

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

682P0587

## SENATE BILL NO. 136

Introduced by: Senators Gant, Abdallah, Hauge, Schmidt (Dennis), and Turbak Berry and  
Representatives Buckingham, Brunner, Cutler, Rausch, and Weems

1 FOR AN ACT ENTITLED, An Act to require convicted sex offenders to register their online  
2 identifiers, to allow limited release of online identifier information in the sex offender  
3 registry to certain communications service entities, and to provide penalties to violations  
4 thereof.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. Terms used in this Act mean:

- 7 (1) "Communications service entity," a business or organization that provides internet  
8 service, electronic communications service, remote computing service, online  
9 service, electronic mail service, or electronic instant message or chat services  
10 whether the business or organization is within or outside this state;
- 11 (2) "Electronic mail," the transmission of information or communication by the use of  
12 the internet, a computer, a facsimile machine, a pager, a cellular telephone, a video  
13 recorder, or other electronic means sent to a person identified by a unique address or  
14 address number and received by that person;
- 15 (3) "Instant message" or "IM," a form of real time text communication between two or



1 more people conveyed via computers connected over a network such as the internet;

2 (4) "Internet," the global information system that is logically linked together by a  
3 globally unique address space based on the internet protocol or its subsequent  
4 extensions; that is able to support communications using the transmission control  
5 protocol/internet protocol suite, its subsequent extensions, or other internet protocol  
6 compatible protocols; and that provides, uses, or makes accessible, either publicly or  
7 privately, high level services layered on the communications and related  
8 infrastructure described in this Act;

9 (5) "Online identifier," all of the following: electronic mail address and instant message  
10 screen name, user ID, chat or other internet communication name, or identity  
11 information; and

12 (6) "Sex offender," any person required to register as a sex offender pursuant to chapter  
13 22-24B.

14 Section 2. No sex offender may use any online identifier to communicate over the internet  
15 that is not included in the registration information provided pursuant to subdivision 22-24B-  
16 8(13). Any violation of this section is a Class 6 felony.

17 Section 3. The Division of Criminal Investigation shall make registry information regarding  
18 registered sex offenders' online identifiers available to any communications service entity for  
19 the purpose of allowing the communications service entity to prescreen users or for comparison  
20 with information held by the communications service entity. Any communications service entity  
21 desiring to prescreen its users or compare its database of registered users to the list of online  
22 identifiers of persons in the statewide registry may apply to the Division of Criminal  
23 Investigation to access information. Any communications service entity that complies with the  
24 criteria developed by the Division of Criminal Investigation regarding the release and use of the

1 online identifier information established by the Division of Criminal Investigation may screen  
2 new users or compare its database of registered users to the list of online identifiers of persons  
3 in the statewide registry as frequently as the Division of Criminal Investigation may allow for  
4 the purpose of identifying a registered user associated with an online identifier contained in the  
5 statewide registry.

6 Section 4. The Division of Criminal Investigation shall promulgate rules pursuant to chapter  
7 1-26 regarding the release and use of online identifier information.

8 Section 5. No communications service entity may disclose any information acquired  
9 pursuant to this Act for any purpose other than for prescreening its users or comparing the  
10 database of registered users of the entity against the list of online identifiers of persons in the  
11 statewide registry to protect children from online sexual predators.

12 Section 6. Any communications service entity complying with this Act in good faith is  
13 immune from any civil liability resulting from:

- 14 (1) The communications service entity's refusal to provide system service to a person on  
15 the basis that the communications service entity believed that the person was required  
16 to register pursuant to this Act; or  
17 (2) Any sex offender's criminal or tortious acts.

18 Section 7. That § 22-24B-8 be amended to read as follows:

19 22-24B-8. The registration shall include the following information which, unless otherwise  
20 indicated, shall be provided by the offender:

- 21 (1) Name and all aliases used;  
22 (2) Complete description, photographs, fingerprints and palm prints collected and  
23 provided by the registering agency;  
24 (3) Residence, length of time at that residence including the date the residence was

- 1 established, and length of time expected to remain at that residence;
- 2 (4) The type of sex crime convicted of;
- 3 (5) The date of commission and the date of conviction of any sex crime committed;
- 4 (6) Social Security number on a separate confidential form;
- 5 (7) Driver license number and state of issuance;
- 6 (8) Whether or not the registrant is receiving or has received any sex offender treatment;
- 7 (9) Employer name, address, and phone number or school name, address, and phone  
8 number;
- 9 (10) Length of employment or length of attendance at school;
- 10 (11) Occupation or vocation;
- 11 (12) Vehicle license plate number of any vehicle owned by the offender;
- 12 (13) Information identifying any ~~internet accounts of the offender as well as any user~~  
13 ~~names, screen names, and aliases~~ online identifier, as defined pursuant to subdivision  
14 (5) of section 1 of this Act that the offender uses ~~on the internet~~;
- 15 (14) A listing of all felony convictions, in any jurisdiction, for crimes committed as an  
16 adult and sex offense convictions and adjudications subject to sex offender registry  
17 provided by the offender and confirmed by the registering agency;
- 18 (15) A description of the offense, provided by the prosecuting attorney;
- 19 (16) Acknowledgment whether the offender is currently an inmate, parolee, juvenile in  
20 department of corrections placement or under aftercare supervision, county or city  
21 jail inmate or detainee in a juvenile detention center, provided by the offender and  
22 confirmed by the administering body of the correctional facility;
- 23 (17) Acknowledgment whether the offender is subject to community safety zone  
24 restrictions, provided by the registering agency; and

1       (18) The name, address and phone number of two local contacts, who have regular  
2               interaction with the offender and the name, address and phone number of the  
3               offender's next of kin.

4       In addition, at the time of the offender's registration, the registering agency will collect a  
5       DNA sample and submit the sample to the South Dakota State Forensic Laboratory in  
6       accordance with procedures established by the South Dakota State Forensic Laboratory. The  
7       collection of DNA at the time of the registration is not required if the registering agency can  
8       confirm that DNA collection and submission to the South Dakota State Forensic Laboratory has  
9       already occurred.

10       Any failure by the offender to accurately provide the information required by this section  
11       is a Class 6 felony.