

No. 2014-19

AN ACT

HB 1985

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

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

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

§ 9799.11. Legislative findings and declaration of policy.

* * *

(b) Declaration of policy.—The General Assembly declares as follows:

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

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

(3) It is the intention of the General Assembly to address the Pennsylvania Supreme Court's decision in Commonwealth v. Neiman, No. 74 MAP 2011 (Pa. 2013), by amending this subchapter in the act of March 14, 2014 (P.L. 41, No. 19).

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

§ 9799.12. Definitions.

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

* * *

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

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

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

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

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

* * *

Section 3. Section 9799.13(3) of Title 42 is amended and the section is amended by adding paragraphs to read:

§ 9799.13. Applicability.

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

* * *

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

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

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

(3.1) *The following:*

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

(A) *convicted of a sexually violent offense;*

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

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

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

(A) Convictions:

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

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

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

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

Section 3122.1 (relating to statutory sexual assault).

Section 6301 (relating to corruption of minors).

Section 7507.1 (relating to invasion of privacy).

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

(B) A conviction under 18 Pa.C.S. § 3126 (relating to indecent assault) where the crime is graded as a misdemeanor of the second degree or where the conviction occurred between January 22, 2006, and January 1, 2007, when the crime is graded as a felony of the third degree.

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

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

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

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

** * **

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

** * **

Section 4. Section 9799.14(c)(18) of Title 42 is amended to read:
§ 9799.14. Sexual offenses and tier system.

** * **

(c) Tier II sexual offenses.—The following offenses shall be classified as Tier II sexual offenses:

* * *

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

* * *

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

§ 9799.15. Period of registration.

* * *

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

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

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

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

(ii) An individual registered pursuant to section 9799.13(7), (7.1) or (7.2) for a sexually violent offense shall register for the period set forth in subsection (a), less any credit as a result of time registered in a sexual offender registry for that sexually violent offense in the foreign country or other jurisdiction where the individual was convicted.

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

* * *

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

§ 9799.24. Assessments.

* * *

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

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

*** * ***

Section 7. The amendment or addition of the following provisions shall be retroactive to December 20, 2012:

- (1) The definition of "sexually violent predator" in 42 Pa.C.S. § 9799.12.
- (2) 42 Pa.C.S. § 9799.13(3), (3.1), (3.2) and (8.2).
- (3) 42 Pa.C.S. § 9799.14(c)(18).
- (4) 42 Pa.C.S. § 9799.15(a.1).
- (5) 42 Pa.C.S. § 9799.24(c).

Section 8. This act shall take effect immediately.

APPROVED—The 14th day of March, A.D. 2014

TOM CORBETT