

Code of Laws of South Carolina 1976 Annotated
Title 23. Law Enforcement and Public Safety
Chapter 3. South Carolina Law Enforcement Division
Article 7. Sex Offender Registry

Code 1976 T. 23, Ch. 3, Art. 7, Refs & Annos
Currentness

Code 1976 T. 23, Ch. 3, Art. 7, Refs & Annos, SC ST T. 23, Ch. 3, Art. 7, Refs & Annos
Current through 2025 Act No. 94, except for Act Nos. 19, 41-42, 51, 58, 62, and 68 subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

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Code of Laws of South Carolina 1976 Annotated
Title 23. Law Enforcement and Public Safety
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Article 7. Sex Offender Registry (Refs & Annos)

Code 1976 § 23-3-400

§ 23-3-400. Purpose.

Currentness

The intent of this article is to promote the state's fundamental right to provide for the public health, welfare, and safety of its citizens. Notwithstanding this legitimate state purpose, these provisions are not intended to violate the guaranteed constitutional rights of those who have violated our nation's laws.

The sex offender registry will provide law enforcement with the tools needed in investigating criminal offenses. Statistics show that sex offenders often pose a high risk of re-offending. Additionally, law enforcement's efforts to protect communities, conduct investigations, and apprehend offenders who commit sex offenses are impaired by the lack of information about these convicted offenders who live within the law enforcement agency's jurisdiction.

Credits

HISTORY: 1994 Act No. 497, Part II, § 112A; 1996 Act No. 444, § 16; 1998 Act No. 384, § 1.

Code 1976 § 23-3-400, SC ST § 23-3-400

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Code 1976 § 23-3-410

§ 23-3-410. Registry.

Currentness

(A) The registry is under the direction of the Chief of the State Law Enforcement Division (SLED) and shall contain information the chief considers necessary to assist law enforcement in the location of persons convicted of certain offenses. SLED shall develop and operate the registry to: collect, analyze, and maintain information; make information available to every enforcement agency in this State and in other states; and establish a security system to ensure that only authorized persons may gain access to information gathered under this article.

(B) SLED shall include and cross-reference alias names in the registry.

Credits

HISTORY: 1994 Act No. 497, Part II, § 112A; 1996 Act No. 444, § 16; 1998 Act No. 384, § 1; 2005 Act No. 141, § 1.

Code 1976 § 23-3-410, SC ST § 23-3-410

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Code 1976 § 23-3-420

§ 23-3-420. Promulgation of regulations.

Currentness

The State Law Enforcement Division shall promulgate regulations to implement the provisions of this article.

Credits

HISTORY: 1994 Act No. 497, Part II, § 112A; 1996 Act No. 444, § 16; 1998 Act No. 384, § 1.

Code 1976 § 23-3-420, SC ST § 23-3-420

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Code 1976 § 23-3-430

§ 23-3-430. Sex offender registry.

Currentness

(A) Any person, regardless of age, residing in the State of South Carolina who in this State has been convicted of, pled guilty or nolo contendere to an offense described below, or who has been convicted, pled guilty or nolo contendere, or found not guilty by reason of insanity in any comparable court in the United States, or a foreign country, or who has been convicted, pled guilty or nolo contendere, or found not guilty by reason of insanity in the United States federal courts of a similar offense, or who has been convicted of, pled guilty or nolo contendere, or found not guilty by reason of insanity to an offense for which the person was required to register in the state where the conviction or plea occurred, shall be required to register pursuant to the provisions of this article. A person who has been found not guilty by reason of insanity shall not be required to register pursuant to the provisions of this article unless and until the person is declared to no longer be insane or is ordered to register by the trial judge. A person who has been convicted, pled guilty or nolo contendere, or found not guilty by reason of insanity in any court in a foreign country may raise as a defense to a prosecution for failure to register that the offense in the foreign country was not equivalent to any offense in this State for which he would be required to register and may raise as a defense that the conviction, plea, or finding in the foreign country was based on a proceeding or trial in which the person was not afforded the due process of law as guaranteed by the Constitution of the United States and this State.

(B) For purposes of this article, a person who remains in this State for a total of thirty days during a twelve-month period is a resident of this State.

(C)(1) For purposes of this article, a person who has been convicted of, or pled guilty or nolo contendere to any of the following offenses shall be referred to as a Tier I offender:

(a) criminal sexual conduct in the third degree (Section 16-3-654);

(b) kidnapping (Section 16-3-910) of a person eighteen years of age or older 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) incest (Section 16-15-20);

(d) buggery (Section 16-15-120);

(e) peeping, voyeurism, or aggravated voyeurism (Section 16-17-470);

(f) a person, regardless of age, who has been convicted or pled guilty or nolo contendere in this State, or who has been convicted or pled guilty or nolo contendere in a comparable court in the United States, or who has been convicted or pled guilty or nolo contendere in the United States federal courts of indecent exposure or of a similar offense in other jurisdictions is required to register pursuant to the provisions of this article if the court makes a specific finding on the record that, based on the circumstances of the case, the convicted person should register as a sex offender;

(g) sexual intercourse with a patient or trainee (Section 44-23-1150);

(h) administering, distributing, dispensing, delivering, or aiding, abetting, attempting, or conspiring to administer, distribute, dispense, or deliver a controlled substance or gamma hydroxy butyrate to an individual with the intent to commit a crime listed in Section 44-53-370(f), except petit larceny or grand larceny;

(i) any other offense as described in Section 23-3-430(D);

(j) any other offense required 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);

(k) obscene visual representation of child sexual abuse (Section 16-15-390). If the person is under eighteen years of age and was adjudicated in the family court, then the adjudicated minor is not an offender and is not required to register pursuant to the provisions of this article;

(l) sexual exploitation of a minor, first degree (Section 16-15-395), provided the offense is related to a morphed image of an identifiable minor. If the offender is under eighteen years of age and the offense is related to a morphed image of an identifiable minor, then the adjudicated minor is not an offender and is not required to register pursuant to the provisions of this article;

(m) sexual exploitation of a minor, second degree (Section 16-15-405), provided the offense is related to a morphed image of an identifiable minor. If the offender is under eighteen years of age and the offense is related to a morphed image of an identifiable minor, then the adjudicated minor is not an offender and is not required to register pursuant to the provisions of this article; or

(n) sexual exploitation of a minor, third degree (Section 16-15-410); provided the offense is related to a morphed image of an identifiable minor. If the offender is under eighteen years of age and the offense is related to a morphed image of an identifiable minor, then the adjudicated minor is not an offender and is not required to register pursuant to the provisions of this article.

(2) For purposes of this article, a person who has been convicted of, or pled guilty or nolo contendere to any of the following offenses shall be referred to as a Tier II offender:

(a) criminal sexual conduct in the second degree (Section 16-3-653);

- (b) engaging a child for sexual performance (Section 16-3-810);
- (c) producing, directing, or promoting sexual performance by a child (Section 16-3-820);
- (d) trafficking in persons (Section 16-3-2020) 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;
- (e) criminal sexual conduct with minors, second degree (Section 16-3-655(B)). If evidence is presented at the criminal proceeding, or in any court of competent jurisdiction, and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16-3-655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;
- (f) criminal sexual conduct with minors, third degree (Section 16-3-655(C)). If evidence is presented at the criminal proceeding, or in any court of competent jurisdiction, and the court makes a specific finding on the record that the conviction obtained for this offense resulted from consensual sexual conduct, as contained in Section 16-3-655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, the convicted person is not an offender and is not required to register pursuant to the provisions of this article;
- (g) criminal solicitation of a minor if the purpose or intent of the solicitation or attempted solicitation was to:
 - (i) persuade, induce, entice, or coerce the person solicited to engage or participate in sexual activity as defined in Section 16-15-375(5);
 - (ii) perform a sexual activity in the presence of the person solicited (Section 16-15-342);
- (h) violations of Article 3, Chapter 15, Title 16 involving a minor, except as otherwise provided in this article;
- (i) sexual exploitation of a minor, first degree (Section 16-15-395), except as otherwise provided in this article;
- (j) sexual exploitation of a minor, second degree (Section 16-15-405), except as otherwise provided in this article; or
- (k) sexual exploitation of a minor, third degree (Section 16-15-410), except as otherwise provided in this article.

(3) For purposes of this article, a person who has been convicted of, or pled guilty or nolo contendere to any of the following offenses shall be referred to as a Tier III offender:

- (a) criminal sexual conduct in the first degree (Section 16-3-652);

- (b) criminal sexual conduct with minors, first degree (Section 16-3-655(A));
- (c) criminal sexual conduct: assaults with intent to commit (Section 16-3-656);
- (d) kidnapping (Section 16-3-910) of a person under eighteen years of age except when the offense is committed by a parent;
- (e) criminal sexual conduct when the victim is a spouse (Section 16-3-658);
- (f) sexual battery of a spouse (Section 16-3-615); or
- (g) any offense listed or described in this section committed after the offender becomes a Tier I or Tier II offender.

(D) Upon conviction, guilty plea, or plea of nolo contendere of a person of an offense not listed in this article, the presiding judge may order as a condition of sentencing that the person be included in the sex offender registry if good cause is shown by the prosecution.

(E) SLED shall remove a person's name and any other information concerning that person from the sex offender registry immediately upon notification by the Attorney General that the person's adjudication, conviction, guilty plea, or plea of nolo contendere for an offense listed in subsection (C) was reversed, overturned, or vacated on appeal and a final judgment has been rendered.

(F) If an offender receives a pardon for the offense for which he was required to register, the offender must reregister as provided by Section 23-3-460 and may not be removed from the registry except:

- (1) as provided by the provisions of subsection (E); or
- (2) if the pardon is based on a finding of not guilty specifically stated in the pardon.

(G) If an offender files a petition for a writ of habeas corpus or a motion for a new trial pursuant to Rule 29(b), South Carolina Rules of Criminal Procedure, based on newly discovered evidence, the offender must reregister as provided by Section 23-3-460 and may not be removed from the registry except:

- (1) as provided by the provisions of subsection (E); or
- (2)(a) if the circuit court grants the offender's petition or motion and orders a new trial; and
- (b) a verdict of acquittal is returned at the new trial or entered with the state's consent.

Credits

HISTORY: 1994 Act No. 497, Part II, § 112A; 1996 Act No. 444, § 16; 1998 Act No. 384, § 1; 1999 Act No. 74, § 1; 2000 Act No. 363, § 2; 2004 Act No. 208, § 14; 2005 Act No. 141, § 2; 2008 Act No. 335, § 16, eff June 16, 2008; 2010 Act No. 212, § 3, eff June 7, 2010; 2010 Act No. 289, § 8, eff June 11, 2010; 2012 Act No. 255, § 5, eff June 18, 2012; 2015 Act No. 7 (S.196), § 6.D, eff April 2, 2015; 2022 Act No. 221 (H.4075), § 1, eff May 23, 2022; 2025 Act No. 57 (S.28), § 2, eff May 22, 2025; 2025 Act No. 58 (S.29), §§ 6, 7, eff May 22, 2025.

Code 1976 § 23-3-430, SC ST § 23-3-430

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Code 1976 § 23-3-436

§ 23-3-436. Registration of persons adjudicated delinquent.

Currentness

(A) A child who is fourteen years of age or older and who has been adjudicated delinquent by a family court in this State for any Tier III offense is required to register in accordance with this article.

(B) A child who is fourteen years of age or older and has been adjudicated delinquent of any other offense listed in Section 23-3-430(C) may be required, in the discretion of the family court, to register in accordance with this article. In making this determination, the court shall consider:

(1) the likelihood the juvenile will reoffend, based on a psychosexual risk assessment and evaluation by a licensed clinical psychologist or licensed psychiatrist employed by the Department of Juvenile Justice. The Circuit Solicitor's Office, Attorney General's Office, or the juvenile also may have an independent psychosexual risk assessment evaluation by a licensed psychologist or psychiatrist;

(2) the age of the juvenile at the time of the offense and adjudication;

(3) mitigating factors;

(4) aggravating factors including, but not limited to, age of victim, use of force, or use of weapons;

(5) prior adjudications; and

(6) other factors the court considers relevant.

(C) A child twelve years of age but less than fourteen years of age who has been adjudicated delinquent by a family court in this State for any Tier III offense may be required to register in the discretion of the Family Court.

(1) In making the determination, the court must consider:

(a) the likelihood the person will reoffend, based on a psychosexual risk assessment and evaluation by a licensed clinical psychologist or licensed psychiatrist as ordered by the court. The Circuit Solicitor's Office, Attorney General's Office, or the juvenile also may have an independent psychosexual risk assessment evaluation by a licensed psychologist or psychiatrist;

(b) the age of the juvenile at the time of the offense and adjudication;

(c) mitigating factors;

(d) aggravating factors including, but not limited to, age of victim, use of force, or use of weapons;

(e) prior adjudications; and

(f) other factors the court considers relevant.

(D) A resident child who is adjudicated delinquent in any other state is required to register in this State subject to the requirements of the sentencing jurisdiction including duration of registration.

Credits

HISTORY: 2022 Act No. 221 (H.4075), § 2, eff May 23, 2022.

Code 1976 § 23-3-436, SC ST § 23-3-436

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Code 1976 § 23-3-437

§ 23-3-437. Removal of certain juveniles from registry.

Currentness

A juvenile convicted of an offense in family court who is required to register pursuant to the provisions of this article who has his record expunged, sealed, or receives a pardon must be removed from the registry by SLED.

Credits

HISTORY: 2022 Act No. 221 (H.4075), § 9, eff May 23, 2022.

Code 1976 § 23-3-437, SC ST § 23-3-437

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Code 1976 § 23-3-440

§ 23-3-440. Notification of sheriff of offender's release, probation or change of residence; juvenile offenders.

Currentness

- (1) Before an offender's release from the Department of Corrections after completion of the term of imprisonment, from the Department of Juvenile Justice after completion of the term of confinement, or being placed on parole, SLED, based upon information provided by the Department of Corrections, the Department of Juvenile Justice, the Juvenile Parole Board, or the Department of Probation, Parole and Pardon Services, shall notify the sheriff of the county where the offender intends to reside that the offender is being released and has provided an address within the jurisdiction of the sheriff for that county. The Department of Corrections, the Department of Juvenile Justice, the Juvenile Parole Board, and the Department of Probation, Parole and Pardon Services shall provide verbal and written notification to the offender that he must register with the sheriff of the county in which he intends to reside within one business day of his release. Further, the Department of Corrections, the Department of Juvenile Justice, and the Juvenile Parole Board shall obtain descriptive information of the offender, including a current photograph prior to release. The offender's photograph must be provided to SLED before he is released.
- (2) Based upon information provided by the Department of Probation, Parole and Pardon Services, SLED shall notify the sheriff of the county where an offender is residing when the offender is sentenced to probation or is a new resident of the State who must be supervised by the department. The Department of Probation, Parole and Pardon Services also shall provide verbal and written notification to the offender that he must register with the sheriff of the county in which he intends to reside. An offender who is sentenced to probation must register within one business day of sentencing. Further, the Department of Probation, Parole and Pardon Services shall obtain descriptive information of the offender, including a current photograph that is to be updated annually prior to expiration of the probation sentence.
- (3) Based upon information provided by the Department of Juvenile Justice, or the Juvenile Parole Board SLED shall notify the sheriff of the county where an offender is residing when the offender is released from a Department of Juvenile Justice facility or the Juvenile Parole Board, or when the Department of Juvenile Justice or the Juvenile Parole Board is required to supervise the actions of the juvenile. The Department of Juvenile Justice or the Juvenile Parole Board must provide verbal and written notification to the juvenile and his parent, legal guardian, or custodian that the juvenile must register with the sheriff of the county in which the juvenile resides. The juvenile must register within one business day of his release. The parents or legal guardian of a person under seventeen years of age who is required to register under this chapter must ensure that the person has registered.
- (4) The Department of Corrections, the Department of Probation, Parole and Pardon Services, and the Department of Juvenile Justice shall provide to SLED the initial registry information regarding the offender prior to his release from imprisonment or relief of supervision. This information shall be collected in the event the offender fails to register with his county sheriff.

Credits

HISTORY: 1994 Act No. 497, Part II, § 112A; 1996 Act No. 444, § 16; 1998 Act No. 384, § 1; 2005 Act No. 141, § 3.

Code 1976 § 23-3-440, SC ST § 23-3-440

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Code 1976 § 23-3-450

§ 23-3-450. Offender registration with sheriff; sheriff's notification of local law enforcement agencies.

Currentness

The offender shall register with the sheriff of each county in which he resides, owns real property, is employed, 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. To register, the offender must provide information as prescribed by SLED. The sheriff in the county in which the offender resides, owns real property, is employed, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school shall forward all required registration information to SLED within three business days. A copy of this information must be kept by the sheriff's department. The county sheriff shall ensure that all information required by SLED is secured and shall establish specific times of the day during which an offender may register. An offender shall not be considered to have registered until all information prescribed by SLED has been provided to the sheriff. The sheriff in the county in which the offender resides, owns real property, is employed, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school shall notify all local law enforcement agencies, including college or university law enforcement agencies, within three business days of an offender who resides, owns real property, is employed, or attends, is enrolled, volunteers, interns, or carries on a vocation at any public or private school within the local law enforcement agency's jurisdiction.

Credits

HISTORY: 1994 Act No. 497, Part II, § 112A; 1996 Act No. 444, § 16; 1998 Act No. 384, § 1; 2005 Act No. 141, § 4; 2010 Act No. 212, § 4, eff June 7, 2010.

Code 1976 § 23-3-450, SC ST § 23-3-450

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Code 1976 § 23-3-460

§ 23-3-460. Bi-annual registration for life; notifications.

Currentness

(A) A person required to register pursuant to this article is required to register biannually for life subject to the provisions of Section 23-3-462 and Section 23-3-463. 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) 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, beginning employment at any school, or attending the public or private school.

(D) 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) 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) 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) 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) 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) 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) 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.

Credits

HISTORY: 1994 Act No. 497, Part II, § 112A; 1996 Act No. 444, § 16; 1998 Act No. 384, § 1; 2001 Act No. 107, § 4; 2002 Act No. 310, § 3; 2005 Act No. 141, § 5; 2006 Act No. 342, § 4, eff July 1, 2006; 2010 Act No. 212, § 5, eff June 7, 2010; 2022 Act No. 221 (H.4075), § 3, eff May 23, 2022.

Code 1976 § 23-3-460, SC ST § 23-3-460

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Code 1976 § 23-3-462

§ 23-3-462. Termination of registration requirements.

Currentness

(A) After successful completion of the requirements of this section, an offender may apply to the South Carolina Law Enforcement Division for the termination of the requirements of registration pursuant to this article. If it is determined that the offender has met the requirements of this section, SLED shall remove the offender's name and identifying information from the sex offender registry and shall notify the offender within one hundred twenty days that the offender has been relieved of the registration requirements of this article.

(1) A Tier I offender may file a request for termination of the requirement of registration with SLED in a form and process established by the agency, if the person:

(a) has been registered for at least fifteen years; or

(b) has been discharged from incarceration without supervision for at least fifteen years for the charge requiring registration; or

(c) has had at least fifteen years pass since the termination of active supervision of probation, parole, or any other alternative to incarceration for the charge requiring registration; or

(d) is a Tier I offender who was required to register as an offender because of a conviction in another state or because of a federal conviction and who is eligible to be removed under the laws of the jurisdiction where the conviction occurred.

(2) A Tier II offender may file a request for termination of the requirement of registration with SLED in a form and process established by the agency, if the person:

(a) has been registered for at least twenty-five years;

(b) has been discharged from incarceration without supervision for at least twenty-five years for the charge requiring registration;

(c) has had at least twenty-five years pass since the termination of active supervision of probation, parole, or any other alternative to incarceration for the charge requiring registration; or

(d) is a Tier II offender who was required to register as an offender because of a conviction in another state or because of a federal conviction and who is eligible to be removed under the laws of the jurisdiction where the conviction occurred.

(3) An offender who was convicted as an adult, and who is required to register as a Tier III offender may not file a request for termination of registration with SLED nor shall any such request be granted pursuant to this subsection.

(4) The requesting offender must have successfully completed all sex offender treatment programs that have been required.

(5) The requesting offender must not have been convicted of failure to register within the previous ten years.

(6) The offender must not have been convicted of any additional sexual offense or violent sexual offense after being placed on the registry.

(7) A filing fee, as set by SLED but not to exceed two hundred fifty dollars, shall be paid to file the request for termination of registration requirements. The initial application may be filed with SLED and the administrative review may begin one hundred twenty days prior to the date specified in subsection (A)(1); however, any removal may not occur prior to the date specified.

(B) Upon receipt of the request for termination, SLED shall review documentation provided by the offender and contained in the offender's file and the sex offender registry to determine whether the offender has complied with the requirements of this section. In addition, SLED shall conduct fingerprint-based state and federal criminal history checks to determine whether the offender has been convicted of any additional sexual offenses, as defined in Section 23-3-430.

(C) If all the requirements of this section are verified, SLED shall, within one hundred twenty days of receipt of the request for termination, remove an offender's name from the registry and notify the offender that the offender is no longer required to comply with the registry requirements of this article.

(D) If it is determined that the offender has been convicted of any additional sexual offenses or violent sexual offenses during the applicable period, has not substantially complied with this section, or an objection has been filed by the original prosecuting agency, SLED shall not remove the offender's name from the sex offender registry and shall notify the offender that the offender has not been relieved of the provisions in this article.

(1) If an offender is denied a termination request, the offender may petition again for termination with SLED no sooner than five years after the previous denial.

(2) If an offender is denied a termination request based on conviction of any additional sexual offenses or violent sexual offenses, the offender may not submit a petition to SLED for termination unless the subsequent conviction is overturned or pardon granted.

(E) An offender whose request for termination of registration requirements is denied by SLED is entitled to appeal the denial to the general sessions court pursuant to the requirements of Section 23-3-463 for the county in which the conviction occurred if the conviction occurred within the State, or if not, the county in which the offender resides. Individuals placed on the registry as a juvenile should petition the family court that adjudicated them delinquent. The SLED official who denied the request for termination of registration requirements may submit an affidavit to the court detailing the reasons the request was denied.

(F) If a person is convicted of multiple offenses requiring registration, and the offenses fall within different tiers, the person only may petition for removal of the registration requirement once the required time passes for the highest tier offense they have been convicted of that requires registration. If a petition based upon this section is denied, the person may not petition again until five years after the date of the final order.

Credits

HISTORY: 2022 Act No. 221 (H.4075), § 4, eff May 23, 2022; 2025 Act No. 57 (S.28), § 3, eff May 22, 2025; 2025 Act No. 58 (S.29), § 8, eff May 22, 2025.

Code 1976 § 23-3-462, SC ST § 23-3-462

Current through 2025 Act No. 94, except for Act Nos. 19, 41-42, 51, 58, 62, and 68 subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

Code of Laws of South Carolina 1976 Annotated
Title 23. Law Enforcement and Public Safety
Chapter 3. South Carolina Law Enforcement Division
Article 7. Sex Offender Registry (Refs & Annos)

Code 1976 § 23-3-463

§ 23-3-463. Motion to request order to be removed from requirements of the sex offender registry.

Currentness

(A) An offender may file a motion with the general sessions court to request an order to be removed from the requirements of the sex offender registry act if:

(1) He is a Tier I or Tier II offender or if the offender was required to register based on an adjudication of delinquency whose application for removal under Section 23-3-462 has been denied by SLED.

(2) He is a Tier III offender after thirty years from the date of discharge from incarceration without supervision, or the termination of active supervision of probation, parole, or any other active alternative to incarceration.

(3) If the offender is required to register due to an out-of-state or federal conviction, the equivalent tier under the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248), the Sex Offender Registration and Notification Act (SORNA) shall apply.

(B) All motions pursuant to this section must be made no earlier than the appropriate timeframes related to the underlying offense as specified in Section 23-3-462(A)(1) or subsection (A)(2). An offender is not eligible for a hearing pursuant to this section if he submitted an application prior to the timeframe specified in Section 23-3-462(A)(1) that was either not accepted or erroneously accepted by SLED.

(C) The motion must be filed in the county in which the underlying conviction occurred if the conviction occurred within the State, or if the conviction occurred outside of the State, the county in which the offender resides.

(D) A person requesting a hearing under this section is entitled to the assistance of counsel, and if the person is indigent, the court must appoint counsel to assist the person.

(E) The court may direct that a qualified evaluator designated by the Office of Mental Health conduct an evaluation whether the offender poses a foreseeable risk to reoffend. For any such evaluation, the court must order the offender to comply with all testing and assessments deemed necessary by the evaluator. After the evaluation by the qualified evaluator designated by the Office of Mental Health, if the offender or the prosecutor seeks an independent evaluation by an independent qualified evaluator, then that evaluation must be completed within ninety days after receipt of the request by the Office of Mental Health evaluator. The court may grant an extension upon the request of the independent qualified evaluator and a showing of extraordinary

circumstances. Any qualified evaluator who will be submitted as an expert at a hearing on the motion must submit a written report available to both parties.

(F) The court must make a determination upon a finding by clear and convincing evidence that the offender is no longer a foreseeable risk to reoffend and that it is in the best interest of justice to grant the motion for removal from the requirement of registration.

(G) The State of South Carolina must be named as the respondent to the action and shall be represented by the prosecution office that obtained the underlying conviction for which the offender is required to register, or, if the conviction occurred outside of the State, the Attorney General. All requirements of the Victim's Rights Act, including reasonable notice, must be observed. The following agencies have standing to request to be made a party to the motion:

- (1) any original prosecuting solicitor's office for an underlying qualifying conviction if not already representing the State;
- (2) the local solicitor's office where the offender resides at the time of the hearing if not already representing the State; or
- (3) the Attorney General's Office if not already representing the State.

(H) If a person is convicted of multiple offenses requiring registration, and the offenses fall within different tiers, the person only may petition for removal of the registration requirement once the required time passes for the highest tier offense they have been convicted of that requires registration.

(I) If the motion is denied, the person may not file for removal from the registry pursuant to this section again until five years after the date of the final order.

Credits

HISTORY: 2022 Act No. 221 (H.4075), § 5, eff May 23, 2022.

Code 1976 § 23-3-463, SC ST § 23-3-463

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Code 1976 § 23-3-465

§ 23-3-465. Residence in campus student housing.

Currentness

Any person required to register under this article is prohibited from living in campus student housing at a public institution of higher learning supported in whole or in part by the State.

Credits

HISTORY: 2005 Act No. 94, § 2.

Code 1976 § 23-3-465, SC ST § 23-3-465

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Code 1976 § 23-3-470

§ 23-3-470. Failure to register or provide required notifications; penalties.

Currentness

(A) It is the duty of the offender to contact the sheriff in order to register, provide notification of change of permanent or temporary address, or notification of change of employment, or in attendance, enrollment, employment, volunteer status, intern status, or vocation status 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. If an offender fails to register, provide notification of change of address, or notification of permanent or temporary change in employment, or attendance, enrollment, employment, volunteer status, intern status, or vocation status at any public or private school, as required by this article, he must be punished as provided in subsection (B).

(B)(1) A person convicted for a first offense is guilty of a misdemeanor and may be fined not more than one thousand dollars, or imprisoned for not more than three hundred sixty-six days, or both. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, or any other provision of law, a first offense may be tried in magistrates court.

(2) A person convicted for a second offense is guilty of a misdemeanor and must be imprisoned for a mandatory period of three hundred sixty-six days, no part of which shall be suspended nor probation granted.

(3) A person convicted for a third or subsequent offense is guilty of a felony and must be imprisoned for a mandatory period of five years, three years of which shall not be suspended nor probation granted.

Credits

HISTORY: 1994 Act No. 497, Part II, § 112A; 1996 Act No. 444, § 16; 1998 Act No. 384, § 1; 2005 Act No. 141, § 6; 2008 Act No. 333, § 2, eff June 16, 2009; 2010 Act No. 212, § 6, eff June 7, 2010.

Code 1976 § 23-3-470, SC ST § 23-3-470

Current through 2025 Act No. 94, except for Act Nos. 19, 41-42, 51, 58, 62, and 68 subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

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Code 1976 § 23-3-475

§ 23-3-475. Registering with false information; penalties.

Currentness

(A) Anyone who knowingly and wilfully gives false information when registering as an offender pursuant to this article must be punished as provided in subsection (B).

(B)(1) A person convicted for a first offense is guilty of a misdemeanor and may be fined not more than one thousand dollars, or imprisoned for not more than three hundred sixty-six days, or both. Notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, or any other provision of law, a first offense may be tried in magistrates court.

(2) A person convicted for a second offense is guilty of a misdemeanor and must be imprisoned for a mandatory period of three hundred sixty-six days, no part of which shall be suspended nor probation granted.

(3) A person convicted for a third or subsequent offense is guilty of a felony and must be imprisoned for a mandatory period of five years, three years of which shall not be suspended nor probation granted.

Credits

HISTORY: 1996 Act No. 444, § 16; 1998 Act No. 384, § 1; 2010 Act No. 212, § 7, eff June 7, 2010.

Code 1976 § 23-3-475, SC ST § 23-3-475

Current through 2025 Act No. 94, except for Act Nos. 19, 41-42, 51, 58, 62, and 68 subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

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Code 1976 § 23-3-480

§ 23-3-480. Notice of duty to register; registration following charge of failure to register not a defense.

Currentness

(A) An arrest on charges of failure to register, service of an information or complaint for failure to register, or arraignment on charges of failure to register constitutes actual notice of the duty to register. A person charged with the crime of failure to register who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice through arrest, service, or arraignment. Failure to register after notice as required by this article constitutes grounds for filing another charge of failure to register. Registering following arrest, service, or arraignment on charges does not relieve the offender from the criminal penalty for failure to register before the filing of the original charge.

(B) Section 23-3-470 shall not apply to a person convicted of an offense provided in Section 23-3-430 prior to July 1, 1994, and who was released from custody prior to July 1, 1994, unless the person has been served notice of the duty to register by the sheriff of the county in which the person resides. This person shall register within ten days of the notification of the duty to register.

Credits

HISTORY: 1994 Act No. 497, Part II, § 112A; 1996 Act No. 444, § 16; 1998 Act No. 384, § 1.

Code 1976 § 23-3-480, SC ST § 23-3-480

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Code 1976 § 23-3-490

§ 23-3-490. Public inspection of offender registry.

Currentness

(A) Information collected for the offender registry is open to public inspection, and must be made available on the Internet or by other electronic means.

(B) A sheriff or SLED must release information regarding persons required to register under this article to a member of the public if the request is made in writing, or via electronic means on a form prescribed or utilized by SLED. The sheriff must provide the person making the request with the full names of the registered sex offenders, any aliases, any other identifying physical characteristics, each offender's date of birth, the home address on file, the offense for which the offender was required to register pursuant to Section 23-3-430, and the date, city, and state of conviction. A photocopy of a current photograph must also be provided. The sheriff may provide to a newspaper with general circulation within the county a listing of the registry for publication.

A sheriff or SLED who provides the offender registry for publication or a newspaper which publishes the registry, or any portion of it, is not liable and must not be named as a party in an action to recover damages or seek relief for errors or omissions in the publication of the offender registry; however, if the error or omission was done intentionally, with malice, or in bad faith the sheriff or newspaper is not immune from liability.

(C) A person may request on a form prescribed by SLED a list of registered sex offenders residing in a city, county, or zip code zone or a list of all registered sex offenders within the State from SLED. A person may request information regarding a specific person who is required to register under this article from SLED. SLED shall provide the person making the request with the full names of the requested registered sex offenders, any aliases, any other identifying physical characteristics, each offender's date of birth, the home address on file, the offense for which the offender was required to register pursuant to Section 23-3-430, and the date, city, and state of conviction. The State Law Enforcement Division may charge a reasonable fee to cover the cost of copying and distributing sex offender registry lists as provided for in this section. These funds must be used for the sole purpose of offsetting the cost of providing sex offender registry lists.

(D) Nothing in subsection (A) prohibits a sheriff from disseminating information contained in subsection (A) regarding persons who are required to register under this article if the sheriff or another law enforcement officer has reason to believe the release of this information will deter criminal activity or enhance public safety. The sheriff shall notify the principals of public and private schools, and the administrator of child day care centers and family day care centers of any offender whose address is within one-half mile of the school or business.

(E) For purposes of this article, information on a person adjudicated delinquent in family court for an offense listed in Section 23-3-436, and who is required to register under this article, must be made available to the public in accordance with the following provisions:

(1) If a person has been adjudicated delinquent for committing a Tier III offense, information must be made available to the public pursuant to subsections (A), (B), and (C).

(2) Information shall only be made available, upon request, to victims of or witnesses to the offense, public or private schools, child day care centers, family day care centers, businesses or organizations that primarily serve children, women, or vulnerable adults, as defined in Section 43-35-10(11), for persons adjudicated delinquent for committing any other offenses requiring registration.

(3) Nothing in this section shall prohibit the dissemination of all registry information to law enforcement.

(F) For purposes of this section, use of computerized or electronic transmission of data or other electronic or similar means is permitted.

Credits

HISTORY: 1994 Act No. 497, Part II, § 112A; 1996 Act No. 444, § 16; 1998 Act No. 384, § 1; 1999 Act No. 110, § 2; 2010 Act No. 289, § 9, eff June 11, 2010; 2012 Act No. 255, § 6, eff June 18, 2012; 2015 Act No. 7 (S.196), § 6.E, eff April 2, 2015; 2022 Act No. 221 (H.4075), § 6, eff May 23, 2022.

Code 1976 § 23-3-490, SC ST § 23-3-490

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Code 1976 § 23-3-500

§ 23-3-500. Psychiatric or psychological treatment.

Currentness

A court must order that a child under twelve years of age who is convicted of, pleads guilty or nolo contendere to, or is adjudicated for an offense listed in Section 23-3-430(C) be given appropriate psychiatric or psychological treatment to address the circumstances of the offense for which the child was convicted, pled guilty or nolo contendere, or adjudicated.

Credits

HISTORY: 1998 Act No. 384, § 1.

Code 1976 § 23-3-500, SC ST § 23-3-500

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Code 1976 § 23-3-510

§ 23-3-510. Persons committing criminal offenses using sex offender registry information; punishment.

Currentness

A person who commits a criminal offense using information from the sex offender registry disclosed to him pursuant to Section 23-3-490, upon conviction, must be punished as follows:

- (1) For a misdemeanor offense, the maximum fine prescribed by law for the offense may be increased by not more than one thousand dollars, and the maximum term of imprisonment prescribed by law for the offense may be increased by not more than six months.
- (2) For a felony offense, the maximum term of imprisonment prescribed by law for the offense may be increased by not more than five years.

Credits

HISTORY: 1998 Act No. 384, § 1.

Code 1976 § 23-3-510, SC ST § 23-3-510

Current through 2025 Act No. 94, except for Act Nos. 19, 41-42, 51, 58, 62, and 68 subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

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Code 1976 § 23-3-520

§ 23-3-520. Immunity of public officials, employees, and agencies; exceptions; duties regarding disclosure of information.

Currentness

(A) An appointed or elected public official, public employee, or public agency is immune from civil liability for damages for any act or omission under this article unless the official's, employee's, or agency's conduct constitutes gross negligence.

(B) Nothing in this chapter imposes an affirmative duty on a person to disclose to a member of the public information from the sex offender registry other than on those persons responsible for providing registry information pursuant to their official duties as provided for in this chapter.

(C) Nothing in this section may be construed to mean that information regarding persons on the sex offender registry is confidential except as otherwise provided by law.

Credits

HISTORY: 1998 Act No. 384, § 1.

Code 1976 § 23-3-520, SC ST § 23-3-520

Current through 2025 Act No. 94, except for Act Nos. 19, 41-42, 51, 58, 62, and 68 subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

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Code 1976 § 23-3-525

§ 23-3-525. Notice by real estate brokerage about obtaining sex offender registry information.

Currentness

A real estate brokerage and its affiliated licensees is immune from liability for any act or omission related to the disclosure of information under this chapter if the brokerage or its affiliated licensees in a timely manner provides to its clients and customers written notice that they may obtain information about the sex offender registry and persons registered with the registry by contacting the county sheriff. The notice may be included as part of a listing agreement, buyer representation agreement, or sales agreement.

Credits

HISTORY: 2005 Act No. 141, § 7.

Code 1976 § 23-3-525, SC ST § 23-3-525

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Code 1976 § 23-3-530

§ 23-3-530. Protocol manual for sex offender registry; contents.

Currentness

The State Law Enforcement Division shall develop and maintain a protocol manual to be used by contributing agencies in the administration of the sex offender registry. The protocol manual must include, but is not limited to, the following:

(1) procedures for the verification of addresses by the sheriff's department in the county where the person resides; and

(2) specific requirements for registration and reregistration including, but not limited to, the following:

(a) the name, social security number, age, race, sex, date of birth, height, weight, hair and eye color; address of permanent residence, address of current temporary residence, within the State or out of state, including rural route address and post office box, which may not be provided instead of a physical residential address; date and place of employment; vehicle make, model, color, and license tag number, including work vehicles that are used the majority of the employee's work time, and the permanent or frequent location where all vehicles are kept; fingerprints and palm prints; Internet identifiers; passport and immigration documents; and a photograph;

(b) the name, address, and county of each institution of higher learning, including the specific campus location, if the person is enrolled, employed, volunteers, interns, or carries on a vocation there;

(c) the vehicle identification number, license tag number, registration number, and a description, including the color scheme, if the person lives in a motor vehicle, trailer, mobile home, or manufactured home and the permanent or frequent location where all vehicles, trailers, mobile homes, and manufactured homes are kept;

(d) the hull identification number, the manufacturer's serial number, the name of the vessel, live-aboard vessel, or houseboat, the registration number, and a description of the color scheme, if the person lives in a vessel, live-aboard vessel, or houseboat; and

(e) the tail number, manufacturer's serial number, and model of any aircraft, and a description of the aircraft, including the color scheme, and the permanent or frequent location where all aircraft are kept, if the person owns or operates an aircraft.

Credits

HISTORY: 1999 Act No. 110, § 1; 2006 Act No. 342, § 5, eff July 1, 2006; 2010 Act No. 212, § 8, eff June 7, 2010.

Code 1976 § 23-3-530, SC ST § 23-3-530

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Code 1976 § 23-3-535

§ 23-3-535. Limitation on places of residence of certain sex offenders; exceptions; violations; local government ordinances; school districts required to provide certain information.

Currentness

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

(7) 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 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 and, upon conviction, must be imprisoned not more than thirty days, or fined not more than five hundred dollars, or both;

(2) for a second offense, the sex offender is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years, or fined not more than one 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 years, or fined not more than five 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 thousand 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 on the school district's web site 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.

Credits

HISTORY: 2008 Act No. 333, § 1, eff June 16, 2008; 2009 Act No. 77, § 1, eff June 16, 2009; 2010 Act No. 289, § 10, eff June 11, 2010.

Code 1976 § 23-3-535, SC ST § 23-3-535

Current through 2025 Act No. 94, except for Act Nos. 19, 41-42, 51, 58, 62, and 68 subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

Code of Laws of South Carolina 1976 Annotated
Title 23. Law Enforcement and Public Safety
Chapter 3. South Carolina Law Enforcement Division
Article 7. Sex Offender Registry (Refs & Annos)

Code 1976 § 23-3-538

§ 23-3-538. Certain sex offenders prohibited from operating or
working for child-oriented businesses; definitions; penalties.

Currentness

(A) As contained in this section:

(1) "Child-oriented business" means any business whose primary service includes the education, care, or entertainment of children including, but not limited to: a school, daycare center, children's recreational facility, arcade, trampoline park, amusement park, public playground, or mobile food delivery whose primary business is the sale or delivery of ice cream or candy to children.

(2) "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.

(3) "Daycare center" means an arrangement where, at any one time, there are three or more preschool-aged children, or nine or more school-aged children receiving childcare.

(B) It is unlawful for a sex offender who has been convicted of any of the following offenses to operate, work for, be employed by, or volunteer for a child-oriented business:

(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) 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, a law enforcement agency or a probation or parole agent must notify the sex offender of the violation. If a person who is required to register under this chapter continues to operate, be employed by, or volunteer for a child-oriented business after notice, the person, upon conviction, must be punished as follows:

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

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

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

(D) The owner of any business who knowingly employs a person in violation of this section after receiving notice by a member of law enforcement or other appropriate governmental agency shall be subject to a civil fine of up to one hundred dollars per day.

Credits

HISTORY: 2022 Act No. 221 (H.4075), § 7, eff May 23, 2022.

Code 1976 § 23-3-538, SC ST § 23-3-538

Current through 2025 Act No. 94, except for Act Nos. 19, 41-42, 51, 58, 62, and 68 subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

Code of Laws of South Carolina 1976 Annotated
Title 23. Law Enforcement and Public Safety
Chapter 3. South Carolina Law Enforcement Division
Article 7. Sex Offender Registry (Refs & Annos)

Code 1976 § 23-3-540

§ 23-3-540. Electronic monitoring; penalty.

Currentness

(A) Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16-3-655(A)(1), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C), the court must order that the person, upon release from incarceration, confinement, commitment, institutionalization, or when placed under the supervision of the Department of Probation, Parole and Pardon Services shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(B) Upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere of a person for any other offense listed in subsection (G), the court may order that the person upon release from incarceration, confinement, commitment, institutionalization, or when placed under the supervision of the Department of Probation, Parole and Pardon Services shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(C) A person who is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16-3-655(A)(1), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C), and who violates a term of probation, parole, community supervision, or a community supervision program must be ordered by the court or agency with jurisdiction to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(D) A person who is required to register pursuant to this article for any other offense listed in subsection (G), and who violates a term of probation, parole, community supervision, or a community supervision program, may be ordered by the court or agency with jurisdiction to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(E) A person who is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16-3-655(A)(1), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C), and who violates a provision of this article, must be ordered by the court to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(F) A person who is required to register pursuant to this article for any other offense listed in subsection (G), and who violates a provision of this article, may be ordered by the court to be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device.

(G) This section applies to a person who has been:

(1) convicted of, pled guilty or nolo contendere to, or been adjudicated delinquent for any of the following offenses:

(a) criminal sexual conduct with a minor in the first degree (Section 16-3-655(A));

(b) criminal sexual conduct with a minor in the second degree (Section 16-3-655(B)). If evidence is presented at the criminal proceeding and the court makes a specific finding on the record that the conviction obtained for this offense resulted from illicit consensual sexual conduct, as contained in Section 16-3-655(B)(2), provided the offender is eighteen years of age or less, or consensual sexual conduct between persons under sixteen years of age, then the convicted person is not required to be electronically monitored pursuant to the provisions of this section;

(c) criminal sexual conduct with a minor in the third degree (Section 16-3-655(C));

(d) engaging a child for sexual performance (Section 16-3-810);

(e) producing, directing, or promoting sexual performance by a child (Section 16-3-820);

(f) criminal sexual conduct: assaults with intent to commit (Section 16-3-656) involving a minor;

(g) violations of Article 3, Chapter 15, Title 16 involving a minor;

(h) kidnapping (Section 16-3-910) of a person under eighteen years of age except when the offense is committed by a parent;

(i) trafficking in persons (Section 16-3-2020) 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; or

(2) ordered as a condition of sentencing to be included in the sex offender registry pursuant to Section 23-3-430(D) for an offense involving a minor, except that the provisions of this item may not be construed to apply to a person eighteen years of age or less who engages in illicit but consensual sexual conduct with another person who is at least fourteen years of age as provided in Section 16-3-655(B)(2).

(H) The person shall be monitored by the Department of Probation, Parole and Pardon Services with an active electronic monitoring device for the duration of the time the person is required to remain on the sex offender registry pursuant to the provisions of this article, unless the person is committed to the custody of the State. Ten years from the date the person begins to be electronically monitored, the person may petition the chief administrative judge of the general sessions court for the county in which the person was ordered to be electronically monitored for an order to be released from the electronic monitoring requirements of this section. The person shall serve a copy of the petition upon the solicitor of the circuit and the Department of Probation, Parole and Pardon Services. The court must hold a hearing before ordering the person to be released from the electronic monitoring requirements of this section, unless the court denies the petition because the person is not eligible for

release or based on other procedural grounds. The solicitor of the circuit, the Department of Probation, Parole and Pardon Services, and any victims, as defined in Article 15, Chapter 3, Title 16, must be notified of any hearing pursuant to this subsection and must be given an opportunity to testify or submit affidavits in response to the petition. If the court finds that there is clear and convincing evidence that the person has complied with the terms and conditions of the electronic monitoring and that there is no longer a need to electronically monitor the person, then the court may order the person to be released from the electronic monitoring requirements of this section. If the court denies the petition or refuses to grant the order, then the person may refile a new petition every five years from the date the court denies the petition or refuses to grant the order. A person may not petition the court if the person is required to register pursuant to this article for committing criminal sexual conduct with a minor in the first degree, pursuant to Section 16-3-655(A)(1), or criminal sexual conduct with a minor in the third degree, pursuant to Section 16-3-655(C).

(I) The person shall follow instructions provided by the Department of Probation, Parole and Pardon Services to maintain the active electronic monitoring device in working order. Incidental damage or defacement of the active electronic monitoring device must be reported to the Department of Probation, Parole and Pardon Services within two hours. A person who fails to comply with the reporting requirement of this subsection is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years.

(J) The person shall abide by other terms and conditions set forth by the Department of Probation, Parole and Pardon Services with regard to the active electronic monitoring device and electronic monitoring program.

(K) The person must be charged for the cost of the active electronic monitoring device and the operation of the active electronic monitoring device for the duration of the time the person is required to be electronically monitored. The Department of Probation, Parole and Pardon Services may exempt a person from the payment of a part or all of the cost during a part or all of the duration of the time the person is required to be electronically monitored, if the Department of Probation, Parole and Pardon Services determines that exceptional circumstances exist such that these payments cause a severe hardship to the person. The payment of the cost must be a condition of supervision of the person and a delinquency of two months or more in making payments may operate as a violation of a term or condition of the electronic monitoring. All fees generated by this subsection must be retained by the Department of Probation, Parole and Pardon Services, carried forward, and applied to support the active electronic monitoring of sex offenders.

(L) A person who intentionally removes, tampers with, defaces, alters, damages, or destroys an active electronic monitoring device is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years. This subsection does not apply to a person or agent authorized by the Department of Probation, Parole and Pardon Services to perform maintenance and repairs to the active electronic monitoring devices.

(M) A person who completes his term of incarceration and the maximum term of probation, parole, or community supervision and who wilfully violates a term or condition of electronic monitoring, as ordered by the court or determined by the Department of Probation, Parole and Pardon Services is guilty of a felony and, upon conviction, must be sentenced in accordance with the provisions of Section 23-3-545.

(N) The Department of Corrections shall notify the Department of Probation, Parole and Pardon Services of the projected release date of an inmate serving a sentence, as described in this section, at least one hundred eighty days in advance of the person's release from incarceration. For a person sentenced to one hundred eighty days or less, the Department of Corrections shall immediately notify the Department of Probation, Parole and Pardon Services.

(O) When an inmate serving a sentence as described in this section is released on electronic monitoring, a victim who has previously requested notification and the sheriff's office in the county where the person is to be released must be notified in accordance with the requirements of Article 15, Chapter 3, Title 16.

(P) As used in this section, "active electronic monitoring device" means an all body worn device that is not removed from the person's body utilized by the Department of Probation, Parole and Pardon Services in conjunction with a web-based computer system that actively monitors and records a person's location at least once every minute twenty-four hours a day and that timely records and reports the person's presence near or within a prohibited area or the person's departure from a specified geographic location. In addition, the device must be resistant or impervious to unintentional or wilful damages. The South Carolina Criminal Justice Academy may offer training to officers of the Department of Probation, Parole and Pardon Services regarding the utilization of active electronic monitoring devices. In areas of the State where cellular coverage requires the use of an alternate device, the Department of Probation, Parole and Pardon Services may use an alternate device.

(Q) Except for juveniles released from the Department of Corrections, all juveniles adjudicated delinquent in family court, who are required to be monitored pursuant to the provisions of this article by the Department of Probation, Parole and Pardon Services, or who are ordered by a court to be monitored must be supervised, while under the jurisdiction of the family court or Board of Juvenile Parole, by the Department of Juvenile Justice. The Department of Probation, Parole and Pardon Services shall report to the Department of Juvenile Justice all violations of the terms or conditions of electronic monitoring for all juveniles supervised by the department, for as long as the family court or Juvenile Parole Board has jurisdiction over the juvenile. If the Department of Juvenile Justice determines that a juvenile has violated a term or condition of electronic monitoring, the department shall immediately notify local law enforcement of the violation.

Credits

HISTORY: 2005 Act No. 141, § 8; 2006 Act No. 342, § 6, eff July 1, 2006; 2006 Act No. 346, § 3, eff July 1, 2006; 2008 Act No. 335, §§ 15, 20, eff June 16, 2008; 2010 Act No. 289, § 11, eff June 11, 2010; 2012 Act No. 255, § 7, eff June 18, 2012; 2015 Act No. 7 (S.196), § 6.F, eff April 2, 2015.

Code 1976 § 23-3-540, SC ST § 23-3-540

Current through 2025 Act No. 94, except for Act Nos. 19, 41-42, 51, 58, 62, and 68 subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

Code of Laws of South Carolina 1976 Annotated
Title 23. Law Enforcement and Public Safety
Chapter 3. South Carolina Law Enforcement Division
Article 7. Sex Offender Registry (Refs & Annos)

Code 1976 § 23-3-545

§ 23-3-545. Effect of conviction of wilfully violating term or condition of active electronic monitoring.

Currentness

(A) If a person is convicted of wilfully violating a term or condition of active electronic monitoring pursuant to Section 23-3-540(M), the court may impose other terms and conditions considered appropriate and may continue the person on active electronic monitoring, or the court may revoke the active electronic monitoring and impose a sentence of up to ten years for the violation. A person who is incarcerated for a revocation is eligible to earn work credits, education credits, good conduct credits, and other credits which would reduce the sentence for the violation to the same extent he would have been eligible to earn credits on a sentence of incarceration for the underlying conviction. A person who is incarcerated for a revocation pursuant to the provisions of this subsection is not eligible for parole.

(B) If a person's electronic monitoring is revoked by the court and the court imposes a period of incarceration for the revocation, the person must be placed back on active electronic monitoring when the person is released from incarceration.

(C) A person may be sentenced for successive revocations, with each revocation subject to a ten-year sentence. The maximum aggregate amount of time the person may be required to serve when sentenced for successive revocations may not exceed the period of time the person is required to remain on the sex offender registry.

Credits

HISTORY: 2006 Act No. 346, § 4, eff July 1, 2006.

Code 1976 § 23-3-545, SC ST § 23-3-545

Current through 2025 Act No. 94, except for Act Nos. 19, 41-42, 51, 58, 62, and 68 subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

Code of Laws of South Carolina 1976 Annotated
Title 23. Law Enforcement and Public Safety
Chapter 3. South Carolina Law Enforcement Division
Article 7. Sex Offender Registry (Refs & Annos)

Code 1976 § 23-3-550

§ 23-3-550. Assisting or harboring unregistered sex offender; penalty.

Currentness

(A) A person who has reason to believe that a person required to register pursuant to the provisions of this article is not complying or has not complied with the requirements of this article, with the intent to assist or harbor the person required to register in eluding a law enforcement agency, is guilty of the offense of assisting or harboring an unregistered sex offender, if the person:

- (1) withholds information from or does not notify the law enforcement agency of the noncompliance of the provisions of this article by the person required to register, and, if known, the location of this person;
- (2) harbors, attempts to harbor, or assists another person in harboring or attempting to harbor the person required to register;
- (3) conceals, attempts to conceal, or assists another in concealing or attempting to conceal the person required to register; or
- (4) provides information known to be false to a law enforcement agency regarding the person required to register.

(B) A person who knowingly and wilfully violates the provisions of subsection (A) is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than five years.

Credits

HISTORY: 2005 Act No. 141, § 9; 2006 Act No. 342, § 7, eff July 1, 2006.

Code 1976 § 23-3-550, SC ST § 23-3-550

Current through 2025 Act No. 94, except for Act Nos. 19, 41-42, 51, 58, 62, and 68 subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.

Code of Laws of South Carolina 1976 Annotated
Title 23. Law Enforcement and Public Safety
Chapter 3. South Carolina Law Enforcement Division
Article 7. Sex Offender Registry (Refs & Annos)

Code 1976 § 23-3-555

§ 23-3-555. Internet reporting requirements; penalties; information provided to interactive computer services; judicial limitations on Internet use.

Currentness

(A) As used in this section:

(1) “Interactive computer service” means an information service, system, or access software provider that offers users the capability of generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via an Internet access provider, including a service or system that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(2) “Internet access provider” means a business, organization, or other entity providing directly to consumers a computer and communications facility through which a person may obtain access to the Internet. An Internet access provider does not include a business, organization, or other entity that provides only telecommunications services, cable services, or video services, or any system operated or services offered by a library or educational institution.

(3) “Internet identifier” means an electronic mail address, user name, screen name, or similar identifier used for the purpose of Internet forum discussions, Internet chat room discussions, instant messaging, social networking, or similar Internet communication.

(B)(1) A sex offender who is required to register with the sex offender registry pursuant to this article must provide, upon registration and each reregistration, information regarding the offender's Internet accounts with Internet access providers and the offender's Internet identifiers.

(2) A sex offender who is required to register with the sex offender registry pursuant to this article and who changes an Internet account with an Internet access provider or changes an Internet identifier must send written notice of the change to the appropriate sheriff within three business days of changing the Internet account or Internet identifier. A sheriff who receives notification of change of an Internet account or Internet identifier must notify the South Carolina Law Enforcement Division (SLED) within three business days.

(3) A sex offender who fails to provide Internet account or Internet identifier information, or who fails to provide notification of change of an Internet account or an Internet identifier, must be punished as provided for in Section 23-3-470. An offender who knowingly and wilfully gives false information regarding an Internet account or Internet identifier must be punished as provided for in Section 23-3-475.

(C)(1) An interactive computer service may request from SLED, on a form prescribed by SLED, a list of all registered sex offenders or information regarding specific registered sex offenders. In order to receive such information, the interactive computer service must provide identifying information as prescribed by SLED, including, but not limited to, the name, address, telephone number, legal nature, and corporate form of the interactive computer service.

(2) SLED must release information requested by an interactive computer service, including, but not limited to, the full names of the registered sex offenders, any aliases, any other identifying characteristics, each offender's date of birth, the home address on file, the offense for which the offender was required to register pursuant to Section 23-3-430, the date, city, and state of conviction, and any Internet identifiers. A photocopy of a current photograph also must be provided.

(3) SLED may charge a reasonable fee to cover the cost of copying and distributing information as provided for in this section. These funds must be used for the sole purpose of offsetting the cost of providing such information.

(4) SLED is not liable and must not be named as a party in an action to recover damages or seek relief for errors or omissions related to the distribution of information pursuant to this section; however, if the error or omission was done intentionally, with malice, or in bad faith, SLED is not immune from liability.

(5) The interactive computer service may use the information obtained from SLED to prescreen persons wanting to register for its service, identify sex offenders wanting to register for its service or using its service, prevent sex offenders from registering for its service, block sex offenders from using its service, disable sex offenders from using its service, remove sex offenders from its service, or to advise law enforcement or other governmental entities of potential violations of law or threats to public safety. An interactive computer service must not publish or in any way disclose or redisclose any information provided to the interactive computer service by SLED. A person who commits a criminal offense using information disclosed to the person pursuant to this section must be punished as provided for in Section 23-3-510.

(6) An interactive computer service is not liable and must not be named as a party in an action to recover damages or seek relief for:

(a) making or not making a request for information as permitted by this section;

(b) prescreening or not prescreening a person wanting to register for its service;

(c) identifying, blocking, or otherwise preventing a person from registering for its service based on a good faith belief that such person's Internet account information or Internet identifier appears in the information obtained from SLED, the National Sex Offender Registry, or any analogous state registry;

(d) not identifying, blocking, or otherwise preventing a person from registering for its service whose Internet account information or Internet identifier appears in the information obtained from SLED, the National Sex Offender Registry, or any analogous state registry;

(e) identifying, blocking, disabling, removing, or otherwise affecting a user based on a good faith belief that such user's Internet account information or Internet identifier appears in the information obtained from SLED, the National Sex Offender Registry, or any analogous state registry;

(f) not identifying, blocking, disabling, removing, or otherwise affecting a user, whose Internet account information or Internet identifier appears in the information obtained from SLED, the National Sex Offender Registry, or any analogous state registry; or

(g) using or not using the information obtained from SLED to advise law enforcement or other governmental entities of potential violations of law or threats to public safety.

(D) If a person commits a sexual offense in which the victim is under the age of eighteen at the time of the offense or the person reasonably believes is under the age of eighteen at the time of the offense, and the offender is required to register with the sex offender registry for the offense, then, upon conviction, adjudication of delinquency, guilty plea, or plea of nolo contendere, the judge must order as a condition of probation or parole that the person is prohibited from using the Internet to access social networking websites, communicate with other persons or groups for the purpose of promoting sexual relations with persons under the age of eighteen, and communicate with a person under the age of eighteen when the person is over the age of eighteen. The judge may permit a person to use the Internet to communicate with a person under the age of eighteen when such a person is the parent or guardian of a child under the age of eighteen, or the grandparent of a grandchild under the age of eighteen, and the person is not otherwise prohibited from communicating with the child or grandchild.

Credits

HISTORY: 2010 Act No. 212, § 2, eff June 7, 2010.

Code 1976 § 23-3-555, SC ST § 23-3-555

Current through 2025 Act No. 94, except for Act Nos. 19, 41-42, 51, 58, 62, and 68 subject to final approval by the Legislative Council, technical revisions by the Code Commissioner, and publication in the Official Code of Laws.