

REFERENCE TITLE: sex offenders; community notification; review

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1396

Introduced by
Senator Johnson: Representatives Campbell CL, Pearce

AN ACT

AMENDING SECTION 13-3825, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 38, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3830; RELATING TO COMMUNITY NOTIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3825, Arizona Revised Statutes, is amended to
3 read:

4 13-3825. Community notification

5 A. Within seventy-two hours after a person who was convicted is
6 released from confinement or who was accepted under the interstate compact
7 for the supervision of parolees and probationers and has arrived in this
8 state, the agency that had custody or responsibility for supervision of the
9 person who was convicted of committing an offense for which the person was
10 required or ordered by the court to register pursuant to section 13-3821 or
11 that has accepted supervision under the interstate compact for the
12 supervision of parolees and probationers shall provide all of the following
13 information to the department of public safety by entering all of the
14 following information into the sex offender profile and notification
15 database:

- 16 1. The offender's identifying information.
- 17 2. A risk assessment of the offender.
- 18 3. The offender's date of release from confinement or, if the offender
19 is sentenced to probation without jail time, the date the sentence is
20 imposed.

21 B. Following the tenth day after the person is released from
22 confinement or, if the offender is sentenced to probation without jail time,
23 the date the sentence is imposed, the department of public safety shall
24 cross-reference the information the department receives pursuant to
25 subsection A of this section with the sex offender registry to determine if
26 the person is registered as required or ordered by the court pursuant to
27 section 13-3821. If the person is not registered, the local law enforcement
28 agency or the department of public safety shall request that the county
29 attorney in the county in which the person was convicted petition the court
30 for an arrest warrant to be issued and, if appropriate, notify the interstate
31 compact administrator for this state. If the person is registered, the
32 department of public safety shall forward the information the department
33 received pursuant to subsection A of this section to the sheriff in the
34 county where the person is registered.

35 C. After receiving the information pursuant to subsection B of this
36 section, the sheriff shall forward the information to the chief law
37 enforcement officer of the community in which the person resides. After
38 reviewing the information received and any other information available to the
39 local law enforcement agency, the local law enforcement agency shall
40 categorize each offender and place each offender into a notification level.
41 Within forty-five days, the local law enforcement agency shall notify the
42 community of the offender's presence in the community pursuant to the
43 guidelines established by the community notification guidelines committee.
44 If the community does not have a chief law enforcement officer, the sheriff
45 shall perform the duties of the local law enforcement agency.

1 D. If a person who has been convicted of an offense in another state
2 registers pursuant to section 13-3821, subsection A, the sheriff in the
3 county in which the person registers shall forward the information to the
4 chief law enforcement officer of the community in which the person resides.
5 The chief law enforcement officer shall contact the state in which the person
6 was convicted and shall obtain information regarding the person. After
7 reviewing the information received and any other information available, the
8 local law enforcement agency shall complete the risk assessment, shall
9 categorize the person, shall place the person into a notification level and
10 shall enter the information into the computer system. If the law enforcement
11 agency is unable to obtain sufficient information to complete the sex
12 offender community notification risk assessment, the agency shall categorize
13 the offender as a level two offender. Within forty-five days, the local law
14 enforcement agency shall notify the community of the person's presence in the
15 community pursuant to the guidelines established by the community
16 notification guidelines committee. If the community does not have a chief
17 law enforcement officer, the sheriff shall perform the duties of the local
18 law enforcement agency.

19 E. On receiving notice pursuant to section 13-3822 that a person who
20 is required to register has moved from the person's address, the chief law
21 enforcement officer of the community to which the person has relocated may
22 notify that community of the person's relocation to the community, pursuant
23 to subsection C of this section. If the community does not have a local law
24 enforcement agency, the sheriff of the county to which the person has
25 relocated shall notify the community of the person's relocation.

26 F. In cooperation with the county probation department or the state
27 department of corrections, a law enforcement agency may delegate all or part
28 of the notification process for offenders on community supervision to the
29 county probation department or to the state department of corrections, as
30 appropriate.

31 G. Information concerning a person who is required to register
32 pursuant to section 13-3821 and who is subject to the provisions of community
33 notification and who is a student at a public or private institution of
34 postsecondary education or who is employed or carries on a vocation, with or
35 without compensation, at a public or private institution of postsecondary
36 education shall be promptly made available by the county sheriff to the law
37 enforcement agency having jurisdiction for performing community notification
38 pursuant to guidelines adopted under section 13-3826. The law enforcement
39 agency shall notify the institution's administration and shall complete
40 appropriate campus notification pursuant to guidelines adopted under section
41 13-3826.

42 H. This section does not prohibit law enforcement officers from giving
43 a community notice of any circumstances or persons that pose a danger to the
44 community under circumstances that are not provided for under this section.

1 I. Except as provided in subsection J of this section, this section
2 applies to all persons who are subject to the registration requirements in
3 section 13-3821 whether or not the person was convicted before or after June
4 1, 1996.

5 J. This section does not apply to persons subject to the registration
6 requirements in section 13-3821 as a result of offenses adjudicated by a
7 juvenile court unless ordered by the court.

8 K. Notwithstanding subsections B and C of this section, the agency
9 that had custody or responsibility for supervision of an offender or the
10 court that sentenced the offender who was convicted of committing an offense
11 that subjects the offender to the registration requirements of section
12 13-3821 and who committed the offense before June 1, 1996 may conduct a risk
13 assessment for the offender as existing resources are available pursuant to
14 guidelines adopted by the community notification guidelines committee
15 pursuant to section 13-3826. Community notification pursuant to this section
16 and sex offender web site notification pursuant to section 13-3827 shall only
17 be conducted after the risk assessment is complete.

18 L. AFTER PLACING AN OFFENDER INTO A NOTIFICATION LEVEL PURSUANT TO
19 SUBSECTION C OR D OF THIS SECTION, THE LOCAL LAW ENFORCEMENT AGENCY OR, IF
20 APPROPRIATE, THE SHERIFF SHALL NOTIFY THE OFFENDER IN WRITING OF THE
21 NOTIFICATION LEVEL INTO WHICH THE OFFENDER HAS BEEN PLACED, PROVIDE A COPY OF
22 THE OFFENDER'S COMPLETED NOTIFICATION ASSESSMENT INSTRUMENT AND INFORM THE
23 OFFENDER OF THE RIGHT TO REVIEW THE NOTIFICATION LEVEL PURSUANT TO SECTION
24 13-3830.

25 M. THE LAW ENFORCEMENT AGENCY OF THE COMMUNITY IN WHICH AN OFFENDER
26 WHO IS SUBJECT TO THIS SECTION RESIDES OR ANY AGENCY THAT HAS SUPERVISION
27 OVER AN OFFENDER MAY REVIEW THE NOTIFICATION LEVEL OF AN OFFENDER AT ANYTIME
28 AFTER THE INITIAL NOTIFICATION LEVEL IS DETERMINED.

29 Sec. 2. Title 13, chapter 38, article 3, Arizona Revised Statutes, is
30 amended by adding section 13-3830, to read:

31 13-3830. Community notification level review; review board

32 A. A PERSON WHO IS SUBJECT TO COMMUNITY NOTIFICATION REQUIREMENTS MAY
33 REQUEST A REVIEW OF THE LOCAL LAW ENFORCEMENT AGENCY'S INITIAL NOTIFICATION
34 LEVEL PLACEMENT AND MAY REQUEST A REVIEW OF THE NOTIFICATION LEVEL ONCE EVERY
35 THREE YEARS AFTER THAT INITIAL PLACEMENT. A PERSON WHO IS UNDER TWENTY-FIVE
36 YEARS OF AGE AND WHO IS SUBJECT TO COMMUNITY NOTIFICATION PURSUANT TO SECTION
37 13-3825, SUBSECTION J MAY REQUEST A REVIEW ONCE EACH YEAR AFTER THE INITIAL
38 DETERMINATION OF THE COMMUNITY NOTIFICATION LEVEL.

39 B. A PERSON SHALL SUBMIT A REQUEST FOR REVIEW OF AN INITIAL
40 NOTIFICATION LEVEL DETERMINATION TO THE LOCAL LAW ENFORCEMENT AGENCY OR
41 ENTITY THAT COMPLETED THE COMMUNITY NOTIFICATION ASSESSMENT AND DETERMINED
42 THE NOTIFICATION LEVEL WITHIN THIRTY DAYS AFTER THE PERSON RECEIVES THE
43 INITIAL NOTIFICATION LEVEL FROM THE LAW ENFORCEMENT AGENCY OR ENTITY. THE
44 PERSON MAY REQUEST A REVIEW OF THE NOTIFICATION LEVEL BASED ONLY ON THE
45 FOLLOWING GROUNDS:

1 1. THE NOTIFICATION ASSESSMENT INSTRUMENT WAS IMPROPERLY APPLIED.
2 2. THE INFORMATION THAT IS CONTAINED IN THE NOTIFICATION ASSESSMENT
3 INSTRUMENT IS INACCURATE.
4 3. NEW INFORMATION EXISTS THAT WAS NOT AVAILABLE TO THE ORIGINAL
5 AGENCY OR ENTITY THAT RELATES TO THE NOTIFICATION ASSESSMENT INSTRUMENT.
6 C. A LAW ENFORCEMENT AGENCY OR ENTITY THAT RECEIVES A REQUEST TO
7 REVIEW AN INITIAL NOTIFICATION LEVEL SHALL FORWARD TO THE DEPARTMENT OF
8 PUBLIC SAFETY COPIES OF THE PERSON'S REQUEST, THE PERSON'S ASSESSMENT
9 INSTRUMENT RESULTS AND ALL DOCUMENTS AND RECORDS THAT THE AGENCY OR ENTITY
10 RELIED ON IN DETERMINING THE INITIAL NOTIFICATION LEVEL. THE DEPARTMENT OF
11 PUBLIC SAFETY SHALL NOTIFY THE PERSON THAT THE PERSON HAS TEN DAYS TO PROVIDE
12 THE DEPARTMENT WITH ALL DOCUMENTS AND RECORDS THAT SUPPORT THE PERSON'S
13 REQUEST TO CHANGE THE NOTIFICATION LEVEL.
14 D. AFTER RECEIVING A REQUEST FOR REVIEW, THE DEPARTMENT OF PUBLIC
15 SAFETY SHALL ESTABLISH A COMMUNITY NOTIFICATION REVIEW BOARD CONSISTING OF A
16 MENTAL HEALTH PROFESSIONAL, A LAW ENFORCEMENT OFFICER, A PUBLIC DEFENDER, A
17 PROBATION OFFICER, A PERSON WHO IS A MEMBER OF A STATEWIDE NETWORK THAT
18 ADDRESSES SEXUAL VIOLENCE ISSUES, A PROSECUTOR AND A VICTIM'S ADVOCATE. THE
19 BOARD SHALL REVIEW AND DETERMINE IF THE PERSON'S COMMUNITY NOTIFICATION LEVEL
20 CONFORMS TO THE COMMUNITY NOTIFICATION GUIDELINES ESTABLISHED BY THE
21 COMMUNITY NOTIFICATION GUIDELINES COMMITTEE. A BOARD MAY:
22 1. SUSTAIN THE ORIGINAL LEVEL OF COMMUNITY NOTIFICATION.
23 2. REQUEST THAT THE PERSON AND AN AGENCY REPRESENTATIVE APPEAR AT A
24 HEARING BEFORE THE BOARD.
25 3. REDUCE THE NOTIFICATION LEVEL WITHOUT A HEARING, AFTER GIVING
26 NOTICE TO THE AGENCY AND ALLOWING THE AGENCY TO PRESENT EVIDENCE ON WHY THE
27 ORIGINAL LEVEL SHOULD REMAIN. THE AGENCY HAS THE BURDEN OF PROOF BY A
28 PREPONDERANCE OF THE EVIDENCE.
29 4. SUMMARILY DISMISS A REQUEST TO REVIEW A NOTIFICATION LEVEL
30 DETERMINATION IF THE PERSON DOES NOT PROVIDE DOCUMENTS THAT ARE REQUESTED
31 PURSUANT TO SUBSECTION C.
32 E. THE BOARD SHALL COMPLETE ITS REVIEW AS EXPEDITIOUSLY AS POSSIBLE
33 AND WITHIN FORTY-FIVE DAYS AFTER THE REQUEST FOR REVIEW IS SUBMITTED TO THE
34 BOARD WITHOUT A FINDING OF SPECIAL CIRCUMSTANCES. THE FINAL DECISION OF THE
35 BOARD IS NOT APPEALABLE.
36 F. WHILE THE REVIEW IS PENDING, THE LOCAL LAW ENFORCEMENT AGENCY SHALL
37 CONDUCT A COMMUNITY NOTIFICATION AT ONE LEVEL LESS THAN THE ORIGINALLY
38 DETERMINED LEVEL. IMMEDIATELY ON RECEIPT OF THE BOARD'S FINAL DECISION, THE
39 AGENCY SHALL CONDUCT THE COMMUNITY NOTIFICATION AT THE LEVEL DETERMINED BY
40 THE BOARD.