F. Supp. 3d 616, 644 (E.D. Mich. 2015) (“the public interest is always served by robust protection of constitutional guarantees”). The fourth factor, too, therefore weighs in favor of granting injunctive relief.

III. If the Court Certifies the Severability Question to the Michigan Supreme Court, It Should Grant Interim Relief.

While it is neither necessary nor appropriate to certify the severability question to the Michigan Supreme Court, *see* Part I.C., if this Court does certify, it should ensure that in the interim: (1) registrants do not suffer continued punishment; and (2) both registrants and law enforcement have clarity on what SORA provisions will apply pending a decision on severability. In the event of certification, interim relief is required to prevent ongoing violations of the constitutional rights of all *ex post facto* subclass members, to comply with the constitutional requirement that no one can be required to speculate about the meaning of penal statutes, and to meet the prerequisite under L.R. 83.40 that certification not cause undue delay or prejudice.

In *Does I*, this Court never ruled on severability because a compromise judgment was entered, spelling out what SORA obligations would apply to the plaintiffs pending new legislation. *Does I*, No. 2:12-cv-11194, R. 153 (E.D. Mich. Jan. 26, 2018) (Ex. G). (At the time, the parties believed the legislature would quickly revise SORA to conform with the *Does I* decisions.) While defendants initially proposed a final judgment simply enjoining retroactive application of the 2006 and 2011 amendments to the *Does I* plaintiffs, those plaintiffs pointed out that this would

violate Rule 65, which requires injunctions to “describe in reasonable detail ... the act or acts required or restrained.” Fed. R. Civ. P. 65(d)(1)(C)).

The negotiated consent judgment in *Does I* required plaintiffs to report residential addresses, name changes, and college attendance, and do so quarterly. *Does I*, No. 2:12-cv-11194, R.153, Pg.ID#6515. That was it. All plaintiffs also came off the *public* internet registry, *id.*, reflecting the Sixth Circuit’s concern that labeling registrants by tier—when tiers bear no relationship to risk—was part of what made SORA punitive. *Does I*, 834 F.3d at 702. Given the existing public registry web interface, plaintiffs could not be listed without a space for tier designations.

Here, if the Court does certify severability, it should grant similar relief. Alternately, the Court could set a short time frame within which the parties could attempt to negotiate a proposed interim consent judgment, with any disputes to be resolved by the Court. What the Court should *not* do is leave tens of thousands of people with no way to know what their legal obligations are, while defendants continue to impose unconstitutional punishment upon them.

IV. This Court Should Enjoin Defendants from Retroactively Enforcing the 2006 Amendments.

As discussed above, because the 2011 are embedded in SORA, an injunction against their retroactive application necessarily involves the severability and void-for-vagueness issues, meaning that—absent legislative reform—the remedy must be to enjoin the statute as to pre-2011 registrants. The remedy with respect to the 2006

amendments is much simpler, as those provisions are separate sections of the statute whose retroactive application can easily be enjoined. The 2006 amendments barred registrants (with limited exceptions) from working, residing, or loitering within 1000 feet of school property, and imposed criminal penalties for noncompliance. Mich. Pub. Acts 121, 127 (2005), codified as M.C.L. §§ 28.733-.736. They also established a system for subscribing members of the public to be electronically notified when people register or move into a particular zip code. Mich. Pub. Act 46 (2006), codified as M.C.L. § 28.730(3).

Does #1-3 and members of the pre-2006 ex post facto subclass easily meet the requirements for a permanent injunction, for the same reasons set out in Part II, *supra*. They are suffering the irreparable injury of retroactive punishment in violation of the Ex Post Facto Clause, there are no remedies at law to compensate them, the balance of equities weighs heavily in their favor, and the public interest is served by an injunction to ensure compliance with the Constitution.

Accordingly, pursuant to Fed. R. Civ. Proc. 65, the Court should enjoin defendants, their officers, agent, servants, employees and attorneys, and all other persons who are in active concert or participation with them, from enforcing M.C.L. §§ 28.733-.736 and the second sentence of M.C.L. § 28.730(3) (governing e-notice to members of the public who request it when registrants move into, e.g., a certain

zip code). While such relief would be subsumed in an injunction barring any enforcement of SORA against pre-2011 registrants, plaintiffs' entitlement to it is clear, and it should be separately ordered to ensure that plaintiffs receive that relief in the event of any further proceedings related to the severability of the 2011 amendments.

V. The Court Should Order Notice.

Fed. R. Civ. Proc. 23(c)(2)(A) and 23(d)(1)(B) give the Court broad discretion to ensure that class members receive appropriate notice. Here, because defendants have continued to provide Explanation of Duties forms that falsely tell registrants they must comply with SORA as written, notice is essential. Class members should not have to speculate about their obligations when prison terms are at stake. The Court should further order defendants to provide class counsel with a class list, indicating which class members are in the ex post facto subclasses. Plaintiffs propose that the parties work together on a proposed stipulated order regarding what information should be provided, including any necessary protective order provisions.

Finally, pursuant to Fed. R. Civ. Pr. 23(d)(1) and 65(d)(2), the Court should order defendants to provide notice of any relief granted here, as well as of the declaratory relief granted in this Court's prior order, R. 55, to all prosecutors and all Michigan law enforcement personnel who have responsibility for enforcing SORA.

Conclusion

For the reasons set out above, the Court should grant the relief requested.

Respectfully submitted,

s/ Alyson L. Oliver (P55020)
Oliver Law Group P.C.
363 W. Big Beaver Rd., Suite 200
Troy, MI 48226
(248) 327-6556
notifications@oliverlg.com

s/ Paul D. Reingold (P27594)
Michigan Clinical Law Program
363 Legal Research Building
801 Monroe Street
Ann Arbor, MI 48109
(734) 763-4319
pdr@umich.edu

Dated: September 24, 2019

s/ Miriam J. Aukerman (P63165)
American Civil Liberties Union
Fund of Michigan
1514 Wealthy SE
Grand Rapids, MI 49506
(616) 301-0930
maukerman@aclumich.org

s/ Daniel Korobkin (P72842)
American Civil Liberties Union
Fund of Michigan
2966 Woodward Avenue
Detroit, MI 48201
(313) 578-6824
dkorobkin@aclumich.org

Attorneys for Plaintiffs

Certificate of Service

On September 24, 2019, the plaintiffs filed the above motion and brief for partial summary judgment using the Court's ECF system, which will send same-day email service to all counsel of record.

s/ Miriam J. Aukerman
Attorney for Plaintiffs

INDEX OF EXHIBITS

- A. Michigan Sex Offenders Registration Act With 2006 and 2011 Amendments Highlighted
- B. Redacted SORA Registry Pages for Named Plaintiffs
- C. Explanation of Duties, Does #2 & 3, July 2019 and September 2019.
- D. Explanation of Duties, Mann Lewis, July 2019, filed in *Lewis v. Whitmer*, No. 18-1912 (6th Cir.)
- E. Declaration of Attorney Stephanie Farkas
- F. Declaration of Attorney Peter VanGeldereren
- G. Final Judgment in *Does I v. Snyder*, No. 2:12-cv-11194, R. 153 (E.D. Mich. Jan. 26, 2018)

Exhibit C

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SEX OFFENDERS REGISTRATION ACT
Act 295 of 1994

AN ACT to require persons convicted of certain offenses to register; to prohibit certain individuals from engaging in certain activities within a student safety zone; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 2004, Act 237, Eff. Oct. 16, 2004;—Am. 2005, Act 121, Eff. Jan. 1, 2006;—Am. 2005, Act 127, Eff. Jan. 1, 2006.

The People of the State of Michigan enact:

&NBSP; I
GENERAL

28.721 Short title.

Sec. 1. This act shall be known and may be cited as the “sex offenders registration act”.

History: 1994, Act 295, Eff. Oct. 1, 1995.

28.721a Legislative declarations; determination; intent.

Sec. 1a. The legislature declares that the sex offenders registration act was enacted pursuant to the legislature's exercise of the police power of the state with the intent to better assist law enforcement officers and the people of this state in preventing and protecting against the commission of future criminal sexual acts by convicted sex offenders. The legislature has determined that a person who has been convicted of committing an offense covered by this act poses a potential serious menace and danger to the health, safety, morals, and welfare of the people, and particularly the children, of this state. The registration requirements of this act are intended to provide law enforcement and the people of this state with an appropriate, comprehensive, and effective means to monitor those persons who pose such a potential danger.

History: Add. 2002, Act 542, Eff. Oct. 1, 2002.

28.722 Definitions.

Sec. 2. As used in this act:

(a) "Aircraft" means that term as defined in section 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(b) "Convicted" means 1 of the following:

(i) Having a judgment of conviction or a probation order entered in any court having jurisdiction over criminal offenses, including, but not limited to, a tribal court or a military court, and including a conviction subsequently set aside under 1965 PA 213, MCL 780.621 to 780.624.

(ii) Either of the following:

(A) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, before October 1, 2004. This sub-subparagraph does not apply if a petition was granted under section 8c at any time allowing the individual to discontinue registration under this act, including a reduced registration period that extends to or past July 1, 2011, regardless of the tier designation that would apply on and after that date.

(B) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15, before October 1, 2004 if the individual is convicted of any other felony on or after July 1, 2011.

(iii) Having an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28, if both of the following apply:

(A) The individual was 14 years of age or older at the time of the offense.

(B) The order of disposition is for the commission of an offense that would classify the individual as a tier III offender.

(iv) Having an order of disposition or other adjudication in a juvenile matter in another state or country if both of the following apply:

(A) The individual is 14 years of age or older at the time of the offense.

(B) The order of disposition or other adjudication is for the commission of an offense that would classify the individual as a tier III offender.

(c) "Custodial authority" means 1 or more of the following apply:

(i) The actor was a member of the same household as the victim.

(ii) The actor was related to the victim by blood or affinity to the fourth degree.

(iii) The actor was in a position of authority over the victim and used this authority to coerce the victim to submit.

(iv) The actor was a teacher, substitute teacher, or administrator of the public school, nonpublic school, school district, or intermediate school district in which that other person was enrolled.

(v) The actor was an employee or a contractual service provider of the public school, nonpublic school, school district, or intermediate school district in which that other person was enrolled, or was a volunteer who was not a student in any public school or nonpublic school, or was an employee of this state or of a local unit of government of this state or of the United States assigned to provide any service to that public school, nonpublic school, school district, or intermediate school district, and the actor used his or her employee, contractual, or volunteer status to gain access to, or to establish a relationship with, that other person.

(vi) That other person was under the jurisdiction of the department of corrections and the actor was an employee or a contractual employee of, or a volunteer with, the department of corrections who knew that the other person was under the jurisdiction of the department of corrections and used his or her position of authority over the victim to gain access to or to coerce or otherwise encourage the victim to engage in sexual contact.

(vii) That other person was under the jurisdiction of the department of corrections and the actor was an employee or a contractual employee of, or a volunteer with, a private vendor that operated a youth correctional facility under section 20g of the corrections code of 1953, 1953 PA 232, MCL 791.220g, who knew that the other person was under the jurisdiction of the department of corrections.

(viii) That other person was a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor was an employee or a contractual employee of, or a volunteer with, the county or the department of corrections who knew that the other person was under the county's jurisdiction and used his or her position of authority over the victim to gain access to or to coerce or otherwise encourage the victim to engage in sexual contact.

(ix) The actor knew or had reason to know that a court had detained the victim in a facility while the victim was awaiting a trial or hearing, or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult, and the actor was an employee or contractual employee of, or a volunteer with, the facility in which the victim was detained or to which the victim was committed.

(d) "Department" means the department of state police.

(e) "Employee" means an individual who is self-employed or works for any other entity as a full-time or part-time employee, contractual provider, or volunteer, regardless of whether he or she is financially compensated.

(f) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 174, MCL 761.1.

(g) "Immediately" means within 3 business days.

(h) "Indigent" means an individual to whom 1 or more of the following apply:

(i) He or she has been found by a court to be indigent within the last 6 months.

(ii) He or she qualifies for and receives assistance from the department of human services food assistance program.

(iii) He or she demonstrates an annual income below the current federal poverty guidelines.

(i) "Institution of higher education" means 1 or more of the following:

(i) A public or private community college, college, or university.

(ii) A public or private trade, vocational, or occupational school.

(j) "Listed offense" means a tier I, tier II, or tier III offense.

(k) "Local law enforcement agency" means the police department of a municipality.

(l) "Minor" means a victim of a listed offense who was less than 18 years of age at the time the offense was committed.

(m) "Municipality" means a city, village, or township of this state.

(n) "Registering authority" means the local law enforcement agency or sheriff's office having jurisdiction over the individual's residence, place of employment, or institution of higher learning, or the nearest department post designated to receive or enter sex offender registration information within a registration jurisdiction.

(o) "Registration jurisdiction" means each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the United States Virgin Islands, American Samoa, and the Indian tribes within the United States that elect to function as a registration jurisdiction.

(p) "Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. If a person is homeless or otherwise lacks a fixed or temporary residence, residence means the village, city, or township where the person spends a majority of his or her time. This section shall not be construed to affect existing judicial interpretation of the term residence for purposes other than the purposes of this act.

(q) "Student" means an individual enrolled on a full- or part-time basis in a public or private educational institution, including, but not limited to, a secondary school, trade school, professional institution, or institution of higher education.

(r) "Tier I offender" means an individual convicted of a tier I offense who is not a tier II or tier III offender.

(s) "Tier I offense" means 1 or more of the following:

(i) A violation of section 145c(4) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(ii) A violation of section 335a(2)(b) of the Michigan penal code, 1931 PA 328, MCL 750.335a, if a victim is a minor.

(iii) A violation of section 349b of the Michigan penal code, 1931 PA 328, MCL 750.349b, if the victim is a minor.

(iv) A violation of section 449a(2) of the Michigan penal code, 1931 PA 328, MCL 750.449a.

(v) A violation of section 520e or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g, if the victim is 18 years or older.

(vi) A violation of section 539j of the Michigan penal code, 1931 PA 328, MCL 750.539j, if a victim is a minor.

(vii) Any other violation of a law of this state or a local ordinance of a municipality, other than a tier II or tier III offense, that by its nature constitutes a sexual offense against an individual who is a minor.

(viii) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(ix) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (viii).

(x) An offense substantially similar to an offense described in subparagraphs (i) to (ix) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law.

(t) "Tier II offender" means either of the following:

(i) A tier I offender who is subsequently convicted of another offense that is a tier I offense.

(ii) An individual convicted of a tier II offense who is not a tier III offender.

(u) "Tier II offense" means 1 or more of the following:

(i) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a.

(ii) A violation of section 145b of the Michigan penal code, 1931 PA 328, MCL 750.145b.

(iii) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(iv) A violation of section 145d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.145d, except for a violation arising out of a violation of section 157c of the Michigan penal code, 1931 PA 328, MCL 750.157c.

(v) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, committed against a minor unless either of the following applies:

(A) All of the following:

(I) The victim consented to the conduct constituting the violation.

(II) The victim was at least 13 years of age but less than 16 years of age at the time of the violation.

(III) The individual is not more than 4 years older than the victim.

(B) All of the following:

(I) The victim consented to the conduct constituting the violation.

(II) The victim was 16 or 17 years of age at the time of the violation.

(III) The victim was not under the custodial authority of the individual at the time of the violation.

(vi) A violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, committed against an individual 13 years of age or older but less than 18 years of age. This subparagraph does not apply if the court determines that either of the following applies:

(A) All of the following:

(I) The victim consented to the conduct constituting the violation.

(II) The victim was at least 13 years of age but less than 16 years of age at the time of the violation.

(III) The individual is not more than 4 years older than the victim.

(B) All of the following:

- (I) The victim consented to the conduct constituting the violation.
- (II) The victim was 16 or 17 years of age at the time of the violation.
- (III) The victim was not under the custodial authority of the individual at the time of the violation.
- (vii) A violation of section 462e(a) of the Michigan penal code, 1931 PA 328, MCL 750.462e.
- (viii) A violation of section 448 of the Michigan penal code, 1931 PA 328, MCL 750.448, if the victim is a minor.
- (ix) A violation of section 455 of the Michigan penal code, 1931 PA 328, MCL 750.455.
- (x) A violation of section 520c, 520e, or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520c, 750.520e, and 750.520g, committed against an individual 13 years of age or older but less than 18 years of age.
- (xi) A violation of section 520c committed against an individual 18 years of age or older.
- (xii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (xi).
- (xiii) An offense substantially similar to an offense described in subparagraphs (i) to (xii) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law.
- (v) "Tier III offender" means either of the following:
 - (i) A tier II offender subsequently convicted of a tier I or II offense.
 - (ii) An individual convicted of a tier III offense.
- (w) "Tier III offense" means 1 or more of the following:
 - (i) A violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, committed against an individual less than 13 years of age.
 - (ii) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, committed against a minor.
 - (iii) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.
 - (iv) A violation of section 520b, 520d, or 520g(1) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520d, and 750.520g. This subparagraph does not apply if the court determines that the victim consented to the conduct constituting the violation, that the victim was at least 13 years of age but less than 16 years of age at the time of the offense, and that the individual is not more than 4 years older than the victim.
 - (v) A violation of section 520c or 520g(2) of the Michigan penal code, 1931 PA 328, MCL 750.520c and 750.520g, committed against an individual less than 13 years of age.
 - (vi) A violation of section 520e of the Michigan penal code, 1931 PA 328, MCL 750.520e, committed by an individual 17 years of age or older against an individual less than 13 years of age.
 - (vii) An attempt or conspiracy to commit an offense described in subparagraphs (i) to (vi).
 - (viii) An offense substantially similar to an offense described in subparagraphs (i) to (vii) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law.
- (x) "Vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.
- (y) "Vessel" means that term as defined in section 44501 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.44501.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 240, Eff. Oct. 1, 2004;—Am. 2005, Act 301, Eff. Feb. 1, 2006;—Am. 2011, Act 17, Eff. July 1, 2011;—Am. 2014, Act 328, Eff. Jan. 14, 2015.

&NBSP; II

SEX OFFENDER REGISTRATION

28.723 Individuals required to be registered.

Sec. 3. (1) Subject to subsection (2), the following individuals who are domiciled or temporarily reside in this state **or** who work with or without compensation or are students in this state are required to be registered under this act:

- (a) An individual who is convicted of a listed offense after October 1, 1995.
- (b) An individual convicted of a listed offense on or before October 1, 1995 if on October 1, 1995 he or she is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, or under the jurisdiction of the juvenile division of the probate court or the department of **human** services for that offense or is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, placed under the jurisdiction of the juvenile division of the probate court or family division of circuit court, or committed to the department of **human services** after October 1, 1995 for that

offense.

(c) An individual convicted on or before October 1, 1995 of an offense described in section 2(d)(vi) as added by 1994 PA 295 if on October 1, 1995 he or she is on probation or parole that has been transferred to this state for that offense or his or her probation or parole is transferred to this state after October 1, 1995 for that offense.

(d) An individual from another state who is required to register or otherwise be identified as a sex or child offender or predator under a comparable statute of that state.

(e) An individual who was previously convicted of a listed offense for which he or she was not required to register under this act, but who is convicted of any other felony on or after July 1, 2011.

(2) An individual convicted of an offense added on September 1, 1999 to the definition of listed offense is not required to be registered solely because of that listed offense unless 1 of the following applies:

(a) The individual is convicted of that listed offense on or after September 1, 1999.

(b) On September 1, 1999, the individual is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, under the jurisdiction of the family division of circuit court, or committed to the department of human services for that offense or the individual is placed on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections, placed under the jurisdiction of the family division of circuit court, or committed to the department of human services on or after September 1, 1999 for that offense.

(c) On September 1, 1999, the individual is on probation or parole for that offense which has been transferred to this state or the individual's probation or parole for that offense is transferred to this state after September 1, 1999.

(d) On September 1, 1999, in another state or country the individual is on probation or parole, committed to jail, committed to the jurisdiction of the department of corrections or a similar type of state agency, under the jurisdiction of a court that handles matters similar to those handled by the family division of circuit court in this state, or committed to an agency with the same authority as the department of human services for that offense.

(3) A nonresident who is convicted in this state on or after July 1, 2011 of committing a listed offense who is not otherwise described in subsection (1) shall nevertheless register under this act. However, the continued reporting requirements of this act do not apply to the individual while he or she remains a nonresident and is not otherwise required to report under this act. The individual shall have his or her photograph taken under section 5a.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1995, Act 10, Eff. Oct. 1, 1995;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2011, Act 17, Eff. July 1, 2011.

28.723a Hearing to determine if individual exempt from registration.

Sec. 3a. (1) If an individual pleads guilty to or is found guilty of a listed offense or is adjudicated as a juvenile as being responsible for a listed offense but alleges that he or she is not required to register under this act because section 2(u)(v) or (vi) applies or section 2(w)(iv) applies, and the prosecuting attorney disputes that allegation, the court shall conduct a hearing on the matter before sentencing or disposition to determine whether the individual is required to register under this act.

(2) The individual has the burden of proving by a preponderance of the evidence in a hearing under this section that his or her conduct falls within the exceptions described in subsection (1) and that he or she is therefore not required to register under this act.

(3) The rules of evidence, except for those pertaining to privileges and protections set forth in section 520j of the Michigan penal code, 1931 PA 328, MCL 750.520j, do not apply to a hearing under this section.

(4) The prosecuting attorney shall give the victim notice of the date, time, and place of the hearing.

(5) The victim of the offense has the following rights in a hearing under this section:

(a) To submit a written statement to the court.

(b) To attend the hearing and to make a written or oral statement to the court.

(c) To refuse to attend the hearing.

(d) To attend the hearing but refuse to testify or make a statement at the hearing.

(6) The court's decision excusing or requiring the individual to register is a final order of the court and may be appealed by the prosecuting attorney or the individual as a matter of right.

(7) This section applies to criminal and juvenile cases pending on July 1, 2011 and to criminal and juvenile cases brought on and after that date.

History: Add. 2011, Act 17, Imd. Eff. Apr. 12, 2011.

28.724 Registration; procedures.

Sec. 4. (1) Registration of an individual under this act shall proceed as provided in this section.

(2) For an individual convicted of a listed offense on or before October 1, 1995 who on or before October 1, 1995 is sentenced for that offense, has a disposition entered for that offense, or is assigned to youthful trainee status for that offense, the following shall register the individual by December 31, 1995:

(a) If the individual is on probation for the listed offense, the individual's probation **agent**.

(b) If the individual is committed to jail for the listed offense, the sheriff or his or her designee.

(c) If the individual is under the jurisdiction of the department of corrections for the listed offense, the department of corrections.

(d) If the individual is on parole for the listed offense, the individual's parole **agent**.

(e) If the individual is within the jurisdiction of the juvenile division of the probate court or the department of social services under an order of disposition for the listed offense, the juvenile division of the probate court or the department of social services.

(3) Except as provided in subsection (4), for an individual convicted of a listed offense on or before October 1, 1995:

(a) If the individual is sentenced for that offense after October 1, 1995 or assigned to youthful trainee status after October 1, 1995, the probation **agent** shall register the individual before sentencing or assignment.

(b) If the individual's probation or parole is transferred to this state after October 1, 1995, the probation or parole **agent** shall register the individual **immediately** after the transfer.

(c) If the individual is placed within the jurisdiction of the juvenile division of the probate court or family division of circuit court or committed to the department of social services or family independence agency under an order of disposition entered after October 1, 1995, the juvenile division of the probate court or family division of circuit court shall register the individual before the order of disposition is entered.

(4) For an individual convicted on or before September 1, 1999 of an offense that was added on September 1, 1999 to the definition of listed offense, the following shall register the individual:

(a) If the individual is on probation or parole on September 1, 1999 for the listed offense, the individual's probation or parole **agent** not later than September 12, 1999.

(b) If the individual is committed to jail on September 1, 1999 for the listed offense, the sheriff or his or her designee not later than September 12, 1999.

(c) If the individual is under the jurisdiction of the department of corrections on September 1, 1999 for the listed offense, the department of corrections not later than November 30, 1999.

(d) If the individual is within the jurisdiction of the family division of circuit court or committed to the family independence agency or county juvenile agency on September 1, 1999 under an order of disposition for the listed offense, the family division of circuit court, the family independence agency, or the county juvenile agency not later than November 30, 1999.

(e) If the individual is sentenced or assigned to youthful trainee status for that offense after September 1, 1999, the probation **agent** shall register the individual before sentencing or assignment.

(f) If the individual's probation or parole for the listed offense is transferred to this state after September 1, 1999, the probation or parole **agent** shall register the individual within 14 days after the transfer.

(g) If the individual is placed within the jurisdiction of the family division of circuit court or committed to the family independence agency for the listed offense after September 1, 1999, the family division of circuit court shall register the individual before the order of disposition is entered.

(5) Subject to section 3, an individual convicted of a listed offense in this state after October 1, 1995 **and an individual who was previously convicted of a listed offense for which he or she was not required to register under this act, but who is convicted of any other felony on or after July 1, 2011**, shall register before sentencing, entry of the order of disposition, or assignment to youthful trainee status **for that listed offense or that other felony**. The probation **agent** or the family division of circuit court shall give the individual the registration form after the individual is convicted, explain the duty to register and accept the completed registration for processing under section 6. The court shall not impose sentence, enter the order of disposition, or assign the individual to youthful trainee status, until it determines that the individual's registration was forwarded to the department as required under section 6.

(6) All of the following shall register with the local law enforcement agency, sheriff's department, or the department **immediately** after becoming domiciled or temporarily residing, working, or being a student in this state:

(a) Subject to section 3(1), an individual convicted in another state or country on or after October 1, 1995 of a listed offense as defined before September 1, 1999.

(b) Subject to section 3(2), an individual convicted in another state or country of an offense added on September 1, 1999 to the definition of listed offenses.

(c) Subject to section 3(1), an individual convicted in another state or country of a listed offense before

October 1, 1995 and, subject to section 3(2), an individual convicted in another state or country of an offense added on September 1, 1999 to the definition of listed offenses, who is convicted of any other felony on or after July 1, 2011.

(d) An individual required to be registered as a sex offender in another state or country regardless of when the conviction was entered.

(7) If a prosecution or juvenile proceeding is pending on July 1, 2011, whether the defendant in a criminal case or the minor in a juvenile proceeding is required to register under this act shall be determined on the basis of the law in effect on July 1, 2011.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2004, Act 237, Eff. Oct. 16, 2004;—Am. 2004, Act 240, Eff. Oct. 1, 2004;—Am. 2011, Act 17, Eff. July 1, 2011.

28.724a Status report to registering authority; requirements; reports; written documentation; exception.

Sec. 4a. (1) An individual required to be registered under this act who is not a resident of this state shall report his or her status in person to the registering authority having jurisdiction over a campus of an institution of higher education if either of the following occurs:

(a) The individual is or enrolls as a student with that institution of higher education or the individual discontinues that enrollment.

(b) As part of his or her course of studies at an institution of higher education in this state, the individual is present at any other location in this state, another state, a territory or possession of the United States, or the individual discontinues his or her studies at that location.

(2) An individual required to be registered under this act who is a resident of this state shall report his or her status in person to the registering authority having jurisdiction where his or her new residence or domicile is located if any of the events described under subsection (1) occur.

(3) The report required under subsections (1) and (2) shall be made as follows:

(a) For an individual registered under this act before October 1, 2002 who is required to make his or her first report under subsections (1) and (2), not later than January 15, 2003.

(b) Immediately after he or she enrolls or discontinues his or her enrollment as a student on that campus including study in this state or another state, a territory or possession of the United States, or another country.

(4) The additional registration reports required under this section shall be made in the time periods described in section 5a(2)(a) to (c) for reports under that section.

(5) The local law enforcement agency, sheriff's department, or department post to which an individual reports under this section shall require the individual to pay the registration fee required under section 5a or section 7(1) and to present written documentation of employment status, contractual relationship, volunteer status, or student status. Written documentation under this subsection may include, but need not be limited to, any of the following:

(a) A W-2 form, pay stub, or written statement by an employer.

(b) A contract.

(c) A student identification card or student transcript.

(6) This section does not apply to an individual whose enrollment and participation at an institution of higher education is solely through the mail or the internet from a remote location.

History: Add. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 237, Eff. Oct. 16, 2004;—Am. 2011, Act 17, Eff. July 1, 2011.

28.725 Conditions requiring individual to report in person and provide notice to registering authority; release of incarcerated individual; notice; compliance.

Sec. 5. (1) An individual required to be registered under this act who is a resident of this state shall report in person and notify the registering authority having jurisdiction where his or her residence or domicile is located immediately after any of the following occur:

(a) The individual changes or vacates his or her residence or domicile.

(b) The individual changes his or her place of employment, or employment is discontinued.

(c) The individual enrolls as a student with an institution of higher education, or enrollment is discontinued.

(d) The individual changes his or her name.

(e) The individual intends to temporarily reside at any place other than his or her residence for more than 7 days.

(f) The individual establishes any electronic mail or instant message address, or any other designations used in internet communications or postings.

(g) The individual purchases or begins to regularly operate any vehicle, and when ownership or operation

of the vehicle is discontinued.

(h) Any change required to be reported under section 4a.

(2) An individual required to be registered under this act who is not a resident of this state but has his or her place of employment in this state shall report in person and notify the registering authority having jurisdiction where his or her place of employment is located or the department post of the individual's place of employment immediately after the individual changes his or her place of employment or employment is discontinued.

(3) If an individual who is incarcerated in a state correctional facility and is required to be registered under this act is granted parole or is due to be released upon completion of his or her maximum sentence, the department of corrections, before releasing the individual, shall provide notice of the location of the individual's proposed place of residence or domicile to the department of state police.

(4) If an individual who is incarcerated in a county jail and is required to be registered under this act is due to be released from custody, the sheriff's department, before releasing the individual, shall provide notice of the location of the individual's proposed place of residence or domicile to the department of state police.

(5) Immediately after either of the following occurs, the department of corrections shall notify the local law enforcement agency or sheriff's department having jurisdiction over the area to which the individual is transferred or the department post of the transferred residence or domicile of an individual required to be registered under this act:

(a) The individual is transferred to a community residential program.

(b) The individual is transferred into a **level 1** correctional facility of any kind, including a correctional camp or work camp.

(6) An individual required to be registered under this act who is a resident of this state shall report in person and notify the registering authority having jurisdiction where his or her residence or domicile is located immediately before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.

(7) An individual required to be registered under this act who is a resident of this state shall report in person and notify the registering authority having jurisdiction where his or her residence or domicile is located not later than 21 days before he or she changes his or her domicile or residence to another country or travels to another country for more than 7 days. The individual shall state the new country of residence or country of travel and the address of his or her new domicile or residence or place of stay, if known. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority.

(8) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the department and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases.

(9) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a.

(10) Except as otherwise provided in this section and section 8c, a tier I offender shall comply with this section for **15 years**.

(11) Except as otherwise provided in this section and section 8c, a tier II offender shall comply with this section for **25 years**.

(12) Except as otherwise provided in this section and section 8c, a tier III offender shall comply with this section for life.

(13) The registration periods under this section exclude any period of incarceration for committing a crime and any period of civil commitment.

(14) For an individual who was previously convicted of a listed offense for which he or she was not required to register under this act but who is convicted of any felony on or after July 1, 2011, any period of time that he or she was not incarcerated for that listed offense or that other felony and was not civilly committed counts toward satisfying the registration period for that listed offense as described in this section. If those periods equal or exceed the registration period described in this section, the individual has satisfied his or her registration period for the listed offense and is not required to register under this act. If those periods are less than the registration period described in this section for that listed offense, the individual shall comply with this section for the period of time remaining.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 240, Eff. Oct. 1, 2004;—Am. 2005, Act 123, Eff. Jan. 1, 2006;—Am. 2005, Act 132, Eff. Jan. 1, 2006;—Am. 2006, Act 402, Eff. Dec. 1, 2006;—Am. 2011, Act 17, Eff. July 1, 2011.

28.725a Notice to registered individual; explanation of duties; reporting requirements.

Sec. 5a. (1) The department shall mail a notice to each individual registered under this act who is not in a state correctional facility explaining the individual's duties under this act as amended.

(2) Upon the release of an individual registered under this act who is in a state correctional facility, the department of corrections shall provide written notice to that individual explaining his or her duties under this section and this act as amended and the procedure for registration, notification, and verification and payment of the registration fee prescribed under subsection (6) or section 7(1). The individual shall sign and date the notice. The department of corrections shall maintain a copy of the signed and dated notice in the individual's file. The department of corrections shall forward the original notice to the department immediately, regardless of whether the individual signs it.

(3) Subject to subsection (4), an individual required to be registered under this act who is not incarcerated shall report in person to the registering authority where he or she is domiciled or resides for verification of domicile or residence as follows:

(a) If the individual is a tier I offender, the individual shall report once each year during the individual's month of birth.

(b) If the individual is a tier II offender, the individual shall report twice each year according to the following schedule:

<u>Birth Month</u>	<u>Reporting Months</u>
January	January and July
February	February and August
March	March and September
April	April and October
May	May and November
June	June and December
July	January and July
August	February and August
September	March and September
October	April and October
November	May and November
December	June and December

(c) If the individual is a tier III offender, the individual shall report 4 times each year according to the following schedule:

<u>Birth Month</u>	<u>Reporting Months</u>
January	January, April, July, and October
February	February, May, August, and November
March	March, June, September, and December
April	April, July, October, and January
May	May, August, November, and February
June	June, September, December, and March
July	July, October, January, and April
August	August, November, February, and May
September	September, December, March, and June
October	October, January, April, and July
November	November, February, May, and August
December	December, March, June, and September

(4) A report under subsection (3) shall be made no earlier than the first day or later than the last day of the month in which the individual is required to report. However, if the registration period for that individual expires during the month in which he or she is required to report under this section, the individual shall report during that month on or before the date his or her registration period expires. When an individual reports under subsection (3), the individual shall review all registration information for accuracy.

(5) When an individual reports under subsection (3), an officer or authorized employee of the registering authority shall verify the individual's residence or domicile and any information required to be reported under section 4a. The officer or authorized employee shall also determine whether the individual's photograph required under this act matches the appearance of the individual sufficiently to properly identify him or her from that photograph. If not, the officer or authorized employee shall require the individual to immediately

obtain a current photograph under this section. When all of the verification information has been provided, the officer or authorized employee shall review that information with the individual and make any corrections, additions, or deletions the officer or authorized employee determines are necessary based on the review. The officer or authorized employee shall sign and date a verification receipt. The officer or authorized employee shall give a copy of the signed receipt showing the date of verification to the individual. The officer or authorized employee shall forward verification information to the department in the manner the department prescribes. The department shall revise the law enforcement database and public internet website maintained under section 8 as necessary and shall indicate verification in the public internet website maintained under section 8(2).

(6) Except as otherwise provided in section 5b, an individual who reports as prescribed under subsection (3) shall pay a \$50.00 registration fee as follows:

(a) Upon initial registration.

(b) Annually following the year of initial registration. The payment of the registration fee under this subdivision shall be made at the time the individual reports in the first reporting month for that individual as set forth in subsection (3) of each year in which the fee applies, unless an individual elects to prepay an annual registration fee for any future year for which an annual registration fee is required. Prepaying any annual registration fee shall not change or alter the requirement of an individual to report as set forth in subsection (3). The payment of the registration fee under this subdivision is not required to be made for any registration year that has expired before January 1, 2014 or to be made by any individual initially required to register under this act after January 1, 2019. The registration fee required to be paid under this subdivision shall not be prorated on grounds that the individual will complete his or her registration period after the month in which the fee is due.

(c) The sum of the amounts required to be paid under subdivisions (a) and (b) shall not exceed \$550.00.

(7) An individual required to be registered under this act shall maintain either a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, with the individual's current address. The license or card may be used as proof of domicile or residence under this section. In addition, the officer or authorized employee may require the individual to produce another document bearing his or her name and address, including, but not limited to, voter registration or a utility or other bill. The department may specify other satisfactory proof of domicile or residence.

(8) An individual registered under this act who is incarcerated shall report to the secretary of state under this subsection immediately after he or she is released to have his or her digitalized photograph taken. The individual is not required to report under this subsection if he or she had a digitized photograph taken for an operator's or chauffeur's license or official state personal identification card before January 1, 2000, or within 2 years before he or she is released unless his or her appearance has changed from the date of that photograph. Unless the person is a nonresident, the photograph shall be used on the individual's operator's or chauffeur's license or official state personal identification card. The individual shall have a new photograph taken when he or she renews the license or identification card as provided by law, or as otherwise provided in this act. The secretary of state shall make the digitized photograph available to the department for a registration under this act.

(9) If an individual does not report under this section or under section 4a, the department shall notify all registering authorities as provided in section 8a and initiate enforcement action as set forth in that section.

(10) The department shall prescribe the form for the notices and verification procedures required under this section.

History: Add. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 237, Eff. Oct. 16, 2004;—Am. 2004, Act 240, Eff. Oct. 1, 2004;—Am. 2005, Act 322, Eff. Jan. 1, 2006;—Am. 2011, Act 17, Imd. Eff. Apr. 12, 2011;—Am. 2013, Act 149, Eff. Apr. 1, 2014.

28.725b Sex offenders registration fund; creation; disposition of money; use; lapse; claim of indigence; waiver of fee; payments.

Sec. 5b. (1) Of the money collected by a court, local law enforcement agency, sheriff's department, or department post from each registration fee prescribed under this act, \$30.00 shall be forwarded to the department, which shall deposit the money in the sex offenders registration fund created under subsection (2), and \$20.00 shall be retained by the court, local law enforcement agency, sheriff's department, or department post.

(2) The sex offenders registration fund is created as a separate fund in the department of treasury. The state treasurer shall credit the money received from the payment of the registration fee prescribed under this act to the sex offenders registration fund. Money credited to the fund shall only be used by the department for

training concerning, and the maintenance and automation of, the law enforcement database, public internet website, information required under section 8, or notification and offender registration duties under section 4a. Money in the sex offenders registration fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(3) If an individual required to pay a registration fee under this act is indigent, the registration fee shall be waived for a period of 90 days. The burden is on the individual claiming indigence to prove the fact of indigence to the satisfaction of the local law enforcement agency, sheriff's department, or department post where the individual is reporting.

(4) Payment of the registration fee prescribed under this act shall be made in the form and by means prescribed by the department. Upon payment of the registration fee prescribed under this act, the officer or employee shall forward verification of the payment to the department in the manner the department prescribes. The department shall revise the law enforcement database and public internet website maintained under section 8 as necessary and shall indicate verification of payment in the law enforcement database under section 8(1).

History: Add. 2004, Act 237, Eff. Oct. 16, 2004;—Am. 2011, Act 17, Eff. July 1, 2011.

28.725c Fee collected by department of corrections; prohibition.

Sec. 5c. The department of corrections shall not collect any fee prescribed under this act.

History: Add. 2004, Act 237, Eff. Oct. 16, 2004.

28.726 Providing or forwarding copy of registration or notification.

Sec. 6. (1) The officer, court, or agency registering an individual or receiving or accepting a registration under section 4 or receiving notice under section 5(1) shall provide the individual with a copy of the registration or notification at the time of registration or notice.

(2) The officer, court, or agency registering an individual or receiving or accepting a registration under section 4 or notified of an address change under section 5(1) shall forward the registration or notification to the department in a manner prescribed by the department immediately after registration or notification.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1996, Act 494, Eff. Apr. 1, 1997;—Am. 2011, Act 18, Eff. July 1, 2011.

28.727 Registration information; format; fee; requirements; forwarding registration, notice, and verification information to federal bureau of investigation, local agencies, and other registering jurisdictions.

Sec. 7. (1) Registration information obtained under this act shall be forwarded to the department in the format the department prescribes. Except as provided in section 5b(3), a \$50.00 registration fee shall accompany each original registration. All of the following information shall be obtained or otherwise provided for registration purposes:

(a) The individual's legal name and any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known. An individual who is in a witness protection and relocation program is only required to use the name and identifying information reflecting his or her new identity in a registration under this act. The registration and compilation databases shall not contain any information identifying the individual's prior identity or locale.

(b) The individual's social security number and any social security numbers or alleged social security numbers previously used by the individual.

(c) The individual's date of birth and any alleged dates of birth previously used by the individual.

(d) The address where the individual resides or will reside. If the individual does not have a residential address, information under this subsection shall identify the location or area used or to be used by the individual in lieu of a residence or, if the individual is homeless, the village, city, or township where the person spends or will spend the majority of his or her time.

(e) The name and address of any place of temporary lodging used or to be used by the individual during any period in which the individual is away, or is expected to be away, from his or her residence for more than 7 days. Information under this subdivision shall include the dates the lodging is used or to be used.

(f) The name and address of each of the individual's employers. For purposes of this subdivision, "employer" includes a contractor and any individual who has agreed to hire or contract with the individual for his or her services. Information under this subsection shall include the address or location of employment if different from the address of the employer. If the individual lacks a fixed employment location, the information obtained under this subdivision shall include the general areas where the individual works and the normal travel routes taken by the individual in the course of his or her employment.

(g) The name and address of any school being attended by the individual and any school that has accepted

the individual as a student that he or she plans to attend. For purposes of this subdivision, "school" means a public or private postsecondary school or school of higher education, including a trade school.

(h) All telephone numbers registered to the individual or routinely used by the individual.

(i) All electronic mail addresses and instant message addresses assigned to the individual or routinely used by the individual and all login names or other identifiers used by the individual when using any electronic mail address or instant messaging system.

(j) The license plate number, registration number, and description of any motor vehicle, aircraft, or vessel owned or regularly operated by the individual and the location at which the motor vehicle, aircraft, or vessel is habitually stored or kept.

(k) The individual's driver license number or state personal identification card number.

(l) A digital copy of the individual's passport and other immigration documents.

(m) The individual's occupational and professional licensing information, including any license that authorizes the individual to engage in any occupation, profession, trade, or business.

(n) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.

(o) A complete physical description of the individual.

(p) The photograph required under section 5a.

(q) The individual's fingerprints if not already on file with the department and the individual's palm prints. An individual required to be registered under this act shall have his or her fingerprints or palm prints or both taken not later than September 12, 2011 if his or her fingerprints or palm prints are not already on file with the department. The department shall forward a copy of the individual's fingerprints and palm prints to the federal bureau of investigation if not already on file with that bureau.

(r) Information that is required to be reported under section 4a.

(2) A registration shall contain all of the following:

(a) An electronic copy of the offender's Michigan driver license or Michigan personal identification card, including the photograph required under this act.

(b) The text of the provision of law that defines the criminal offense for which the sex offender is registered.

(c) Any outstanding arrest warrant information.

(d) The individual's tier classification.

(e) An identifier that indicates whether a DNA sample has been collected and any resulting DNA profile has been entered into the federal combined DNA index system (CODIS).

(f) The individual's complete criminal history record, including the dates of all arrests and convictions.

(g) The individual's Michigan department of corrections number and status of parole, probation, or supervised release.

(h) The individual's federal bureau of investigation number.

(3) The form used for notification of duties under this act shall contain a written statement that explains the duty of the individual being registered to provide notice of changes in his or her registration information, the procedures for providing that notice, and the verification procedures under section 5a.

(4) The individual shall sign a registration and notice. However, the registration and notice shall be forwarded to the department regardless of whether the individual signs it or pays the registration fee required under subsection (1).

(5) The officer, court, or an employee of the agency registering the individual or receiving or accepting a registration under section 4 shall sign the registration form.

(6) An individual shall not knowingly provide false or misleading information concerning a registration, notice, or verification.

(7) The department shall prescribe the form for a notification required under section 5 and the format for forwarding the notification to the department.

(8) The department shall promptly provide registration, notice, and verification information to the federal bureau of investigation and to local law enforcement agencies, sheriff's departments, department posts, and other registering jurisdictions, as provided by law.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1996, Act 494, Eff. Apr. 1, 1997;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 237, Eff. Oct. 16, 2004;—Am. 2011, Act 18, Eff. July 1, 2011.

28.728 Law enforcement database; information to be contained for each registered individual; public internet website; compilation; availability; removal; note.

Sec. 8. (1) The department shall maintain a computerized law enforcement database of registrations and

notices required under this act. The law enforcement database shall contain all of the following information for each individual registered under this act:

(a) The individual's legal name and any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known.

(b) The individual's social security number and any social security numbers or alleged social security numbers previously used by the individual.

(c) The individual's date of birth and any alleged dates of birth previously used by the individual.

(d) The address where the individual resides or will reside. If the individual does not have a residential address, information under this subsection shall identify the location or area used or to be used by the individual in lieu of a residence or, if the individual is homeless, the village, city, or township where the individual spends or will spend the majority of his or her time.

(e) The name and address of any place of temporary lodging used or to be used by the individual during any period in which the individual is away, or is expected to be away, from his or her residence for more than 7 days. Information under this subdivision shall include the dates the lodging is used or to be used.

(f) The name and address of each of the individual's employers. For purposes of this subdivision, "employer" includes a contractor and any individual who has agreed to hire or contract with the individual for his or her services. Information under this subsection shall include the address or location of employment if different from the address of the employer.

(g) The name and address of any school being attended by the individual and any school that has accepted the individual as a student that he or she plans to attend. For purposes of this subdivision, "school" means a public or private postsecondary school or school of higher education, including a trade school.

(h) All telephone numbers registered to the individual or routinely used by the individual.

(i) All electronic mail addresses and instant message addresses assigned to the individual or routinely used by the individual and all login names or other identifiers used by the individual when using any electronic mail address or instant messaging system.

(j) The license plate number or registration number and description of any motor vehicle, aircraft, or vessel owned or regularly operated by the individual and the location at which the motor vehicle, aircraft, or vessel is habitually stored or kept.

(k) The individual's driver license number or state personal identification card number.

(l) A digital copy of the individual's passport and other immigration documents.

(m) The individual's occupational and professional licensing information, including any license that authorizes the individual to engage in any occupation, profession, trade, or business.

(n) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.

(o) A complete physical description of the individual.

(p) The photograph required under section 5a.

(q) The individual's fingerprints and palm prints.

(r) An electronic copy of the offender's Michigan driver license or Michigan personal identification card, including the photograph required under this act.

(s) The text of the provision of law that defines the criminal offense for which the sex offender is registered.

(t) Any outstanding arrest warrant information.

(u) The individual's tier classification and registration status.

(v) An identifier that indicates whether a DNA sample has been collected and any resulting DNA profile has been entered into the federal combined DNA index system (CODIS).

(w) The individual's complete criminal history record, including the dates of all arrests and convictions.

(x) The individual's Michigan department of corrections number and the status of his or her parole, probation, or release.

(y) The individual's federal bureau of investigation number.

(2) The department shall maintain a public internet website separate from the law enforcement database described in subsection (1) to implement section 10(2) and (3). Except as provided in subsection (4), the public internet website shall contain all of the following information for each individual registered under this act:

(a) The individual's legal name and any aliases, nicknames, ethnic or tribal names, or other names by which the individual is or has been known.

(b) The individual's date of birth.

(c) The address where the individual resides. If the individual does not have a residential address,

information under this subsection shall identify the village, city, or township used by the individual in lieu of a residence.

(d) The address of each of the individual's employers. For purposes of this subdivision, "employer" includes a contractor and any individual who has agreed to hire or contract with the individual for his or her services. Information under this subsection shall include the address or location of employment if different from the address of the employer.

(e) The address of any school being attended by the individual and any school that has accepted the individual as a student that he or she plans to attend. For purposes of this subdivision, "school" means a public or private postsecondary school or school of higher education, including a trade school.

(f) The license plate number or registration number and description of any motor vehicle, aircraft, or vessel owned or regularly operated by the individual.

(g) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred.

(h) A complete physical description of the individual.

(i) The photograph required under this act. If no photograph is available, the department shall use an arrest photograph or Michigan department of corrections photograph until a photograph as prescribed in section 5a becomes available.

(j) The text of the provision of law that defines the criminal offense for which the sex offender is registered.

(k) The individual's registration status.

(l) The individual's tier classification.

(3) The following information shall not be made available on the public internet website described in subsection (2):

(a) The identity of any victim of the offense.

(b) The individual's social security number.

(c) Any arrests not resulting in a conviction.

(d) Any travel or immigration document numbers.

(e) Any electronic mail addresses and instant message addresses assigned to the individual or routinely used by the individual and any login names or other identifiers used by the individual when using any electronic mail address or instant messaging system.

(f) The individual's driver license number or state personal identification card number.

(4) The public internet website described in subsection (2) shall not include the following individuals:

(a) An individual registered solely because he or she had 1 or more dispositions for a listed offense entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, in a case that was not designated as a case in which the individual was to be tried in the same manner as an adult under section 2d of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d.

(b) An individual registered solely because he or she was the subject of an order of disposition or other adjudication in a juvenile matter in another state or country.

(c) An individual registered solely because he or she was convicted of a single tier I offense, other than an individual who was convicted of a violation of any of the following:

(i) Section 145c(4) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(ii) A violation of section 335a(2)(b) of the Michigan penal code, 1931 PA 328, MCL 750.335a, if a victim is a minor.

(iii) Section 349b of the Michigan penal code, 1931 PA 328, MCL 750.349b, if the victim is a minor.

(iv) Section 539j of the Michigan penal code, 1931 PA 328, MCL 750.539j, if a victim is a minor.

(v) An offense substantially similar to an offense described in subparagraphs (i) to (v) under a law of the United States that is specifically enumerated in 42 USC 16911, under a law of any state or any country, or under tribal or military law.

(5) The compilation of individuals shall be indexed alphabetically by village, city, township, and county, numerically by zip code area, and geographically as determined appropriate by the department.

(6) The department shall update the public internet website with new registrations, deletions from registrations, and address changes at the same time those changes are made to the law enforcement database described in subsection (1). The department shall make the law enforcement database available to each department post, local law enforcement agency, and sheriff's department by the law enforcement information network. Upon request by a department post, local law enforcement agency, or sheriff's department, the department shall provide to that post, agency, or sheriff's department the information from the law enforcement database in printed form for the designated areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction. The department shall provide the ability to conduct a

computerized search of the law enforcement database and the public internet website based upon the name and campus location of an institution of higher education.

(7) The department shall make the law enforcement database available to a department post, local law enforcement agency, or sheriff's department by electronic, computerized, or other similar means accessible to the post, agency, or sheriff's department. The department shall make the public internet website available to the public by electronic, computerized, or other similar means accessible to the public. The electronic, computerized, or other similar means shall provide for a search by name, village, city, township, and county designation, zip code, and geographical area.

(8) If a court determines that the public availability under section 10 of any information concerning individuals registered under this act violates the constitution of the United States or this state, the department shall revise the public internet website described in subsection (2) so that it does not contain that information.

(9) If the department determines that an individual has completed his or her registration period, including a registration period reduced by law under 2011 PA 18, or that he or she otherwise is no longer required to register under this act, the department shall remove the individual's registration information from both the law enforcement database and the public internet website within 7 days after making that determination.

(10) If the individual provides the department with documentation showing that he or she is required to register under this act for a violation that has been set aside under 1965 PA 213, MCL 780.621 to 780.624, or that has been otherwise expunged, the department shall note on the public internet website that the violation has been set aside or expunged.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1996, Act 494, Eff. Apr. 1, 1997;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 238, Eff. May 1, 2005;—Am. 2004, Act 240, Eff. Oct. 1, 2004;—Am. 2011, Act 18, Eff. July 1, 2011;—Am. 2013, Act 2, Eff. June 1, 2013.

28.728a Failure to register or update registration information; duties registering authority; duties of department.

Sec. 8a. (1) If an individual fails to register or to update his or her registration information as required under this act, the local law enforcement agency, sheriff's office, or department post responsible for registering the individual or for verifying and updating his or her registration information shall do all of the following immediately after the date the individual was required to register or to update his or her registration information:

(a) Determine whether the individual has absconded or is otherwise unlocatable.

(b) If the registering authority was notified by a registration jurisdiction that the individual was to appear in order to register or update his or her registration information in the jurisdiction of the registering authority, notify the department in a manner prescribed by the department that the individual failed to appear as required.

(c) Revise the information in the registry to reflect that the individual has absconded or is otherwise unlocatable.

(d) Seek a warrant for the individual's arrest if the legal requirements for obtaining a warrant are satisfied.

(e) Enter the individual into the national crime information center wanted person file if the requirements for entering information into that file are met.

(2) If an individual fails to register or to update his or her registration information as required under this act, the department shall do all of the following immediately after being notified by the registering authority that the individual failed to appear as required:

(a) Notify that other registration jurisdiction that the individual failed to appear as required.

(b) Notify the United States marshal's service in the manner required by the United States marshal's service of the individual's failure to appear as required.

(c) Update the national sex offender registry to reflect the individual's status as an absconder or as unlocatable.

History: Add. 2011, Act 18, Eff. July 1, 2011.

Compiler's note: Former MCL 28.728a, which pertained to feasibility studies for providing search by alias and mapping to show address was repealed by Act 240 of 2004, Eff. Oct. 1, 2004.

28.728b Repealed. 2004, Act 240, Eff. Oct. 1, 2004.

Compiler's note: The repealed section pertained to compilation of individuals not requiring registration.

28.728c Petition to discontinue registration; jurisdiction; limitations; oath; contents; false statement; filing copy with office of prosecuting attorney; notice; hearing; rights of victim; factors in court determination; granting of petition.

Sec. 8c. (1) An individual classified as a tier I offender who meets the requirements of subsection (12) may petition the court under that subsection for an order allowing him or her to discontinue registration under this act.

(2) An individual classified as a tier III offender who meets the requirements of subsection (13) may petition the court under that subsection for an order allowing him or her to discontinue registration under this act.

(3) An individual classified as a tier I, tier II, or tier III offender who meets the requirements of subsection (14) or (15) may petition the court under that subsection for an order allowing him or her to discontinue registration under this act.

(4) This section is the sole means by which an individual may obtain judicial review of his or her registration requirements under this act. This subsection does not prohibit an appeal of the conviction or sentence as otherwise provided by law or court rule. A petition filed under this section shall be filed in the court in which the individual was convicted of committing the listed offense. However, if the conviction occurred in another state or country and the individual is a resident of this state, the individual may file a petition in the circuit court in the county of his or her residence for an order allowing him or her to discontinue registration under this act only. A petition shall not be filed under this section if a previous petition was filed under this section and was denied by the court after a hearing.

(5) A petition filed under this section shall be made under oath and shall contain all of the following:

(a) The name and address of the petitioner.

(b) A statement identifying the offense for which discontinuation from registration is being requested.

(c) A statement of whether the individual was previously convicted of a listed offense for which registration is required under this act.

(6) An individual who knowingly makes a false statement in a petition filed under this section is guilty of perjury as proscribed under section 423 of the Michigan penal code, 1931 PA 328, MCL 750.423.

(7) A copy of the petition shall be filed with the office of the prosecuting attorney that prosecuted the case against the individual or, for a conviction that occurred in another state or country, the prosecuting attorney for the county of his or her residence, at least 30 days before a hearing is held on the petition. The prosecuting attorney may appear and participate in all proceedings regarding the petition and may seek appellate review of any decision on the petition.

(8) If the name of the victim of the offense is known by the prosecuting attorney, the prosecuting attorney shall provide the victim with written notice that a petition has been filed and shall provide the victim with a copy of the petition. The notice shall be sent by first-class mail to the victim's last known address. The petition shall include a statement of the victim's rights under subsection (10).

(9) If an individual properly files a petition with the court under this section, the court shall conduct a hearing on the petition as provided in this section.

(10) The victim has the right to attend all proceedings under this section and to make a written or oral statement to the court before any decision regarding the petition is made. A victim shall not be required to appear at any proceeding under this section against his or her will.

(11) The court shall consider all of the following in determining whether to allow the individual to discontinue registration under subsection (12) or (13) but shall not grant the petition if the court determines that the individual is a continuing threat to the public:

(a) The individual's age and level of maturity at the time of the offense.

(b) The victim's age and level of maturity at the time of the offense.

(c) The nature of the offense.

(d) The severity of the offense.

(e) The individual's prior juvenile or criminal history.

(f) The individual's likelihood to commit further listed offenses.

(g) Any impact statement submitted by the victim under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or under this section.

(h) Any other information considered relevant by the court.

(12) The court may grant a petition properly filed by an individual under subsection (1) if all of the following apply:

(a) Ten or more years have elapsed since the date of his or her conviction for the listed offense or from his or her release from any period of confinement for that offense, whichever occurred last.

(b) The petitioner has not been convicted of any felony since the date described in subdivision (a).

(c) The petitioner has not been convicted of any listed offense since the date described in subdivision (a).

(d) The petitioner successfully completed his or her assigned periods of supervised release, probation, or parole without revocation at any time of that supervised release, probation, or parole.

(e) The petitioner successfully completed a sex offender treatment program certified by the United States attorney general under 42 USC 16915(b)(1), or another appropriate sex offender treatment program. The court may waive the requirements of this subdivision if successfully completing a sex offender treatment program was not a condition of the petitioner's confinement, release, probation, or parole.

(13) The court may grant a petition properly filed by an individual under subsection (2) if all of the following apply:

(a) The petitioner is required to register based on an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28.

(b) Twenty-five or more years have elapsed since the date of his or her adjudication for the listed offense or from his or her release from any period of confinement for that offense, whichever occurred last.

(c) The petitioner has not been convicted of any felony since the date described in subdivision (b).

(d) The petitioner has not been convicted of any listed offense since the date described in subdivision (b).

(e) The petitioner successfully completed his or her assigned periods of supervised release, probation, or parole without revocation at any time of that supervised release, probation, or parole.

(f) The court determines that the petitioner successfully completed a sex offender treatment program certified by the United States attorney general under 42 USC 16915(b)(1), or another appropriate sex offender treatment program. The court may waive the requirements of this subdivision if successfully completing a sex offender treatment program was not a condition of the petitioner's confinement, release, probation, or parole.

(14) The court shall grant a petition properly filed by an individual under subsection (3) if the court determines that the conviction for the listed offense was the result of a consensual sexual act between the petitioner and the victim and any of the following apply:

(a) All of the following:

(i) The victim was 13 years of age or older but less than 16 years of age at the time of the offense.

(ii) The petitioner is not more than 4 years older than the victim.

(b) All of the following:

(i) The individual was convicted of a violation of section 158, 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.158, 750.338, 750.338a, and 750.338b.

(ii) The victim was 13 years of age or older but less than 16 years of age at the time of the violation.

(iii) The individual is not more than 4 years older than the victim.

(c) All of the following:

(i) The individual was convicted of a violation of section 158, 338, 338a, 338b, or 520c(1)(i) of the Michigan penal code, 1931 PA 328, MCL 750.158, 750.338, 750.338a, 750.338b, and 750.520c.

(ii) The victim was 16 years of age or older at the time of the violation.

(iii) The victim was not under the custodial authority of the individual at the time of the violation.

(15) The court shall grant a petition properly filed by an individual under subsection (3) if either of the following applies:

(a) Both of the following:

(i) The petitioner was adjudicated as a juvenile.

(ii) The petitioner was less than 14 years of age at the time of the offense.

(b) The individual was registered under this act before July 1, 2011 for an offense that required registration but for which registration is not required on or after July 1, 2011.

History: Add. 2004, Act 240, Eff. Oct. 1, 2004;—Am. 2011, Act 18, Eff. July 1, 2011.

28.728d Providing copy of court order granting petition to department and individual.

Sec. 8d. If the court grants a petition filed under section 8c, the court shall promptly provide a copy of that order to the department and to the individual. The department shall promptly remove an individual's registration from the database maintained under section 8(1).

History: Add. 2004, Act 240, Eff. Oct. 1, 2004;—Am. 2011, Act 18, Eff. July 1, 2011.

28.729 Registration required; violations; penalties.

Sec. 9. (1) Except as provided in subsections (2), (3), and (4), an individual required to be registered under this act who willfully violates this act is guilty of a felony punishable as follows:

(a) If the individual has no prior convictions for a violation of this act, by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(b) If the individual has 1 prior conviction for a violation of this act, by imprisonment for not more than 7 years or a fine of not more than \$5,000.00, or both.

(c) If the individual has 2 or more prior convictions for violations of this act, by imprisonment for not more

than 10 years or a fine of not more than \$10,000.00, or both.

(2) An individual who fails to comply with section 5a, other than payment of the fee required under section 5a(6), is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(3) An individual who willfully fails to sign a registration and notice as provided in section 7(4) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(4) An individual who willfully refuses or fails to pay the registration fee prescribed in section 5a(6) or section 7(1) within 90 days of the date the individual reports under section 4a or 5a is guilty of a misdemeanor punishable by imprisonment for not more than 90 days.

(5) The court shall revoke the probation of an individual placed on probation who willfully violates this act.

(6) The court shall revoke the youthful trainee status of an individual assigned to youthful trainee status who willfully violates this act.

(7) The parole board shall rescind the parole of an individual released on parole who willfully violates this act.

(8) An individual's failure to register as required by this act or a violation of section 5 may be prosecuted in the judicial district of any of the following:

- (a) The individual's last registered address or residence.
- (b) The individual's actual address or residence.
- (c) Where the individual was arrested for the violation.

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 237, Eff. Oct. 16, 2004;—Am. 2005, Act 132, Eff. Jan. 1, 2006;—Am. 2011, Act 18, Eff. July 1, 2011.

Compiler's note: For transfer of powers and duties of Michigan parole and commutation board to Michigan parole board within department of corrections, and abolishment of Michigan parole and commutation board, see E.R.O. No. 2011-3, compiled at MCL 791.305.

28.730 Confidentiality; exemption from disclosure; availability of information on public internet website; violation as misdemeanor; penalty; civil cause of action; applicability of subsections (4) and (5) to public internet website.

Sec. 10. (1) Except as provided in this act, a registration or report is confidential and information from that registration or report shall not be open to inspection except for law enforcement purposes. The registration or report and all included materials and information are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(2) A department post, local law enforcement agency, or sheriff's department shall make information from the public internet website described in section 8(2) for the designated areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction available for public inspection during regular business hours. A department post, local law enforcement agency, or sheriff's department is not required to make a copy of the information for a member of the public.

(3) The department may make information from the public internet website described in section 8(2) available to the public through electronic, computerized, or other accessible means. The department shall provide for notification by electronic or computerized means to any member of the public who has subscribed in a manner required by the department when an individual who is the subject of the public internet website described in section 8(2) initially registers under this act, or changes his or her registration under this act, to a location that is in a designated area or geographic radius designated by the subscribing member of the public.

(4) Except as provided in this act, an individual other than the registrant who knows of a registration or report under this act and who divulges, uses, or publishes nonpublic information concerning the registration or report in violation of this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(5) An individual whose registration or report is revealed in violation of this act has a civil cause of action against the responsible party for treble damages.

(6) Subsections (4) and (5) do not apply to the public internet website described in section 8(2) or information from that public internet website that is provided or made available under section 8(2) or under subsection (2) or (3).

History: 1994, Act 295, Eff. Oct. 1, 1995;—Am. 1996, Act 494, Eff. Apr. 1, 1997;—Am. 1999, Act 85, Eff. Sept. 1, 1999;—Am. 2002, Act 542, Eff. Oct. 1, 2002;—Am. 2004, Act 240, Eff. Oct. 1, 2004;—Am. 2006, Act 46, Eff. Jan. 1, 2007;—Am. 2011, Act 18, Eff. July 1, 2011.

28.731, 28.732 Repealed. 2011, Act 18, Eff. July 1, 2011

Compiler's note: The repealed sections pertained to effective date and conditional effective date of act.

&NBSP; III

STUDENT SAFETY ZONES**28.733 Definitions.**

Sec. 33. As used in this article:

(a) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) "Loiter" means to remain for a period of time and under circumstances that a reasonable person would determine is for the primary purpose of observing or contacting minors.

(c) "Minor" means an individual less than 18 years of age.

(d) "School" means a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from 1 through 12. School does not include a home school.

(e) "School property" means a building, facility, structure, or real property owned, leased, or otherwise controlled by a school, other than a building, facility, structure, or real property that is no longer in use on a permanent or continuous basis, to which either of the following applies:

(i) It is used to impart educational instruction.

(ii) It is for use by students not more than 19 years of age for sports or other recreational activities.

(f) "Student safety zone" means the area that lies 1,000 feet or less from school property.

History: Add. 2005, Act 121, Eff. Jan. 1, 2006;—Add. 2005, Act 127, Eff. Jan. 1, 2006.

Compiler's note: MCL 28.733 was added by 2005 PA 121 and 2005 PA 127. 2005 PA 127, being substantively the same as the 2005 PA 121, supersedes and becomes the only version on its effective date.

28.734 Prohibited conduct; violation; penalty; exceptions; other violations; right to vote.

Sec. 34. (1) Except as provided in this section and section 36, an individual required to be registered under article II shall not do 1 or more of the following:

(a) Work within a student safety zone.

(b) Loiter within a student safety zone.

(2) An individual who violates this section is guilty of a crime as follows:

(a) For the first violation, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) An individual who violates this section and has 1 or more prior convictions under this section is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(3) Subsection (1)(a) does not apply to any of the following:

(a) An individual who was working within a student safety zone on January 1, 2006. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(b) An individual whose place of employment is within a student safety zone solely because a school is relocated or is initially established 1,000 feet or less from the individual's place of employment. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(c) An individual who only intermittently or sporadically enters a student safety zone for the purpose of work. However, this exception does not apply to an individual who initiates or maintains contact with a minor within a student safety zone.

(4) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

(5) Nothing in this section shall be construed to prohibit an individual from exercising his or her right to vote.

History: Add. 2005, Act 127, Eff. Jan. 1, 2006;—Am. 2005, Act 322, Eff. Jan. 1, 2006.

28.735 Registered individual residing in student safety zone; prohibited conduct; violation; penalties; exceptions.

Sec. 35. (1) Except as otherwise provided in this section and section 36, an individual required to be registered under article II shall not reside within a student safety zone.

(2) An individual who violates subsection (1) is guilty of a crime as follows:

(a) For the first violation, the individual is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(b) An individual who violates this section and has 1 or more prior convictions under this section is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.

(3) This section does not apply to any of the following:

(a) An individual who is not more than 19 years of age and attends secondary school or postsecondary school, and resides with his or her parent or guardian. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone. However, the individual may initiate or maintain contact with a minor with whom he or she attends secondary school or postsecondary school in conjunction with that school attendance.

(b) An individual who is not more than 26 years of age and attends a special education program, and resides with his or her parent or guardian or resides in a group home or assisted living facility. However, an individual described in this subdivision shall not initiate or maintain contact with a minor within that student safety zone. The individual shall be permitted to initiate or maintain contact with a minor with whom he or she attends a special education program in conjunction with that attendance.

(c) An individual who was residing within that student safety zone on January 1, 2006. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(d) An individual who is a patient in a hospital or hospice that is located within a student safety zone. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(e) An individual who resides within a student safety zone because the individual is an inmate or resident of a prison, jail, juvenile facility, or other correctional facility or is a patient of a mental health facility under an order of commitment. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone.

(4) An individual who resides within a student safety zone and who is subsequently required to register under article II shall change his or her residence to a location outside the student safety zone not more than 90 days after he or she is sentenced for the conviction that gives rise to the obligation to register under article II. However, this exception does not apply to an individual who initiates or maintains contact with a minor within that student safety zone during the 90-day period described in this subsection.

(5) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

History: Add. 2005, Act 121, Eff. Jan. 1, 2006;—Am. 2005, Act 322, Eff. Jan. 1, 2006.

28.736 Exemptions.

Sec. 36. (1) Subject to subsection (2), sections 34 and 35 do not apply to any of the following:

(a) An individual who is convicted as a juvenile under section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, of committing, attempting to commit, or conspiring to commit a violation solely described in section 520b(1)(a), 520c(1)(a), or 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, if either of the following applies:

(i) The individual was under 13 years of age when he or she committed the offense and is not more than 5 years older than the victim.

(ii) The individual was 13 years of age or older but less than 17 years of age when he or she committed the offense and is not more than 3 years older than the victim.

(b) An individual who was charged under section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, with committing, attempting to commit, or conspiring to commit a violation solely described in section 520b(1)(a), 520c(1)(a), or 520d(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d, and is convicted as a juvenile of violating, attempting to violate, or conspiring to violate section 520e or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g, if either of the following applies:

(i) The individual was under 13 years of age when he or she committed the offense and is not more than 5 years older than the victim.

(ii) The individual was 13 years of age or older but less than 17 years of age when he or she committed the offense and is not more than 3 years older than the victim.

(c) An individual who has successfully completed his or her probationary period under sections 11 to 15 of chapter II for committing a listed offense and has been discharged from youthful trainee status.

(d) An individual convicted of committing or attempting to commit a violation solely described in section 520e(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520e, who at the time of the violation was 17 years of age or older but less than 21 years of age and who is not more than 5 years older than the victim.

(2) An individual who is convicted of more than 1 offense described in subsection (1) is ineligible for exemption under this section.

History: Add. 2005, Act 121, Eff. Jan. 1, 2006.

ADDENDUM B

Exhibit C

Explanation of Duties

Doe #3 (Sept. 2019)

Doe #2 (July 2019)

Re: 4/1/19
Michigan State Police

Agency: Kent County MI

Administrator: Michigan State Police

Phone: (517)241-1806

Date: 07/02/2019

MICHIGAN SEX OFFENDER VERIFICATION/UPDATE FORM**** Your next verification month is October 2019 ****

Registration Tier:	Tier 3	Registration Duration:	Lifetime
Registration Begin Date:	02/09/1995	Registration End Date:	Lifetime
Verification Frequency:	Quarterly	Last Verification Date:	07/02/2019
Compliance Status:	COMPLIANT	Non-Compliant Reason(s):	

Offender Information

Name:		Registration #:		Fingerprints on file:	YES
DOB:		Social Security Number:		Palm prints on file:	YES
Race:		OPS/PID:		DNA on file:	YES
Sex:		FBI #:		Passport on file:	None
Hair:		MI/SID #:		Prof. License #:	None
Eye:		MDOC #:		License Type:	None
Height:		Immigration #:			
Weight:					

Residence (Bold - Current Primary Address)**Start Date****Incarceration(s)**

Facility Name	Incarceration Start Date	Incarceration End Date	Total Days Incarcerated
None Reported			0

Telephone Number(s)	Phone Type	Email/Internet	Type	Service Provider
None Reported			Email	

Alias(es)

None Reported

Scars/Marks/Tattoos (SMT)

SMT Type	SMT Location	SMT Description	SMT Type	SMT Location	SMT Description
None					

Employment	Address	County	Type	Start Date

Campus	Address	County	Start Date

Vehicle(s)

Make	Model	Style	Color	Year	License	State	VIN	Location Kept

Mobile Home(s)

Make	Model	Style	Color	Year	License	State	VIN
None Reported							

Boat(s)

Make	Model	Boat Type	Color	Model Year	Reg #	State	Hull Serial #	Home Port
None Reported								

RD 4/17/14.
Michigan State Police

Aircraft(s)

Make	Style	Color	Year	License	State	Serial Number	Location Kept
None Reported							

ATV(s)

Make	Model	Style	Color	Year	License	State	VIN	Serial Number
None Reported								

Offense Information

Offense Date	RS Code/Description	Counts	Victim Age	Conv. State	Conv. Date	Case #
	750.520C1A/CRIMINAL SEXUAL CONDUCT - SECOND DEGREE (Person Under Thirteen)					
	750.520C1A/CRIMINAL SEXUAL CONDUCT - SECOND DEGREE (Person Under Thirteen)					

Registration Fee

Last Fee Paid	Collecting Agency	Indigent Date	Indigent Agency
04/02/2019			
01/02/2018			
07/06/2015			
04/06/2015			
04/09/2014			
01/05/2005			

EXPLANATION OF DUTIES TO REGISTER AS A SEX OFFENDER

- I am required by law to register as a sex offender. Failure to register as required by law is a felony and may result in prosecution. MCL 28.729(1).
 - If I am a Tier I offender, I must register for 15 years. MCL 28.725(10)
 - If I am a Tier II offender, I must register for 25 years. MCL 28.725(11)
 - If I am a Tier III offender, I must register for the remainder of my life. MCL 28.725(12)
 - I understand my registration period excludes all period(s) of incarceration. MCL 28.725(13)
- I am required to sign the required registration form(s). Failure to sign the required registration form(s) is a misdemeanor and may result in criminal prosecution.
- I am required by law to verify my address by reporting in-person and providing proof of residency at a local law enforcement agency, sheriff's office, or Michigan State Police post that has jurisdiction over my residence. Failure to verify my address as required by law is a misdemeanor and may result in prosecution.
 - If I am a Tier I offender, I am required by law to verify my address once every year during my month of birth. MCL 28.725a(3)(a)
 - If I am a Tier II offender, I am required by law to verify my address twice each year according to the following schedule: MCL 28.725a(3)(b)

Birth Month

January
February
March
April
May
June

Reporting Months

January and July
February and August
March and September
April and October
May and November
June and December

Birth Month

July
August
September
October
November
December

Reporting Months

January and July
February and August
March and September
April and October
May and November
June and December

- If I am a Tier III offender, I am required by law to verify my address four times each year according to the following schedule: MCL 28.725a(3)(c)

Birth Month

January
February
March
April
May
June

Reporting Months

January, April, July, and October
February, May, August, and November
March, June, September, and December
January, April, July, and October
February, May, August, and November
March, June, September, and December

Birth Month

July
August
September
October
November
December

Reporting Months

January, April, July, and October
February, May, August, and November
March, June, September, and December
January, April, July, and October
February, May, August, and November
March, June, September, and December

R-47-0714

Michigan State Police

Offender:

4. Upon registering as a sex offender, I am required by law to provide the following information:
 - a. My legal name and any aliases, nicknames, tribal names, ethnic names, and any other name by which I have been known. MCL 28.727(1)(a)
 - b. My social security number and any social security numbers or alleged security number that I have previously used. MCL 28.727(1)(b)
 - c. My date of birth and any alleged dates of birth that I have previously used. MCL 28.727(1)(c)
 - d. The address where I reside or will reside. If I do not have a residential address then I must provide the location that I use in lieu of a residence. If I am homeless, then I must provide the name of the village, city, or township where I spend or will spend the majority of my time. MCL 28.727(1)(d)
 - e. The name and address of any temporary lodging used or to be used when I am away from my residence for more than seven days. MCL 28.727(1)(e)
 - f. The name and address of each of my employers. "Employers" includes contractors. If my employment location is not in a fixed location, then I must provide the general areas where I work and the normal travel routes that I take while working. MCL 28.727(1)(f)
 - g. The name and address of any school that I attend or that has accepted me if I plan to attend. MCL 28.727(1)(g)
 - h. All telephone numbers registered to me or that I routinely use. MCL 28.727(1)(h)
 - i. All electronic mail (e-mail) addresses and instant message addresses assigned to me or that I routinely use and all login names and other identifiers that I use when using e-mail or instant messaging. MCL 28.727(1)(i)
 - j. The license plate number, registration number, and description of any motor vehicle, aircraft, or vessel that I own or regularly operate and the location where they are routinely stored. MCL 28.727(1)(j)
 - k. My passport and all other immigration documents that I may have. MCL 28.727(1)(l)
 - l. All occupational and professional licensing information that I may have. MCL 28.727(1)(m)
5. During my verification periods, I am required by law to review all of my registration information for accuracy. MCL 28.725a(4).
6. I am required by law to report in person within three business days to a local law enforcement agency, sheriff's office, or Michigan State Police post having jurisdiction over my residence, all of the following:
 - a. My new address after changing or vacating my residence within the state of Michigan. If I am homeless or lack a fixed or temporary residence, I am required by law to provide the village, city, or township where I spend the majority of my time. MCL 28.725(1)(a) and MCL 28.727(1)(d)
 - b. The name and address of my employer upon obtaining, changing, or discontinuing employment, including volunteer work. MCL 28.725(1)(b)
 - c. The name and location of the school upon enrolling or discontinuing enrollment at an institution of higher learning. MCL 28.725(1)(c)
 - d. My new name upon changing my name. MCL 28.725(1)(d)
 - e. My temporary address and dates of travel if I intend to temporarily reside at any place other than my residence for more than seven days. MCL 28.725(1)(e) and MCL 28.727(1)(e)
 - f. Any electronic mail (e-mail) address, instant messaging address, or any other designation used in internet communications upon establishing it. MCL 28.725(1)(f)
 - g. The license plate number or registration number, description, and location stored or kept of any vehicle that I own or regularly operate. MCL 28.725(1)(g)
 - h. My new address prior to changing my residence to another state. MCL 28.725(6) Failure to report as required by law is a felony and may result in prosecution.
7. I am required by law to provide my new or temporary address by reporting in person to a local law enforcement agency, sheriff's office, or Michigan State Police post having jurisdiction over my residence 21 days prior to traveling to another country for more than 7 days or changing my residence to another country. Failure to report this information is a felony and may result in criminal prosecution. MCL 28.725(7)
8. The Michigan Department of Corrections may not release me until I provide the address of my proposed place of residence. A county jail located within Michigan will not release me until I provide the address of my proposed place of residence. MCL 28.725(3) and MCL 28.725(4)
9. I am required by law to maintain either a valid Michigan operator's or chauffeur's license or Michigan personal identification card with a digitized photograph. This card may be used as proof of residency. Other proof of residency may be required, such as a voter registration card, utility bill, or other bill. Unless otherwise specified by law, my digitized photograph will be included on the public sex offender registry website. Failure to maintain the proper identification is a misdemeanor and may result in criminal prosecution. MCL 28.725a (7) and MCL 28.725a (8)
10. I am required by law to pay a \$50.00 registration fee at the time of my initial registration and annually following the year of initial registration. The payment of the annual registration fee shall be paid at the time I report during the first verification reporting month for me, unless I elect to prepay the annual registration fee for any future year for which an annual registration fee is required. Prepaying my annual registration fee does not change or alter my reporting requirements as detailed in section 3 above. The sum of the amounts paid under this section shall not exceed \$550.00. If I am determined to be indigent by the collecting agency, this fee will be temporarily waived for 90 days. Failure to pay the registration fee is a misdemeanor and may result in criminal prosecution. MCL 28.725a(6) MCL 28.724a(5), and MCL 28.725b(3)
11. I am required by law to have my fingerprints and palm prints taken if they are not already on file with the department of State Police. Those fingerprints and palm prints will be forwarded to the Federal Bureau of Investigation if they are not already on file with the Federal Bureau of Investigation. I must be reprinted if my fingerprints or palm prints were expunged and/or returned to me. MCL 28.727(1) (q)
12. Unless otherwise specified by law, I am prohibited by law from residing or working within 1,000 feet from any building, facility, structure, or real property owned, leased, or otherwise controlled by a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from one through twelve. Residing or working within a student safety zone is a misdemeanor and may result in criminal prosecution. MCL 28.735(1), MCL 28.734(1) (a)

RS-4007-14
Michigan State Police

Offender: [REDACTED]

**** Your next verification month is October 2019 ****

PLEASE READ CAREFULLY BEFORE SIGNING

I have reviewed my registration information and have verified the information is accurate and complete. I understand that failing to comply with the Sex Offenders Registration Act, or providing false or misleading information is a crime and may result in criminal prosecution.

I have been provided a copy of the written notice explaining my registration duties.

SIGNATURES

[REDACTED]

Signature of Offender

[REDACTED]

Signature of Notifying Official

Signature of Parent, Legal Guardian, or Power of Attorney, if applicable

[REDACTED]

Printed Name of Notifying Official

07/02/2019

Date

[REDACTED]

Notifying Agency

SUBMIT COMPLETED FORM VIA MAIL TO:

Michigan State Police
Sex Offender Registry Unit
P.O. Box 30634
Lansing, MI 48909-0634
OR FAX TO: (517) 241-1868

Authority: M.C.L.A. 28.721, et seq.
Compliance: Mandatory

Page 5 of 11

07/02/2019

RI-4V (07/14)
Michigan State Police

Agency: Kent County MI

Administrator: [REDACTED]

Phone: (517)241-1806

Date: 09/16/2019

MICHIGAN SEX OFFENDER VERIFICATION/UPDATE FORM

**** Your next verification month is October 2019 ****

Registration Tier:	Tier 3	Registration Duration:	Lifetime
Registration Begin Date:	02/09/1995	Registration End Date:	Lifetime
Verification Frequency:	Quarterly	Last Verification Date:	07/02/2019
Compliance Status:	COMPLIANT	Non-Compliant Reason(s):	

Offender Information

Name:	[REDACTED]	Registration #:	[REDACTED]	Fingerprints on file:	[REDACTED]
DOB:	[REDACTED]	Social Security Number:	[REDACTED]	Palm prints on file:	[REDACTED]
Race:	[REDACTED]	OPS/PID:	[REDACTED]	DNA on file:	[REDACTED]
Sex:	[REDACTED]	FBI #:	[REDACTED]	Passport on file:	[REDACTED]
Hair:	[REDACTED]	MI/SID #:	[REDACTED]	Prof. License #:	[REDACTED]
Eye:	[REDACTED]	MDOC #:	[REDACTED]	License Type:	[REDACTED]
Height:	[REDACTED]	Immigration #:	[REDACTED]		
Weight:	[REDACTED]				

Residence (Bold - Current Primary Address)

Start Date

Incarceration(s)

Facility Name	Incarceration Start Date	Incarceration End Date	Total Days Incarcerated
None Reported			0

Telephone Number(s) Phone Type Email/Internet Type Service Provider

Alias(es)

None Reported

Scars/Marks/Tattoos (SMT)

SMT Type	SMT Location	SMT Description	SMT Type	SMT Location	SMT Description
None					

Employment Address County Type Start Date

Campus Address County Start Date

Vehicle(s)

Make	Model	Style	Color	Year	License	State VIN	Location Kept
[REDACTED]							

Mobile Home(s)

Make	Model	Style	Color	Year	License	State VIN
None Reported						

Boat(s)

Make	Model	Boat Type	Color	Model Year	Reg #	State	Hull Serial #	Home Port
None Reported								

RI-4V (07/14)

Michigan State Police

Aircraft(s)

Make	Style	Color	Year	License	State	Serial Number	Location Kept
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None Reported

ATV(s)

Make	Model	Style	Color	Year	License	State	VIN	Serial Number
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None Reported

Offense Information

Offense Date	RS Code/Description	Counts	Victim Age	Conv. State	Conv. Date	Case #
	750.520C1A/CRIMINAL SEXUAL CONDUCT - SECOND DEGREE (Person Under Thirteen)			Michigan		
	750.520C1A/CRIMINAL SEXUAL CONDUCT - SECOND DEGREE (Person Under Thirteen)			Michigan		

Registration Fee

Last Fee Paid	Collecting Agency	Indigent Date	Indigent Agency
04/02/2019			
01/02/2018			
07/06/2015			
04/06/2015			
04/09/2014			
01/05/2005			

EXPLANATION OF DUTIES TO REGISTER AS A SEX OFFENDER

- I am required by law to register as a sex offender. Failure to register as required by law is a felony and may result in prosecution. MCL 28.729(1).
 - If I am a Tier I offender, I must register for 15 years. MCL 28.725(10)
 - If I am a Tier II offender, I must register for 25 years. MCL 28.725(11)
 - If I am a Tier III offender, I must register for the remainder of my life. MCL 28.725(12)
 - I understand my registration period excludes all period(s) of incarceration. MCL 28.725(13)
- I am required to sign the required registration form(s). Failure to sign the required registration form(s) is a misdemeanor and may result in criminal prosecution.
- I am required by law to verify my address by reporting in-person and providing proof of residency at a local law enforcement agency, sheriff's office, or Michigan State Police post that has jurisdiction over my residence. Failure to verify my address as required by law is a misdemeanor and may result in prosecution.
 - If I am a Tier I offender, I am required by law to verify my address once every year during my month of birth. MCL 28.725a(3)(a)
 - If I am a Tier II offender, I am required by law to verify my address twice each year according to the following schedule: MCL 28.725a(3)(b)

<u>Birth Month</u>	<u>Reporting Months</u>	<u>Birth Month</u>	<u>Reporting Months</u>
January	January and July	July	January and July
February	February and August	August	February and August
March	March and September	September	March and September
April	April and October	October	April and October
May	May and November	November	May and November
June	June and December	December	June and December

- If I am a Tier III offender, I am required by law to verify my address four times each year according to the following schedule: MCL 28.725a(3)(c)

<u>Birth Month</u>	<u>Reporting Months</u>	<u>Birth Month</u>	<u>Reporting Months</u>
January	January, April, July, and October	July	January, April, July, and October
February	February, May, August, and November	August	February, May, August, and November
March	March, June, September, and December	September	March, June, September, and December
April	January, April, July, and October	October	January, April, July, and October
May	February, May, August, and November	November	February, May, August, and November
June	March, June, September, and December	December	March, June, September, and December

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Boat(s)							
Make	Model	Boat Type	Color	Model Year	Reg #	State	Hull Serial #
None Reported							

Aircraft(s)							
Make	Style	Color	Year	License	State	Serial Number	Location Kept
None Reported							

ATV(s)							
Make	Model	Style	Color	Year	License	State	Serial Number
None Reported							

Offense Information							
Offense Date	RS Code/Description	Counts	Victim Age	Conv. State	Conv. Date	Case #	
	750.520D/CRIMINAL SEXUAL CONDUCT - THIRD DEGREE (Multiple Variables)			Michigan			

Registration Fee			
Last Fee Paid	Collecting Agency	Indigent Date	Indigent Agency
01/31/2019			
01/31/2018			
01/31/2017			
01/31/2016			
01/31/2015			
04/11/2014			
07/14/2005			

EXPLANATION OF DUTIES TO REGISTER AS A SEX OFFENDER

- I am required by law to register as a sex offender. Failure to register as required by law is a felony and may result in prosecution. MCL 28.729(1).
 - If I am a Tier I offender, I must register for 15 years. MCL 28.725(10)
 - If I am a Tier II offender, I must register for 25 years. MCL 28.725(11)
 - If I am a Tier III offender, I must register for the remainder of my life. MCL 28.725(12)
 - I understand my registration period excludes all period(s) of incarceration. MCL 28.725(13)
- I am required to sign the required registration form(s). Failure to sign the required registration form(s) is a misdemeanor and may result in criminal prosecution.
- I am required by law to verify my address by reporting in-person and providing proof of residency at a local law enforcement agency, sheriff's office, or Michigan State Police post that has jurisdiction over my residence. Failure to verify my address as required by law is a misdemeanor and may result in prosecution.
 - If I am a Tier I offender, I am required by law to verify my address once every year during my month of birth. MCL 28.725a(3)(a)
 - If I am a Tier II offender, I am required by law to verify my address twice each year according to the following schedule: MCL 28.725a(3)(b)

<u>Birth Month</u>	<u>Reporting Months</u>	<u>Birth Month</u>	<u>Reporting Months</u>
January	January and July	July	January and July
February	February and August	August	February and August
March	March and September	September	March and September
April	April and October	October	April and October
May	May and November	November	May and November
June	June and December	December	June and December

c. If I am a Tier III offender, I am required by law to verify my address four times each year according to the following schedule: MCL 28.725a(3)(c)

<u>Birth Month</u>	<u>Reporting Months</u>	<u>Birth Month</u>	<u>Reporting Months</u>
January	January, April, July, and October	July	January, April, July, and October
February	February, May, August, and November	August	February, May, August, and November
March	March, June, September, and December	September	March, June, September, and December
April	January, April, July, and October	October	January, April, July, and October
May	February, May, August, and November	November	February, May, August, and November

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Michigan State Police

Offender:

June March, June, September, and December December March, June, September, and December

4. Upon registering as a sex offender, I am required by law to provide the following information:
 - a. My legal name and any aliases, nicknames, tribal names, ethnic names, and any other name by which I have been known. MCL 28.727(1)(a)
 - b. My social security number and any social security numbers or alleged security number that I have previously used. MCL 28.727(1)(b)
 - c. My date of birth and any alleged dates of birth that I have previously used. MCL 28.727(1)(c)
 - d. The address where I reside or will reside. If I do not have a residential address then I must provide the location that I use in lieu of a residence. If I am homeless, then I must provide the name of the village, city, or township where I spend or will spend the majority of my time. MCL 28.727(1)(d)
 - e. The name and address of any temporary lodging used or to be used when I am away from my residence for more than seven days. MCL 28.727(1)(e)
 - f. The name and address of each of my employers. "Employers" includes contractors. If my employment location is not in a fixed location, then I must provide the general areas where I work and the normal travel routes that I take while working. MCL 28.727(1)(f)
 - g. The name and address of any school that I attend or that has accepted me if I plan to attend. MCL 28.727(1)(g)
 - h. All telephone numbers registered to me or that I routinely use. MCL 28.727(1)(h)
 - i. All electronic mail (e-mail) addresses and instant message addresses assigned to me or that I routinely use and all login names and other identifiers that I use when using e-mail or instant messaging. MCL 28.727(1)(i)
 - j. The license plate number, registration number, and description of any motor vehicle, aircraft, or vessel that I own or regularly operate and the location where they are routinely stored. MCL 28.727(1)(j)
 - k. My passport and all other immigration documents that I may have. MCL 28.727(1)(l)
 - l. All occupational and professional licensing information that I may have. MCL 28.727(1)(m)
5. During my verification periods, I am required by law to review all of my registration information for accuracy. MCL 28.725a(4).
6. I am required by law to report in person within three business days to a local law enforcement agency, sheriff's office, or Michigan State Police post having jurisdiction over my residence, all of the following:
 - a. My new address after changing or vacating my residence within the state of Michigan. If I am homeless or lack a fixed or temporary residence, I am required by law to provide the village, city, or township where I spend the majority of my time. MCL 28.725(1)(a) and MCL 28.727(1)(d)
 - b. The name and address of my employer upon obtaining, changing, or discontinuing employment, including volunteer work. MCL 28.725(1)(b)
 - c. The name and location of the school upon enrolling or discontinuing enrollment at an institution of higher learning. MCL 28.725(1)(c)
 - d. My new name upon changing my name. MCL 28.725(1)(d)
 - e. My temporary address and dates of travel if I intend to temporarily reside at any place other than my residence for more than seven days. MCL 28.725(1)(e) and MCL 28.727(1)(e)
 - f. Any electronic mail (e-mail) address, instant messaging address, or any other designation used in internet communications upon establishing it. MCL 28.725(1)(f)
 - g. The license plate number or registration number, description, and location stored or kept of any vehicle that I own or regularly operate. MCL 28.725(1)(g)
 - h. My new address prior to changing my residence to another state. MCL 28.725(6) Failure to report as required by law is a felony and may result in prosecution.
7. I am required by law to provide my new or temporary address by reporting in person to a local law enforcement agency, sheriff's office, or Michigan State Police post having jurisdiction over my residence 21 days prior to traveling to another country for more than 7 days or changing my residence to another country. Failure to report this information is a felony and may result in criminal prosecution. MCL 28.725(7)
8. The Michigan Department of Corrections may not release me until I provide the address of my proposed place of residence. A county jail located within Michigan will not release me until I provide the address of my proposed place of residence. MCL 28.725(3) and MCL 28.725(4)
9. I am required by law to maintain either a valid Michigan operator's or chauffeur's license or Michigan personal identification card with a digitized photograph. This card may be used as proof of residency. Other proof of residency may be required, such as a voter registration card, utility bill, or other bill. Unless otherwise specified by law, my digitized photograph will be included on the public sex offender registry website. Failure to maintain the proper identification is a misdemeanor and may result in criminal prosecution. MCL 28.725a(7) and MCL 28.725a(8)
10. I am required by law to pay a \$50.00 registration fee at the time of my initial registration and annually following the year of initial registration. The payment of the annual registration fee shall be paid at the time I report during the first verification reporting month for me, unless I elect to prepay the annual registration fee for any future year for which an annual registration fee is required. Prepaying my annual registration fee does not change or alter my reporting requirements as detailed in section 3 above. The sum of the amounts paid under this section shall not exceed \$550.00. If I am determined to be indigent by the collecting agency, this fee will be temporarily waived for 90 days. Failure to pay the registration fee is a misdemeanor and may result in criminal prosecution. MCL 28.725a(6) MCL 28.724a(5), and MCL 28.725b(3)
11. I am required by law to have my fingerprints and palm prints taken if they are not already on file with the department of State Police. Those fingerprints and palm prints will be forwarded to the Federal Bureau of Investigation if they are not already on file with the Federal Bureau of Investigation. I must be reprinted if my fingerprints or palm prints were expunged and/or returned to me. MCL 28.727(1) (q)
12. Unless otherwise specified by law, I am prohibited by law from residing or working within 1,000 feet from any building, facility, structure, or real property owned, leased, or otherwise controlled by a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten,

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Michigan State Police

Offender: [REDACTED]

or any grade from one through twelve. Residing or working within a student safety zone is a misdemeanor and may result in criminal prosecution. MCL 28.735(1), MCL 28.734(1) (a)

13. I am prohibited by law from loitering within 1,000 feet from any building, facility, structure, or real property owned, leased, or otherwise controlled by a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from one through twelve. Loitering in a student safety zone is a misdemeanor and may result in criminal prosecution. MCL 28.734(1) (b)

14. It is a felony to knowingly provide false or misleading information concerning a registration, notice, or verification, and doing so may result in prosecution. MCL 28.727(6)

15. I acknowledge that I have read the above requirements and/or had them read to me.

Offender:

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Michigan State Police

**** Your next verification month is October 2019 ****

PLEASE READ CAREFULLY BEFORE SIGNING

I have reviewed my registration information and have verified the information is accurate and complete. I understand that failing to comply with the Sex Offenders Registration Act, or providing false or misleading information is a crime and may result in criminal prosecution.

I have been provided a copy of the written notice explaining my registration duties.

SIGNATURES

Signature of Offender

Signature of Notifying Official

Signature of Parent, Legal Guardian, or Power of Attorney, if applicable

Printed Name of Notifying Official

Date

Notifying Agency

SUBMIT COMPLETED FORM VIA MAIL TO:
Michigan State Police
Sex Offender Registry Unit
P.O. Box 30634
Lansing, MI 48909-0634
OR FAX TO: (517) 241-1868
Page 5 of 5

Authority: M.C.L.A. 28.721, et seq.
Compliance: Mandatory

07/31/20

Exhibit D

Explanation of Duties
Mann Lewis, July 2019, filed in:
Lewis v. Whitmer,
No. 18-1912 (6th Cir.)

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Michigan State Police

Agency: Saginaw County MI

Administrator: Michigan State Police

Phone: (517)241-1806

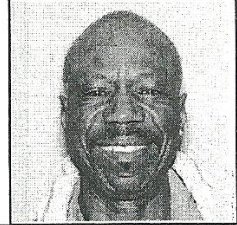
Date: 07/08/2019

MICHIGAN SEX OFFENDER VERIFICATION/UPDATE FORM

**** Your next verification month is October 2019 ****

Registration Tier: Tier 3
Registration Begin Date: 05/04/1983
Verification Frequency: Quarterly
Compliance Status: NON-COMPLIANT

Registration Duration: Lifetime
Registration End Date: Lifetime
Last Verification Date: 07/08/2019
Non-Compliant Reason(s): Failed to verify;



Offender Information

Name: LEWIS JR, MAN
DOB: 04/18/1949
Race: Black
Sex: Male
Hair: Black
Eye: Brown
Height: 5'9"
Weight: 135

Registration #: S8485277
Social Security Number: [REDACTED]
OPS/PID: [REDACTED]
FBI #: [REDACTED]
MI/SID #: [REDACTED]
MDOC #: [REDACTED]
Immigration #: [REDACTED]

Fingerprints on file: YES
Palm prints on file: YES
DNA on file: YES
Passport on file: None
Prof. License #: None
License Type: None

Residence (Bold - Current Primary Address) **Start Date**
2124 Gallagher St, Saginaw, MI 48601 09/05/2014

Incarceration(s)

Facility Name	Incarceration Start Date	Incarceration End Date	Total Days Incarcerated
BOYER ROAD CORRECTIONAL FACILITY	07/11/2006	12/14/2009	1,252
MDOC	05/06/1983	12/14/2009	9,719
MDOC	04/29/1982	06/04/1982	36

Telephone Number(s)	Phone Type	Email/Internet	Type	Service Provider
1. [REDACTED]	Mobile	[REDACTED]	Email	

Alias(es)

MAIN WILKINS, MAIN LOUIS WILKINS, MAN LEWIS, MAN LOUIS LEWIS, MAN LOUIS LEWIS, MANN LOUIS LEWIS,

Scars/Marks/Tattoos (SMT)

SMT Type	SMT Location	SMT Description	SMT Type	SMT Location	SMT Description
None					

Employment	Address	County	Type	Start Date
ON POINT INVESTIGATI	411 9TH ST BAY CITY, MI 48708-5820	BAY	Work	07/10/2012

Campus	Address	County	Start Date

Vehicle(s)

Make	Model	Style	Color	Year	License	State	VIN	Location Kept
Cadillac	Escalade	PK - Pick-up	Black	2007	DEB4576	MI	[REDACTED]	KEPT AT RESIDENCE

Mobile Home(s)

Make	Model	Style	Color	Year	License	State	VIN
None Reported							

Boat(s)

Make	Model	Boat Type	Color	Model Year	Reg #	State	Hull Serial #	Home Port
None Reported								

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Aircraft(s)							
Make	Style	Color	Year	License	State	Serial Number	Location Kept
None Reported							

ATV(s)							
Make	Model	Style	Color	Year	License	State VIN	Serial Number
None Reported							

Offense Information

Offense Date	RS Code/Description	Counts	Victim Age	Conv. State	Conv. Date	Case #
01/25/1977	750.455/PROSTITUTION/PANDERING	1		Michigan	06/19/1978	77-9783
02/25/1982	750.520D/CRIMINAL SEXUAL CONDUCT - THIRD DEGREE (Multiple Variables) (Attempted)	1		Michigan	03/25/1983	82004268FY
11/17/1982	750.520B/CRIMINAL SEXUAL CONDUCT - FIRST DEGREE (Multiple Variables)	1		Michigan	05/04/1983	831016FCB

Registration Fee

Last Fee Paid	Collecting Agency	Indigent Date	Indigent Agency
02/06/2019	MI7317300		
05/01/2018	MI7317300		
02/01/2017			
02/01/2016			
03/03/2015			
06/13/2014			
01/06/2010			

EXPLANATION OF DUTIES TO REGISTER AS A SEX OFFENDER

- I am required by law to register as a sex offender. Failure to register as required by law is a felony and may result in prosecution. MCL 28.729(1).
 - If I am a Tier I offender, I must register for 15 years. MCL 28.725(10)
 - If I am a Tier II offender, I must register for 25 years. MCL 28.725(11)
 - If I am a Tier III offender, I must register for the remainder of my life. MCL 28.725(12)
 - I understand my registration period excludes all period(s) of incarceration. MCL 28.725(13)
- I am required to sign the required registration form(s). Failure to sign the required registration form(s) is a misdemeanor and may result in criminal prosecution.
- I am required by law to verify my address by reporting in-person and providing proof of residency at a local law enforcement agency, sheriff's office, or Michigan State Police post that has jurisdiction over my residence. Failure to verify my address as required by law is a misdemeanor and may result in prosecution.
 - If I am a Tier I offender, I am required by law to verify my address once every year during my month of birth. MCL 28.725a(3)(a)
 - If I am a Tier II offender, I am required by law to verify my address twice each year according to the following schedule: MCL 28.725a(3)(b)

Birth Month	Reporting Months	Birth Month	Reporting Months
January	January and July	July	January and July
February	February and August	August	February and August
March	March and September	September	March and September
April	April and October	October	April and October
May	May and November	November	May and November
June	June and December	December	June and December

- If I am a Tier III offender, I am required by law to verify my address four times each year according to the following schedule: MCL 28.725a(3)(c)

Birth Month	Reporting Months	Birth Month	Reporting Months
January	January, April, July, and October	July	January, April, July, and October
February	February, May, August, and November	August	February, May, August, and November
March	March, June, September, and December	September	March, June, September, and December
April	January, April, July, and October	October	January, April, July, and October
May	February, May, August, and November	November	February, May, August, and November

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Michigan State Police

Offender:
LEWIS JR, MAN

June March, June, September, and December December March, June, September, and December

4. Upon registering as a sex offender, I am required by law to provide the following information:
 - a. My legal name and any aliases, nicknames, tribal names, ethnic names, and any other name by which I have been known. MCL 28.727(1)(a)
 - b. My social security number and any social security numbers or alleged security number that I have previously used. MCL 28.727(1)(b)
 - c. My date of birth and any alleged dates of birth that I have previously used. MCL 28.727(1)(c)
 - d. The address where I reside or will reside. If I do not have a residential address then I must provide the location that I use in lieu of a residence. If I am homeless, then I must provide the name of the village, city, or township where I spend or will spend the majority of my time. MCL 28.727(1)(d)
 - e. The name and address of any temporary lodging used or to be used when I am away from my residence for more than seven days. MCL 28.727(1)(e)
 - f. The name and address of each of my employers. "Employers" includes contractors. If my employment location is not in a fixed location, then I must provide the general areas where I work and the normal travel routes that I take while working. MCL 28.727(1)(f)
 - g. The name and address of any school that I attend or that has accepted me if I plan to attend. MCL 28.727(1)(g)
 - h. All telephone numbers registered to me or that I routinely use. MCL 28.727(1)(h)
 - i. All electronic mail (e-mail) addresses and instant message addresses assigned to me or that I routinely use and all login names and other identifiers that I use when using e-mail or instant messaging. MCL 28.727(1)(i)
 - j. The license plate number, registration number, and description of any motor vehicle, aircraft, or vessel that I own or regularly operate and the location where they are routinely stored. MCL 28.727(1)(j)
 - k. My passport and all other immigration documents that I may have. MCL 28.727(1)(l)
 - l. All occupational and professional licensing information that I may have. MCL 28.727(1)(m)
5. During my verification periods, I am required by law to review all of my registration information for accuracy. MCL 28.725a(4).
6. I am required by law to report in person within three business days to a local law enforcement agency, sheriff's office, or Michigan State Police post having jurisdiction over my residence, all of the following:
 - a. My new address after changing or vacating my residence within the state of Michigan. If I am homeless or lack a fixed or temporary residence, I am required by law to provide the village, city, or township where I spend the majority of my time. MCL 28.725(1)(a) and MCL 28.727(1)(d)
 - b. The name and address of my employer upon obtaining, changing, or discontinuing employment, including volunteer work. MCL 28.725(1)(b)
 - c. The name and location of the school upon enrolling or discontinuing enrollment at an institution of higher learning. MCL 28.725(1)(c)
 - d. My new name upon changing my name. MCL 28.725(1)(d)
 - e. My temporary address and dates of travel if I intend to temporarily reside at any place other than my residence for more than seven days. MCL 28.725(1)(e) and MCL 28.727(1)(e)
 - f. Any electronic mail (e-mail) address, instant messaging address, or any other designation used in internet communications upon establishing it. MCL 28.725(1)(f)
 - g. The license plate number or registration number, description, and location stored or kept of any vehicle that I own or regularly operate. MCL 28.725(1)(g)
 - h. My new address prior to changing my residence to another state. MCL 28.725(6) Failure to report as required by law is a felony and may result in prosecution.
7. I am required by law to provide my new or temporary address by reporting in person to a local law enforcement agency, sheriff's office, or Michigan State Police post having jurisdiction over my residence 21 days prior to traveling to another country for more than 7 days or changing my residence to another country. Failure to report this information is a felony and may result in criminal prosecution. MCL 28.725(7)
8. The Michigan Department of Corrections may not release me until I provide the address of my proposed place of residence. A county jail located within Michigan will not release me until I provide the address of my proposed place of residence. MCL 28.725(3) and MCL 28.725(4)
9. I am required by law to maintain either a valid Michigan operator's or chauffeur's license or Michigan personal identification card with a digitized photograph. This card may be used as proof of residency. Other proof of residency may be required, such as a voter registration card, utility bill, or other bill. Unless otherwise specified by law, my digitized photograph will be included on the public sex offender registry website. Failure to maintain the proper identification is a misdemeanor and may result in criminal prosecution. MCL 28.725a (7) and MCL 28.725a (8)
10. I am required by law to pay a \$50.00 registration fee at the time of my initial registration and annually following the year of initial registration. The payment of the annual registration fee shall be paid at the time I report during the first verification reporting month for me, unless I elect to prepay the annual registration fee for any future year for which an annual registration fee is required. Prepaying my annual registration fee does not change or alter my reporting requirements as detailed in section 3 above. The sum of the amounts paid under this section shall not exceed \$550.00. If I am determined to be indigent by the collecting agency, this fee will be temporarily waived for 90 days. Failure to pay the registration fee is a misdemeanor and may result in criminal prosecution. MCL 28.725a(6) MCL 28.724a(5), and MCL 28.725b(3)
11. I am required by law to have my fingerprints and palm prints taken if they are not already on file with the department of State Police. Those fingerprints and palm prints will be forwarded to the Federal Bureau of Investigation if they are not already on file with the Federal Bureau of Investigation. I must be reprinted if my fingerprints or palm prints were expunged and/or returned to me. MCL 28.727(1) (q)
12. Unless otherwise specified by law, I am prohibited by law from residing or working within 1,000 feet from any building, facility, structure, or real property owned, leased, or otherwise controlled by a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten,

RI-4V (07/14)

Michigan State Police

Offender:

LEWIS JR, MAN

or any grade from one through twelve. Residing or working within a student safety zone is a misdemeanor and may result in criminal prosecution.
MCL 28.735(1), MCL 28.734(1) (a)

13. I am prohibited by law from loitering within 1,000 feet from any building, facility, structure, or real property owned, leased, or otherwise controlled by a public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade from one through twelve. Loitering in a student safety zone is a misdemeanor and may result in criminal prosecution. MCL 28.734(1) (b)
14. It is a felony to knowingly provide false or misleading information concerning a registration, notice, or verification, and doing so may result in prosecution. MCL 28.727(6)
15. I acknowledge that I have read the above requirements and/or had them read to me.

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Michigan State Police

Offender:
LEWIS JR, MAN

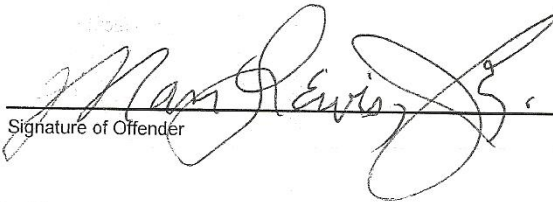
**** Your next verification month is October 2019 ****

PLEASE READ CAREFULLY BEFORE SIGNING


I have reviewed my registration information and have verified the information is accurate and complete. I understand that failing to comply with the Sex Offenders Registration Act, or providing false or misleading information is a crime and may result in criminal prosecution.

I have been provided a copy of the written notice explaining my registration duties.

SIGNATURES




Signature of Offender



Signature of Notifying Official

Signature of Parent, Legal Guardian, or Power of Attorney, if applicable



Printed Name of Notifying Official

07/08/2019

Date

MI7317300

Notifying Agency

SUBMIT COMPLETED FORM VIA MAIL TO:
Michigan State Police
Sex Offender Registry Unit
P.O. Box 30634
Lansing, MI 48909-0634
OR FAX TO: (517) 241-1868

Authority: M.C.L.A. 28.721, et seq.
Compliance: Mandatory

Exhibit E

Declaration of Attorney
Stephanie Farkas

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN DOES #1-6, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

File No. 2:16-cv-13137

Hon. Robert H. Cleland

RICHARD SNYDER, Governor of the
State of Michigan, and COL. KRISTE
ETUE, Director of the Michigan State
Police, in their official capacities,

Mag. J. David R. Grand

Defendants.

**DECLARATION OF ATTORNEY STEPHANIE FARKAS
IN SUPPORT OF PLAINTIFFS' BRIEF AFTER ENTRY OF
CLASS CERTIFICATION AND DECLARATORY JUDGMENT**

I, Stephanie Farkas, state the following under oath:

1. I am currently a Staff Attorney working at Neighborhood Defender Service of Detroit.
2. Until September 12, 2019, I was an Assistant Public Defender in Berrien County.
3. In the last several months in Berrien County I represented three defendants who were charged with violations of Michigan's Sex Offenders Registration Act.
4. All three defendants were charged with "failure to comply" with registration

requirements (a 4-year felony) as well as “failure to pay” the annual SORA fee (a 90-day misdemeanor).

5. All three defendants committed their SORA offenses before the passage of the 2011 SORA amendments, which the Sixth Circuit held to be unconstitutional as applied retroactively. *See Does #1-5 v. Snyder*, 834 F.3d 696 (6th Cir. 2016).

6. In my first case, the “failure to comply” was for failure to report employer information. Although the requirement to register applied to out-of-state people who came into Michigan to work before 2011, only in 2011 was the reporting of work itself made a mandatory requirement for all registrants (in-state and out).

7. Accordingly, on the failure to report work count, I believe that the county prosecutor was applying the 2011 amendments retroactively to my client #1.

8. In addition, because this Court had held that violations of SORA had to be willful (due to the complexity and vagueness of the statute), *see Does #1-5 v. Snyder*, 101 F. Supp. 3d 672, 693-694 (E.D. Mich. 2015), and given the vagueness of the pre-2011 provision on work, I thought that the prosecutor would have a hard time proving a willful violation, even if the pre-2011 provision applied.

9. In my second case, the prosecutor also filed one count of “failure to comply” with reporting requirements (a 4-year felony) and one count of “failure to pay” the annual SORA fee (a 90-day misdemeanor).

10. In my second case, the failure to register was for not reporting an online

Facebook account and not reporting a vehicle registered to him. Because the violations fell squarely within the 2011 amendments, I believe that the prosecutor was retroactively applying those amendments in violation of *Does I*.

11. Both client #1 and client #2 were arrested on the above charges. As I recall, client #1 spent about four days in the county jail before being released after posting bail, and client #2 spent about ten days in the county jail before being released after posting bail.

12. In both cases, my clients pled guilty to the “failure to pay” charges as part of plea agreements where the county prosecutor dismissed the felony “failure to comply” charges. Both clients were sentenced to time served, and one was also assessed some modest fines and costs.

13. The third case is still pending. The charges in the third case were the same: count one was for “failure to comply” (a 4-year felony) and count two was for “failure to pay” the annual SORA fee (a 90-day misdemeanor).

14. In the third case the failure to report was for failing to report a Facebook account, which was part of the 2011 amendments, and therefore should have been barred by the holding of *Does I*.

15. Client #3’s SORA offense pre-dated the existence of SORA altogether, which means his sex offense is now more than 25 years old. Because he believes that SORA should not have been applied to him retroactively in the first place, and

because he believes that the 2011 amendments cannot be applied to him retroactively under *Does I*, he may decide not to take a plea but instead to challenge the charges against him on constitutional grounds. Trial dates have been scheduled in the case.

16. In addition, because at his last reporting date he was told that he could pay the fee at a later time if he could not afford to pay it that day, defense counsel will argue that his charge of “failure to pay” cannot be shown to have been willful, and therefore should be dismissed under this Court’s *Does I* ruling.

17. In my role as defense counsel, I advised the prosecution about the *Does I* ruling, and also provided memorandums that were issued by the Prosecuting Attorneys Coordinating Council and the Michigan State Police following the Sixth Circuit ruling in *Does I*.

18. The Michigan State Police was the arresting agency in all three cases.

19. I am submitting this declaration to demonstrate that despite the decisions of this Court and the Sixth Circuit in *Does I* (dating back to 2015 and 2016 respectively), and despite the entry of an order for class certification and a declaratory judgment, SORA is being applied retroactively against members of the plaintiff class. In sum, SORA is still imposing serious consequences on registrants in local criminal courts, even 2-3 years after the law was held to be unconstitutional.

20. If called as a witness I would testify consistently with what I have said in this declaration.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the above statements are true and correct.


Stephanie Farkas (P74227)

Dated: September 19, 2019

Exhibit F

Declaration of Attorney
Peter VanGelderen

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN DOES #1-6, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

File No. 2:16-cv-13137

Hon. Robert H. Cleland

RICHARD SNYDER, Governor of the
State of Michigan, and COL. KRISTE
ETUE, Director of the Michigan State
Police, in their official capacities,

Mag. J. David R. Grand

Defendants.

**DECLARATION OF ATTORNEY PETER VANGELDEREN
IN SUPPORT OF PLAINTIFFS' BRIEF AFTER ENTRY OF
CLASS CERTIFICATION AND DECLARATORY JUDGMENT**

I, Peter A. VanGelderren, state the following under oath:

1. I am currently an attorney at the law firm of Willey & Chamberlain
LLP in Grand Rapids, Michigan.

2. Over the course of the past year, I represented an individual who was
charged in Ottawa County with violating the Student Safety Zone provision of the
Michigan Sex Offenders Registration Act (SORA) for loitering in a student safety
zone, a one-year misdemeanor. *See* MCL 27.734

3. The defendant was convicted of a SORA offense in 1995 before the SORA statute was amended in 2005 to create student safety zones which became effective January 1, 2006. The statute was amended to prevent registered individuals from loitering in student safety zones.

4. In this particular student safety zone case, the defendant had attended a local high school varsity soccer game to watch two of his grand-daughters play in the game. The game took place on property owned by the school. The defendant was observed by a member of the community who was familiar with the defendant's history. She became concerned that he was not supposed to be present. She checked the registry when she returned home and called the police due to his presence at the game.

5. The defendant challenged the Constitutionality of the school safety zone statute. In doing so, the defendant relied on the decision of *Does v. Snyder*, 101 F. Supp. 3d 672 (E.D. Mich., 2015) which specifically addressed the vagueness aspect of the student safety zone provision of SORA. The District Court denied the defendant motion following a hearing and the matter was set for trial.

6. At trial, the evidence established that the defendant appeared at the field shortly before the beginning of the varsity soccer game; he made contact with some members of the athletic department and other adults; he went and sat in the

bleachers with his family; he watched his grand-daughters play; and, he left once the game was completed. There were no allegations that he had any contact with minors or did anything that would make minors uncomfortable. The complaining witness only called police because she did not think the defendant was supposed to be there. The defendant was convicted by the jury. Notice of appeal was filed.

7. The defendant filed an appeal in the Ottawa County Circuit Court challenging the District Court's decision. Again, the defendant raised the decision in *Does* and other jurisdictions in arguing the statute was unconstitutional. The prosecuting attorney's office dismissed the *Does* decision as persuasive authority. In an opinion issued on May 20, 2019, the Ottawa County Circuit court declined to follow the decision in *Does*. The court found the statute to be constitutional and upheld the conviction.

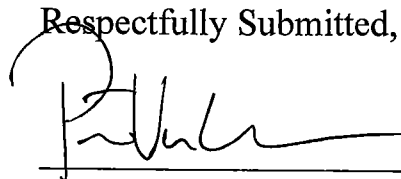
8. I am submitting this declaration to demonstrate that despite the decisions of this Court, and the Sixth Circuit, SORA is being applied retroactively against members of the plaintiff-class and imposing serious consequences in local state courts.

9. If called as a witness I would testify consistently with that I have stated in this declaration.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that these above statements are true and correct.

Respectfully Submitted,

Dated: September 20, 2019

A handwritten signature in black ink, appearing to read 'Peter A. VanGelder', is written over a horizontal line.

Peter A. VanGelder (P73427)
Willey & Chamberlain LLP
300 Ottawa Avenue NW, Suite 810
Grand Rapids, Michigan 49503
(616) 458-2212

Exhibit G

Final Judgment in
Does I v. Snyder

No. 2:12-cv-11194, R. 153
(E.D. Mich. Jan. 26, 2018)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN DOES #1-5 AND MARY DOE,
Plaintiffs,
v.

No. 2:12-cv-11194

HON. ROBERT H. CLELAND

RICK SNYDER, Governor of the State
of Michigan, and COL. KRISTE ETUE,
Director of the Michigan State Police,
in their official capacities,
Defendants.

MAG. DAVID R. GRAND

STIPULATED FINAL JUDGMENT ON REMAND

Over the course of the litigation in this case, the Court entered several substantive orders deciding the merits of the plaintiffs' claims. (Dkt. #27, Pg. ID 669, 3/18/13 Opinion and Order Granting in Part and Denying in Part Defendants' Amended Motion to Dismiss; Dkt. #103, Pg. ID 5875, 3/31/15 Opinion and Order Resolving Motions for Judgment under Rule 52; Dkt. #118, Pg. ID 6015, 9/3/15 Opinion and Order Resolving [Two] Outstanding Issues Raised in Plaintiffs' and Defendants' Motions for Judgment). A Final Judgment was entered on October 21, 2015. (Dkt. #122, Pg. ID 6038, 10/21/15 Final Judgment).

The plaintiffs appealed the March 18, 2013, Order (Dkt. #27), the March 31, 2015, Order (Dkt. #103), the September 3, 2015, Order (Dkt. #118) and the October 21, 2015, Final Judgment (Dkt. #22). The defendants appealed the

March 31, 2015, Order (Dkt. #103) and the October 21, 2015, Final Judgment (Dkt. #122).

This case is now before the Court on remand from the Sixth Circuit Court of Appeals “for entry of judgment consistent with [the Sixth Circuit’s] opinion.”

Does #1-5 v. Snyder, 834 F.3d 606, 706 (6th Cir. 2016), *cert denied* 583 U.S. ____ (10/2/17). The Court therefore orders the following declaratory and injunctive relief in the plaintiffs’ favor pursuant to Fed. R. Civ. P. 57, 58, and 65:

1. IT IS HEREBY ORDERED that this is the Final Judgment on the merits in this case and supersedes the Court’s Final Judgment entered October 21, 2015 (Dkt. #122, Pg. ID 6038).

2. IT IS FURTHER ORDERED that pursuant to 28 U.S.C. § 2201 a declaratory judgment is entered that retroactive application of the Michigan’s Sex Offenders Registration Act’s (SORA) 2006 and 2011 amendments violates the Ex Post Facto Clause of the U.S. Constitution.

3. IT IS FURTHER ORDERED that the defendants, their officers, agents servants, employees, and attorneys, and other persons in active concert or participation with them, are enjoined from enforcing the 2006 and 2011 SORA amendments against the plaintiffs.

4. IT IS FURTHER ORDERED that plaintiff John Doe #5 is not subject to SORA under the “recapture” provision of the 2011 amendments as long as this

judgment remains in effect. It is further ordered that his name shall be removed from both Michigan's non-public (law enforcement) and public registries; he shall have no reporting requirements; and the defendants are enjoined from enforcing any SORA provision against him.

5. IT IS FURTHER ORDERED that plaintiffs John Does #1-4 and Mary Doe will be subject to the following, as long as this Judgment remains in effect:

- a. They will not be listed on the public registry, but will instead only be listed on the non-public law enforcement registry.
- b. The only requirements or restrictions of SORA that apply to them are:
 1. To verify quarterly. At quarterly verification they shall report (i) current residential address information and any name change (as set out in M.C.L. §§ 28.727(1)(a) and (d)); and (ii) enrollment at an institution of higher learning or campus information change (as set out in M.C.L. § 28.724a(1)-(2)). Per agreement of the parties, quarterly reporting periods shall be based on the birth-month schedule set out in M.C.L. § 28.725a (3)(b).
 2. To provide fingerprints if not already on file with the Michigan State Police (as set out in M.C.L. § 28.727(1)(q)).
 3. To pay the annual fees unless indigent (as set out in M.C.L. §§ 28.725a(6)(b)-(c) and 28.725b(3)).
- c. The defendants will make a notation on the private (law enforcement) registry for each plaintiff alerting viewers to contact the Michigan State Police before taking any action against the plaintiffs on SORA-related offenses, and, if contacted, the Michigan State Police will notify the person making that contact of the Court's protective order.
- d. These plaintiffs' registration periods will be amended to run for 25 years instead of for life.

6. IT IS FURTHER ORDERED that this judgment does not bar application of SORA to any plaintiff in the event that the plaintiff is convicted of an offense that occurred after July 1, 2011, that requires registration under SORA.

7. IT IS FURTHER ORDERED that if the Michigan legislature amends or replaces SORA to implement the Sixth Circuit's holding in *Does #1-5 v. Snyder*, this injunction shall terminate on the effective date of any such amendments or new statute.

8. IT IS FURTHER ORDERED that the defendants' Motion For Entry of Judgment (Dkt. #146, Pg. ID ## 6268) and the plaintiffs' Response To Motion For Entry of Judgment (Dkt. # 147, Pg. ID 6283) are withdrawn.

9. IT IS FURTHER ORDERED that this Court retains jurisdiction in order to enforce this order and to decide the plaintiffs' petition for attorneys' fees and costs, which shall be due 60 days from the date of entry of this order. *See* Stipulated Order Setting Date for Plaintiffs' Motion for Fees and Costs, ECF #144, Pg.ID# 6260.

Judgment is entered as set forth above.

SO ORDERED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: January 26, 2018

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, January 26, 2018, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(810) 292-6522

APPROVED FOR ENTRY:

/s/Miriam Aukerman (w/permission)
Attorney for Plaintiffs

Dated: January 12, 2018

/s/Paul D. Reingold (w/permission)
Attorney for Plaintiffs

Dated: January 12, 2018

/s/Margaret A. Nelson
Assistant Attorney General
Attorney for Defendants

Dated: January 12, 2018