**South Carolina General Assembly**

121st Session, 2015-2016

**H. 4028**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Corley, Clary, Collins, Hiott, Hixon, Norman, G.R. Smith, Tallon, Taylor and Wells

Document Path: l:\council\bills\swb\5291cm15.docx

Introduced in the House on April 21, 2015

Currently residing in the House Committee on **Judiciary**

Summary: Sex offenders

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/21/2015 House Introduced and read first time ([House Journal‑page 13](file:///h:\HJ%20Archive\2015\04-21-15.docx))

4/21/2015 House Referred to Committee on **Judiciary** ([House Journal‑page 13](file:///h:\HJ%20Archive\2015\04-21-15.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=4028&session=121&summary=B) at the website

**VERSIONS OF THIS BILL**

[4/21/2015](file:///p:\pprever\2015-16\4028_20150421.docx)

**A** **BILL**

TO AMEND SECTION 23-3-460, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LIFETIME REGISTRATION FOR SEX OFFENDERS, SO AS TO PROVIDE THAT A PERSON WHO COMMITS CERTAIN OFFENSES AGAINST A MINOR MUST REGISTER ONCE A MONTH WITH THE SHERIFF IN THE COUNTY WHERE HE RESIDES, OWNS REAL PROPERTY, IS EMPLOYED, OR ATTENDS ANY SCHOOL, TO REQUIRE A SEXUALLY VIOLENT PREDATOR TO VERIFY REGISTRATION AND BE PHOTOGRAPHED EVERY THIRTY DAYS UNDER CERTAIN CIRCUMSTANCES, TO REQUIRE A PERSON REQUIRED TO REGISTER TO SEND ANY CHANGE OF ADDRESS WITHIN THE COUNTY TO THE SHERIFF WITHIN ONE BUSINESS DAY OF ESTABLISHING THE NEW RESIDENCE, AND REQUIRE A PERSON WHO IS REQUIRED TO REGISTER WHO OWNS OR ACQUIRES REAL PROPERTY, IS EMPLOYED, OR ATTENDS SCHOOL TO REGISTER WITH THE SHERIFF IN THE COUNTY WITHIN THREE BUSINESS DAYS OF ACQUIRING THE PROPERTY, OBTAINING EMPLOYMENT, OR ENROLLING IN SCHOOL; AND TO AMEND SECTION 23-3-535, AS AMENDED, RELATING TO LIMITATIONS PLACED ON PLACES OF RESIDENCE FOR CERTAIN SEX OFFENDERS, SO AS TO REVISE THE PENALTIES FOR PERSONS WHO VIOLATE THESE PROVISIONS, TO EXPAND THE LOCATIONS IN WHICH THIS PROVISION COVERS, AND TO DELETE THE PROVISION THAT RESTRICTS A LOCAL GOVERNMENT FROM ENACTING AN ORDINANCE THAT CONFLICTS WITH PENALTIES CONTAINED IN THIS SECTION OR THE BOUNDARIES OF AREAS IN WHICH A SEX OFFENDER MAY OR MAY NOT RESIDE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 23‑3‑460 of the 1976 Code, as last amended by Act 212 of 2010, is further amended to read:

“Section 23‑3‑460. (A) A person required to register pursuant to this article is required to register biannually for life. For purposes of this article, ‘biannually’ means each year during the month of his birthday and again during the sixth month following his birth month. The person required to register shall register and must reregister at the sheriff’s department in each county where he resides, owns real property, is employed, or attends any public or private school, including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school. A person determined by a court to be a sexually violent predator pursuant to state law is required to verify registration and be photographed every ninety days by the sheriff’s department in the county in which he resides unless the person is committed to the custody of the State, and verification will be held in abeyance until his release.

(B) A person classified as a Tier III offender by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109‑248), the Sex Offender Registration and Notification Act (SORNA), is required to register every ninety days.

(C)(1) Notwithstanding subsection (A) or another provision of law, a person required to register for committing the following offenses is required to register once a month on the fifteenth day of the month:

(a) criminal sexual conduct with a minor, first degree;

(b) criminal sexual conduct with a minor, second degree;

(c) assault with intent to commit criminal sexual conduct with a minor;

(d) kidnapping a person under eighteen years of age; or

(e) trafficking in persons of a person under eighteen years of age except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense.

The person required to register pursuant to this subsection shall register and must reregister at the sheriff’s department in each county where he resides, owns real property, is employed, or attends any public or private school, including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school. A person determined by a court to be a sexually violent predator pursuant to state law is required to verify registration and be photographed every thirty days by the sheriff’s department in the county in which he resides unless the person is committed to the custody of the State, and verification will be held in abeyance until his release.

(2) If a person required to register pursuant to subitem (C)(1) changes his address within the same county, he must send written notice of the change of address to the sheriff within one business day of establishing the new residence. If a person required to register pursuant to this subsection owns or acquires real property or is employed within a county in this State, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school, including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school, he must register with the sheriff in each county where the real property, employment, or the public or private school is located within three business days of acquiring the real property or attending the public or private school.

(3) A person who violates a provision contained in this subsection:

(a) for a first offense is guilty of a felony and, upon conviction, must be imprisoned not more than five years, and fined not more than two thousand five hundred dollars;

(b) for a second offense is guilty of a felony and, upon conviction, must be imprisoned not more than ten years and fined not more than five thousand dollars; and

(c) for a third or subsequent offense is guilty of a felony and, upon conviction, must be imprisoned for not more than twenty years, and fined not more than ten thousand dollars.

(D) If a person required to register pursuant to this article changes his address within the same county, that person must send written notice of the change of address to the sheriff within three business days of establishing the new residence. If a person required to register under this article owns or acquires real property or is employed within a county in this State, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school, including, but not limited to, a secondary school, adult education school, college or university, and any vocational, technical, or occupational school, he must register with the sheriff in each county where the real property, employment, or the public or private school is located within three business days of acquiring the real property or attending the public or private school.

~~(D)~~(E) If a person required to register pursuant to this article changes his permanent or temporary address into another county in South Carolina, the person must register with the county sheriff in the new county within three business days of establishing the new residence. The person also must provide written notice within three business days of the change of address in the previous county to the sheriff with whom the person last registered. For purposes of this subsection, ‘temporary address’ or ‘residence’ means the location of the individual’s home or other place where the person habitually lives or resides, or where the person lives or resides for a period of ten or more consecutive days. For purposes of this subsection, ‘habitually lives or resides’ means locations at which the person lives with some regularity.

~~(E)~~(F) A person required to register pursuant to this article and who is employed by, attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and any vocational, technical, or occupational school, must provide written notice within three business days of each change in attendance, enrollment, volunteer status, intern status, employment, or vocation status at any public or private school in this State. For purposes of this subsection, ‘employed and carries on a vocation’ means employment that is full time or part time for a period of time exceeding fourteen days or for an aggregate period of time exceeding thirty days during a calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit; and ‘student’ means a person who is enrolled on a full‑time or part‑time basis, in a public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and a vocational, technical, or occupational school.

~~(F)~~(G) If a person required to register pursuant to this article moves outside of South Carolina, the person must provide written notice within three business days of the change of address to a new state to the county sheriff with whom the person last registered.

~~(G)~~(H) A person required to register pursuant to this article who moves to South Carolina from another state establishes residence, acquires real property, is employed in, or attends, is enrolled, volunteers, interns, is employed by, or carries on a vocation at a public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and a vocational, technical, or occupational school in South Carolina, and is not under the jurisdiction of the Department of Corrections, the Department of Probation, Parole and Pardon Services, the Department of Juvenile Justice, or the Juvenile Parole Board at the time of moving to South Carolina must register within three business days of establishing residence, acquiring real property, gaining employment, attending or enrolling, volunteering or interning, being employed by, or carrying on a vocation at a public or private school in this State.

~~(H)~~(I) The sheriff of the county in which the person resides must forward all changes to any information provided by a person required to register pursuant to this article to SLED within three business days.

~~(I)~~(J) A sheriff who receives registration information, notification of change of permanent or temporary address, or notification of change in employment, or attendance, enrollment, employment, volunteer status, intern status, or vocation status at a public or private school, including, but not limited to, a kindergarten, elementary school, middle school or junior high, high school, secondary school, adult education school, college or university, and a vocational, technical, or occupational school, must notify all local law enforcement agencies, including college or university law enforcement agencies, within three business days of an offender whose permanent or temporary address, real property, or public or private school is within the local law enforcement agency’s jurisdiction.

~~(J)~~(K) The South Carolina Department of Motor Vehicles, shall inform, in writing, any new resident who applies for a driver’s license, chauffeur’s license, vehicle tag, or state identification card of the obligation of sex offenders to register. The department also shall inform, in writing, a person renewing a driver’s license, chauffeur’s license, vehicle tag, or state identification card of the requirement for sex offenders to register.”

SECTION 2. Section 23‑3‑535 of the 1976 Code, as last amended by Act 289 of 2010, is further amended to read:

“Section 23‑3‑535. (A) As contained in this section:

(1) ‘Children’s recreational facility’ means a facility owned and operated by a city, county, or special purpose district used for the purpose of recreational activity for children under the age of eighteen.

(2) ‘Daycare center’ means an arrangement where, at any one time, there are three or more preschool‑age children, or nine or more school‑age children receiving child care.

(3) ‘School’ does not include a home school or an institution of higher education.

(4) ‘Within one thousand feet’ means a measurement made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property on which the sex offender resides to the nearest property line of the premises of a school, daycare center, children’s recreational facility, park, or public playground, whichever is closer.

(B) It is unlawful for a sex offender who has been convicted of any of the following offenses to reside within ~~one thousand~~ two thousand five hundred feet of a school, daycare center, children’s recreational facility, park, or public playground:

(1) criminal sexual conduct with a minor, first degree;

(2) criminal sexual conduct with a minor, second degree;

(3) assault with intent to commit criminal sexual conduct with a minor;

(4) kidnapping a person under eighteen years of age; or

(5) trafficking in persons of a person under eighteen years of age except when the court makes a finding on the record that the offense did not include a criminal sexual offense or an attempted criminal sexual offense.

(C) This section does not apply to a sex offender who:

(1) ~~resided within one thousand feet of a school, daycare center, children’s recreational facility, park, or public playground before the effective date of this act;~~

~~(2) resided within one thousand feet of a school, daycare center, children’s recreational facility, park, or public playground on property the sex offender owned before the sex offender was charged with any of the offenses enumerated in subsection (B);~~

~~(3) resides within one thousand feet of a school, daycare center, children’s recreational facility, park, or public playground as a result of the establishment of a new school, daycare center, children’s recreational facility, park, or public playground;~~

~~(4)~~ resides in a jail, prison, detention facility, group home for persons under the age of twenty‑one licensed by the Department of Social Services, residential treatment facility for persons under the age of twenty‑one licensed by the Department of Health and Environmental Control, or other holding facility, including a mental health facility;

~~(5)~~(2) resides in a homeless shelter for no more than one year, a group home for persons under the age of twenty‑one licensed by the Department of Social Services, or a residential treatment facility for persons under the age of twenty‑one licensed by the Department of Health and Environmental Control, and the site was purchased by the organization prior to the effective date of this act;

~~(6)~~(3) resides in a community residential care facility, as defined in Section 44‑7‑130(6); or

~~(7)~~(4) resides in a nursing home, as defined in Section 44‑7‑130(13).

(D) If upon registration of a sex offender, or at any other time, a local law enforcement agency determines that a sex offender is in violation of this section, the local law enforcement agency must, within thirty days, notify the sex offender of the violation, provide the sex offender with a list of areas in which the sex offender is not permitted to reside, and notify the sex offender that the sex offender has ~~thirty~~ five days to vacate the residence. If the sex offender fails to vacate the residence within thirty days, the sex offender must be punished as follows:

(1) for a first offense, the sex offender is guilty of a ~~misdemeanor~~ felony and, upon conviction, must be imprisoned not more than ~~thirty days~~ five years, ~~or~~ and fined not more than two thousand five hundred dollars~~, or both~~;

(2) for a second offense, the sex offender is guilty of a ~~misdemeanor~~ felony and, upon conviction, must be imprisoned not more than ~~three~~ ten years, ~~or~~ and fined not more than ~~one~~ five thousand dollars~~, or both~~;

(3) for a third or subsequent offense, the sex offender is guilty of a felony and, upon conviction, must be imprisoned for not more than ~~five~~ twenty years, ~~or~~ and fined not more than ~~five~~ ten thousand dollars~~, or both~~.

(E) ~~A local government may not enact an ordinance that:~~

~~(1) contains penalties that exceed or are less lenient than the penalties contained in this section; or~~

~~(2) expands or contracts the boundaries of areas in which a sex offender may or may not reside as contained in subsection (B).~~

~~(F)~~(1) At the beginning of each school year, each school district must provide:

(a) the names and addresses of every sex offender who resides within ~~one~~ two thousand five hundred feet of a school bus stop within the school district to the parents or guardians of a student who boards or disembarks a school bus at a stop covered by this subsection; or

(b) the hyperlink to the sex offender registry ~~web site~~ websites on the school district’s ~~web site~~ websites for the purpose of gathering this information.

(2) Local law enforcement agencies must check the school districts’ web sites to determine if each school district has complied with this subsection. If a hyperlink does not appear on a school district web site, the local law enforcement agency must contact the school district to confirm that the school district has provided the parents or guardians with the names and addresses of every sex offender who resides within one thousand feet of a school bus stop within the school district. If the local law enforcement agency determines that this information has not been provided, the local law enforcement agency must inform the school district that it is in violation of this subsection. If the school district does not comply within thirty days after notice of its violation, the school district is subject to equitable injunctive relief and, if the plaintiff prevails, the district shall pay the plaintiff’s attorney’s fees and costs.”

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑