

1 AN ACT relating to sex offender registrants.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 → Section 1. KRS 17.546 is amended to read as follows:

4 (1) (a) As used in this ~~subsection~~^{section}, "electronic communications" means
5 any transfer of information, including signs, signals, data, writings, images,
6 sounds, text, voice, and video, transmitted primarily through the use of
7 electrons or electromagnetic waves or particles;

8 ~~(a) "Instant messaging or chat room program" means a software program that~~
9 ~~allows two (2) or more persons to communicate over the Internet in real time~~
10 ~~using typed text; and~~

11 ~~(b) "Social networking Web site" means an Internet Web site that:~~

12 1. ~~Facilitates the social introduction between two (2) or more persons;~~

13 2. ~~Allows a person to create a Web page or a personal profile; and~~

14 3. ~~Provides a person who visits the Web site the opportunity to~~
15 ~~communicate with another person~~;

16 ~~(b)(2)~~ Except as provided in paragraph (c) of this subsection, no registrant
17 shall knowingly or intentionally use electronic communications for the
18 purpose of soliciting, contacting, communicating with, or gathering
19 information about~~a social networking Web site or an instant messaging or~~
20 ~~chat room program if that Web site or program allows~~ a person who is less
21 than eighteen (18) years of age ~~to access or use the Web site or program~~;

22 (c) It is not a violation of paragraph (b) of this subsection for a registrant to
23 use electronic communications to contact, communicate with, or gather
24 information about a person under the age of eighteen (18) years of age if:

25 1. The registrant is the parent of the person;

26 2. The registrant is not otherwise prohibited from contacting,
27 communicating with, or gathering information about the person; and

1 **3. The sentencing court permits the electronic communications.**

2 ~~(2)~~~~(3)~~ No registrant shall intentionally photograph, film, or video a minor through
3 traditional or electronic means without the written consent of the minor's parent,
4 legal custodian, or guardian unless the registrant is the minor's parent, legal
5 custodian, or guardian. The written consent required under this subsection shall state
6 that the person seeking the consent is required to register as a sex offender under
7 Kentucky law.

8 ~~(3)~~~~(4)~~ Any person who violates subsection **(1) or** ~~(2)~~~~or (3)~~ of this section shall be
9 guilty of a Class A misdemeanor.

10 ➔Section 2. KRS 17.510 is amended to read as follows:

11 (1) The cabinet shall develop and implement a registration system for registrants which
12 includes creating a new computerized information file to be accessed through the
13 Law Information Network of Kentucky.

14 (2) A registrant shall, on or before the date of his or her release by the court, the parole
15 board, the cabinet, or any detention facility, register with the appropriate local
16 probation and parole office in the county in which he or she intends to reside. The
17 person in charge of the release shall facilitate the registration process.

18 (3) Any person required to register pursuant to subsection (2) of this section shall be
19 informed of the duty to register by the court at the time of sentencing if the court
20 grants probation or conditional discharge or does not impose a penalty of
21 incarceration, or if incarcerated, by the official in charge of the place of confinement
22 upon release. The court and the official shall require the person to read and sign any
23 form that may be required by the cabinet, stating that the duty of the person to
24 register has been explained to the person. The court and the official in charge of the
25 place of confinement shall require the releasee to complete the acknowledgment
26 form and the court or the official shall retain the original completed form. The
27 official shall then send the form to the Information Services Center, Department of

1 Kentucky State Police, Frankfort, Kentucky 40601.

2 (4) The court or the official shall order the person to register with the appropriate local
3 probation and parole office which shall obtain the person's fingerprints, DNA
4 sample, and photograph. Thereafter, the registrant shall return to the appropriate
5 local probation and parole office not less than one (1) time every two (2) years in
6 order for a new photograph to be obtained, and the registrant shall pay the cost of
7 updating the photo for registration purposes. Any registrant who has not provided a
8 DNA sample as of July 1, 2009, shall provide a DNA sample to the appropriate local
9 probation and parole office when the registrant appears for a new photograph to be
10 obtained. Failure to comply with this requirement shall be punished as set forth in
11 subsection (11) of this section.

12 (5) (a) The appropriate probation and parole office shall send the registration form
13 containing the registrant information, fingerprint card, and photograph, and
14 any special conditions imposed by the court or the Parole Board, to the
15 Information Services Center, Department of Kentucky State Police, Frankfort,
16 Kentucky 40601. The appropriate probation and parole office shall send the
17 DNA sample to the Department of Kentucky State Police forensic laboratory
18 in accordance with administrative regulations promulgated by the cabinet.

19 (b) The Information Services Center, upon request by a state or local law
20 enforcement agency, shall make available to that agency registrant information,
21 including a person's fingerprints and photograph, where available, as well as
22 any special conditions imposed by the court or the Parole Board.

23 (c) Any employee of the Justice and Public Safety Cabinet who disseminates, or
24 does not disseminate, registrant information in good faith compliance with the
25 requirements of this subsection shall be immune from criminal and civil liability
26 for the dissemination or lack thereof.

27 (6) (a) Except as provided in paragraph (b) of this subsection, any person who has

1 been convicted in a court of any state or territory, a court of the United States,
2 or a similar conviction from a court of competent jurisdiction in any other
3 country, or a court martial of the United States Armed Forces of a sex crime
4 or criminal offense against a victim who is a minor and who has been notified
5 of the duty to register by that state, territory, or court, or who has been
6 committed as a sexually violent predator under the laws of another state, laws
7 of a territory, or federal laws, or has a similar conviction from a court of
8 competent jurisdiction in any other country, shall comply with the registration
9 requirement of this section, including the requirements of subsection (4) of this
10 section, and shall register with the appropriate local probation and parole
11 office in the county of residence within five (5) working days of relocation. No
12 additional notice of the duty to register shall be required of any official charged
13 with a duty of enforcing the laws of this Commonwealth.

14 (b) No person shall be required to register under this subsection for a juvenile
15 adjudication if such an adjudication in this Commonwealth would not create a
16 duty to register. This paragraph shall be retroactive.

17 (7) (a) Except as provided in paragraph (b) of this subsection, if a person is required
18 to register under federal law or the laws of another state or territory, or if the
19 person has been convicted of an offense under the laws of another state or
20 territory that would require registration if committed in this Commonwealth,
21 that person upon changing residence from the other state or territory of the
22 United States to the Commonwealth or upon entering the Commonwealth for
23 employment, to carry on a vocation, or as a student shall comply with the
24 registration requirement of this section, including the requirements of
25 subsection (4) of this section, and shall register within five (5) working days
26 with the appropriate local probation and parole office in the county of
27 residence, employment, vocation, or schooling. A person required to register

1 under federal law or the laws of another state or territory shall be presumed to
2 know of the duty to register in the Commonwealth. As used in this subsection,
3 "employment" or "carry on a vocation" includes employment that is full-time
4 or part-time for a period exceeding fourteen (14) days or for an aggregate
5 period of time exceeding thirty (30) days during any calendar year, whether
6 financially compensated, volunteered, or for the purpose of government or
7 educational benefit. As used in this subsection, "student" means a person who
8 is enrolled on a full-time or part-time basis, in any public or private educational
9 institution, including any secondary school, trade or professional institution, or
10 institution of higher education.

11 (b) No person shall be required to register under this subsection for a juvenile
12 adjudication if such an adjudication in this Commonwealth would not create a
13 duty to register. This paragraph shall be retroactive.

14 (8) The registration form shall be a written statement signed by the person which shall
15 include registrant information, including an up-to-date photograph of the registrant
16 for public dissemination.

17 (9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall
18 not be considered an address.

19 (10) (a) If the residence address of any registrant changes, but the registrant remains in
20 the same county, the person shall register, on or before the date of the change
21 of address, with the appropriate local probation and parole office in the county
22 in which he or she resides.

23 (b) 1. If the registrant changes his or her residence to a new county, the person
24 shall notify his or her current local probation and parole office of the new
25 residence address on or before the date of the change of address.

26 2. The registrant shall also register with the appropriate local probation and
27 parole office in the county of his or her new residence no later than five

1 (5) working days after the date of the change of address.

2 (c) **1. A registrant shall provide written notice to** ~~If the electronic mail address~~
 3 ~~or any instant messaging, chat, or other Internet communication name~~
 4 ~~identities of any registrant changes, or if the registrant creates or uses any~~
 5 ~~new Internet communication name identities, the registrant shall register~~
 6 ~~the change or new identity, on or before the date of the change or use or~~
 7 ~~creation of the new identity, with~~ the appropriate local probation and
 8 parole office in the county in which he or she resides **of all phone**
 9 **numbers, electronic mail addresses, and usernames used by a**
 10 **registrant to electronically communicate with a person who is less**
 11 **than eighteen (18) years of age within twenty-four (24) hours of first**
 12 **use.**

13 **2. As used in this paragraph:**

14 **a. "Electronically communicate" means any transfer of**
 15 **information, including signs, signals, data, writings, images,**
 16 **sounds, text, voice, and video, transmitted primarily through the**
 17 **use of electrons or electromagnetic waves or particles; and**
 18 **b. "Username" means a string of characters chosen to uniquely**
 19 **identify an individual when electronically communicating.**

20 (d) 1. As soon as a probation and parole office learns of the person's new
 21 address under paragraph (b)1. of this subsection, that probation and
 22 parole office shall notify the appropriate local probation and parole office
 23 in the county of the new address of the effective date of the new address.

24 2. As soon as a probation and parole office learns of the person's new
 25 address under paragraph (b)2. of this subsection or learns of the
 26 registrant's new or changed electronic mail address or instant messaging,
 27 chat, or other Internet communication name identities under paragraph

1 (c) of this subsection, that office shall forward this information as set
2 forth under subsection (5) of this section.

3 (11) Any person required to register under this section who knowingly violates any of the
4 provisions of this section or prior law is guilty of a Class D felony for the first
5 offense and a Class C felony for each subsequent offense.

6 (12) Any person required to register under this section or prior law who knowingly
7 provides false, misleading, or incomplete information is guilty of a Class D felony for
8 the first offense and a Class C felony for each subsequent offense.

9 (13) (a) The cabinet shall verify the **residence** addresses, **phone numbers**, ~~and the~~
10 electronic mail **addresses**, ~~address~~ and ~~any instant messaging, chat, or other~~
11 ~~Internet communication name identities of individuals~~ **usernames that the**
12 **registrant is** required to **provide** ~~register~~ under this section. Verification shall
13 occur at least once every ninety (90) days for a person required to register
14 under KRS 17.520(2) and at least once every calendar year for a person
15 required to register under KRS 17.520(3). If the cabinet determines that a
16 person has moved or has created or changed any **phone numbers**, electronic
17 mail **addresses** ~~address~~, **or usernames** ~~or any instant messaging, chat, or~~
18 ~~other Internet communication name identities~~ used by the person without
19 providing his or her new **residence** address, **phone number**, electronic mail
20 address, or **username** ~~instant messaging, chat, or other Internet~~
21 ~~communication name identity~~ to the appropriate local probation and parole
22 office or offices as required under subsection (10)(a), (b), and (c) of this
23 section, the cabinet shall notify the appropriate local probation and parole
24 office of the new **residence** address, **phone number**, ~~or~~ electronic mail
25 address, or **username** ~~any instant messaging, chat, or other Internet~~
26 ~~communication name identities used by the person~~. The office shall then
27 forward this information as set forth under subsection (5) of this section. The

1 cabinet shall also notify the appropriate court, Parole Board, and appropriate
2 Commonwealth's attorney, sheriff's office, probation and parole office,
3 corrections agency, and law enforcement agency responsible for the
4 investigation of the report of noncompliance.

5 (b) An agency that receives notice of the noncompliance from the cabinet under
6 paragraph (a) of this subsection:

- 7 1. Shall consider revocation of the parole, probation, postincarceration
8 supervision, or conditional discharge of any person released under its
9 authority; and
- 10 2. Shall notify the appropriate county or Commonwealth's Attorney for
11 prosecution.