

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

*As Engrossed: H3/13/01 H3/23/01 S4/9/01*

## A Bill

Act 1743 of 2001  
HOUSE BILL 2459

5 By: Representative Carson  
6  
7

### For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS  
10 CODE CONCERNING THE SEX OFFENDER REGISTRATION ACT  
11 OF 1997; AND FOR OTHER PURPOSES.  
12

### Subtitle

13 AN ACT TO AMEND VARIOUS SECTIONS OF THE  
14 ARKANSAS CODE CONCERNING THE SEX  
15 OFFENDER REGISTRATION ACT OF 1997.  
16  
17  
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
20

21 SECTION 1. Arkansas Code 12-12-901 is amended to read as follows:  
22 12-12-901. Title.

23 This subchapter shall be known and may be cited as the "~~Sex and Child~~  
24 Offender Registration Act of 1997".  
25

26 SECTION 2. Arkansas Code 12-12-903 is amended to read as follows:  
27 12-12-903. Definitions.

28 *For the purposes of this subchapter:*

29 (1) "*Adjudication of guilt*" or other words of similar import means a:

- 30 (A) *Plea of guilty;*
- 31 (B) *Plea of nolo contendere;*
- 32 (C) *Negotiated plea;*
- 33 (D) *Finding of guilt by a judge; or*
- 34 (E) *Finding of guilt by a jury;*

35 (2)(A) "*Administration of criminal justice*" means performing functions  
36 of investigation, apprehension, detention, prosecution, adjudication,

1 correctional supervision, or rehabilitation of accused persons or criminal  
2 offenders.

3 (B) The administration of criminal justice also includes  
4 criminal identification activities and the collection, maintenance, and  
5 dissemination of criminal justice information;

6 (3) "Aggravated Sex Offense" means offenses in the Arkansas Code  
7 substantially equivalent to "aggravated sexual abuse" as defined in 18 U. S. C.  
8 2241 as it existed on January 1, 2001 which principally encompasses:

9 (A) Engaging in sexual acts involving penetration with victims  
10 of any age through the use of force or the threat of serious violence; or

11 (B) Engaging in sexual acts involving the penetration of victims  
12 below the age of twelve (12);

13 ~~(3)(4)~~ "Change of address" or other words of similar import means a  
14 change of residence or a change for more than thirty (30) days of temporary  
15 domicile, change of location of employment, education or training, or any  
16 other change that alters where an offender regularly spends a substantial  
17 amount of time.

18 ~~(4)(5)~~ "Criminal justice agency" means a government agency or any  
19 subunit thereof which is authorized by law to perform the administration of  
20 criminal justice and which allocates more than one-half (1/2) of its annual  
21 budget to the administration of criminal justice;

22 ~~(5)(6)~~ "Local law enforcement agency having jurisdiction" means the:

23 (A) Chief law enforcement officer of the municipality in which  
24 an offender resides or expects to reside; or

25 (B) County sheriff, if the municipality does not have a chief  
26 law enforcement officer or if an offender resides or expects to reside in an  
27 unincorporated area of a county;

28 ~~(6)(7)~~ "Mental abnormality" means a congenital or acquired condition  
29 of a person that affects the emotional or volitional capacity of the person  
30 in a manner that predisposes that person to the commission of criminally  
31 sexual acts to a degree that makes the person a menace to the health and  
32 safety of other persons;

33 ~~(7)~~ "Offender" means:-

34 ~~(A)~~ A sexually violent predator;

35 ~~(B)~~ A sex or child offender; or

36 ~~(C)~~ An adjudicated delinquent when ordered to register by the

1 ~~juvenile court judge;~~

2 ~~(8) "Offense against a victim who is a minor" means:~~

3 ~~(A) Kidnapping pursuant to § 5-11-102(a) when the victim is a~~  
4 ~~minor and the offender is not the parent of the victim;~~

5 ~~(B) False imprisonment in the first degree and false~~  
6 ~~imprisonment in the second degree pursuant to §§ 5-11-103 and 5-11-104 when~~  
7 ~~the victim is a minor and the offender is not the parent of the victim;~~

8 ~~(C) Permanent detention or restraint pursuant to § 5-11-106 when~~  
9 ~~the victim is a minor and the offender is not the parent of the victim;~~

10 ~~(D) Any sex offense when the victim is a minor;~~

11 ~~(E) An attempt, solicitation, or conspiracy to commit any of the~~  
12 ~~offenses enumerated in this subdivision (8);~~

13 ~~(F) An adjudication of guilt for an offense of the law of~~  
14 ~~another state, for a federal offense, for a tribal court offense, or for a~~  
15 ~~military offense, which is similar to any of the offenses enumerated in this~~  
16 ~~subdivision (8) or when that adjudication of guilt requires registration~~  
17 ~~under another state's sex offender registration laws; or~~

18 ~~(G) A violation of any former law of this state which is~~  
19 ~~substantially equivalent to any of the offenses enumerated in this~~  
20 ~~subdivision (8);~~

21 ~~(9)~~(8) "Personality disorder" means an enduring pattern of inner  
22 experience and behavior that:

23 (A) Deviates markedly from the expectation of the person's  
24 culture;

25 (B) Is pervasive and inflexible across a broad range of personal  
26 and social situations;

27 (C) Leads to clinically significant distress or impairment in  
28 social, occupational, or other important areas of functioning;

29 (D) Is stable over time;

30 (E) Has its onset in adolescence or early adulthood;

31 (F) Is not better accounted for as a manifestation or  
32 consequence of another mental disorder; and

33 (G) Is not due to the direct physiological effects of a  
34 substance or a general medical condition;

35 ~~(10)~~(9) "Predatory" means an act directed at a stranger or a person  
36 with whom a relationship has been established or promoted for the primary

1 purpose of victimization of that person or individuals over whom that person  
2 has control;

3 ~~(11)~~(10) "Residency" means the place where a person lives  
4 notwithstanding that there may be an intent to move or return at some future  
5 date to another place; residency also includes place of employment, training,  
6 or education;

7 ~~(12)~~(11) "Sentencing court" means the judge of the court that  
8 sentenced the offender for: the sex offense.

9 ~~(A) The sexually violent offense;~~

10 ~~(B) The sex offense; or~~

11 ~~(C) The offense against a victim who is a minor that triggered~~  
12 ~~registration under this subchapter;~~

13 ~~(13)~~(12) "Sex offense" for the purposes of this subchapter means  
14 includes, but is not limited to:

15 (A)(i) Rape, § 5-14-103;

16 (ii) Carnal abuse in the first degree, § 5-14-104;

17 (iii) Carnal abuse in the second degree, § 5-14-105;

18 (iv) Carnal abuse in the third degree, § 5-14-106;

19 (v) Sexual misconduct, § 5-14-107;

20 (vi) Sexual abuse in the first degree, § 5-14-108;

21 (vii) Sexual abuse in the second degree, § 5-14-109;

22 (viii) Sexual solicitation of a child, § 5-14-110;

23 (ix) Violation of a minor in the first degree, § 5-14-120;

24 (x) Violation of a minor in the second degree, § 5-14-121;

25 (xi) Incest, § 5-26-202;

26 (xii) Engaging children in sexually explicit conduct for  
27 use in visual or print medium, § 5-27-303;

28 (xiii) Transportation of minors for prohibited sexual  
29 conduct, § 5-27-305;

30 (xiv) Employing or consenting to use of child in sexual  
31 performance, § 5-27-402;

32 (xv) Pandering or possessing visual or print medium  
33 depicting sexually explicit conduct involving a child, § 5-27-304;

34 ~~(xv)~~(xvi) Producing, directing, or promoting sexual  
35 performance, § 5-27-403;

36 ~~(xvi)~~(xvii) Promoting prostitution in the first degree, §

1 5-70-104;

2 ~~(xvii)~~(xviii) Stalking, when ordered by the sentencing  
3 court to register as a sex offender, § 5-71-229;

4 ~~(xviii)~~(xix) Indecent exposure to a person under the age  
5 of twelve (12) years, § 5-14-112(b); or

6 ~~(xix)~~(xx) Exposing another person to human  
7 immunodeficiency virus, when ordered by the sentencing court to register as a  
8 sex offender, § 5-14-123;

9 ~~(xx)~~(xxi) Kidnapping pursuant to § 5-11-102(a) when the  
10 victim is a minor and the offender is not the parent of the victim.

11 (xxii) False imprisonment in the first and second degree  
12 pursuant to §§ 5-11-103 and 5-11-104 when the victim is a minor and the  
13 offender is not the parent of the victim;

14 (xxiii) Permitting abuse of a child pursuant to § 5-27-  
15 221; or

16 (xxiv) The sentencing court has the authority to order the  
17 registration of any offender shown in court to have attempted to commit or to  
18 have committed a sex offense, even though the offense is not enumerated  
19 above. This authority is limited to sex offenses enacted or amended at a  
20 later date by the legislature unless the legislature expresses its intent not  
21 to consider the offense to be a sex offense for the purposes of this  
22 subchapter;

23 (B) An attempt, solicitation, or conspiracy to commit any of the  
24 offenses enumerated in subdivision ~~(13)(A)~~(12)(A) of this section;

25 (C) An adjudication of guilt for an offense of the law of  
26 another state, for a federal offense, for a tribal court offense, or for a  
27 military offense:

28 (i) Which is similar to any of the offenses enumerated in  
29 subdivision (12)(A) of this section; or

30 (ii) When that adjudication of guilt requires registration  
31 under another state's sex offender registration laws; or

32 (D) A violation of any former law of this state which is  
33 substantially equivalent to any of the offenses enumerated in subdivision  
34 ~~(13)(A)~~(12)(A) of this section;

35 ~~(14)~~(13) "Sex ~~or child~~ offender" means a person who is adjudicated  
36 guilty ~~of~~, adjudicated delinquent ~~of~~ and ordered to register by the juvenile

1 court judge, or acquitted on the grounds of mental disease or defect of a sex  
2 offense, ~~or an offense against a victim who is a minor~~ Unless otherwise  
3 specified, "sex offender" includes those individuals classified by the court  
4 as "sexually violent predators";

5 (14) "Sex Offender Assessment Committee" means a group of citizens  
6 appointed by the Governor with a specific composition in conformance with 42  
7 U.S.C. 14071(a)(2)(A) as it existed on January 1, 2001;

8 (15) "Sex Offender Screening and Risk Assessment" means such  
9 individuals or agencies qualified by the Sex Offender Assessment Committee to  
10 perform assessments of sex offenders;

11 ~~(15)(16)~~ "Sexually violent offense" means any state, federal, tribal,  
12 or military offense which includes a sexual act as defined in 18 U.S.C. §  
13 2246(2) §§ 2241 and 2242, as they existed on January 1, 2001, with another  
14 person if the offense is nonconsensual ~~or the person is under the age of~~  
15 twelve (12) regardless of the age of the victim; and

16 ~~(16)(17)~~ "Sexually violent predator" means a person who has been  
17 adjudicated guilty, adjudicated delinquent of and ordered to register by the  
18 juvenile court judge, or acquitted on the grounds of mental disease or defect  
19 of a sexually violent offense and who suffers from a mental abnormality or  
20 personality disorder that makes the person likely to engage in predatory  
21 sexually violent offenses.

22  
23 SECTION 3. Arkansas Code 12-12-904 is amended to read as follows:

24 12-12-904. Failure to register - Failure to comply with reporting  
25 requirements.

26 (a)(1) A person who fails to register or who fails to report changes  
27 of address, employment, education or training, or who refuses to cooperate  
28 with the assessment process as required under this subchapter shall be guilty  
29 of a Class D felony.

30 (2) It is an affirmative defense to prosecution if:

31 (A) The delay in reporting a change in address is caused  
32 by:

- 33 (i) An eviction;
- 34 (ii) A natural disaster; or
- 35 (iii) Any other unforeseen circumstance; and

36 (B) The person provides the new address to the Arkansas

1 Crime Information Center in writing no later than five (5) business days  
2 after the offender establishes residency.

3 (C) The person refuses to cooperate with the assessment on  
4 the basis of the right to avoid self-incrimination.

5 (b) Any agency or official subject to reporting requirements under  
6 this subchapter that knowingly fails to comply with such reporting  
7 requirements shall be guilty of a Class B misdemeanor.

8

9 SECTION 4. Arkansas Code 12-12-905 is amended to read as follows:  
10 12-12-905. *Applicability.*

11 (a) *The registration requirements of this subchapter apply to:*

12 (1) *A person who is adjudicated guilty on or after August 1,*  
13 *1997, of:* a sex offense;

14 ~~(A) A sexually violent offense;~~

15 ~~(B) A sex offense; or~~

16 ~~(C) An offense against a victim who is a minor;~~

17 (2) *A person who is serving a sentence of incarceration,*  
18 *probation, parole, or other form of community supervision as a result of an*  
19 *adjudication of guilt on August 1, 1997, for:* a sex offense;

20 ~~(A) A sexually violent offense;~~

21 ~~(B) A sex offense; or~~

22 ~~(C) An offense against a victim who is a minor;~~

23 (3) *A person who is committed following an acquittal on or after*  
24 *August 1, 1997, on the grounds of mental disease or defect for:* a sex  
25 offense;

26 ~~(A) A sexually violent offense;~~

27 ~~(B) A sex offense; or~~

28 ~~(C) An offense against a victim who is a minor;~~

29 (4) *A person who is serving a commitment as a result of an*  
30 *acquittal on August 1, 1997, on the grounds of mental disease or defect for:*  
31 a sex offense;

32 ~~(A) A sexually violent offense;~~

33 ~~(B) A sex offense; or~~

34 ~~(C) An offense against a victim who is a minor;~~

35 (5) *A person who was required to be registered under the*  
36 *Habitual Child Sex Offender Registration Act, former § 12-12-901 et seq.,*

1 enacted by Acts 1987, No. 587, §§ 1-10, which was repealed by Acts 1997, No.  
2 989, § 23;

3 (6) A juvenile who has been ordered to register by a juvenile  
4 court judge after an adjudication of delinquency on or after September 1,  
5 1999, of: a sex offense; and

6 ~~(A) A sexually violent offense;~~

7 ~~(B) A sex offense; or~~

8 ~~(C) An offense against a victim who is a minor; and~~

9 (7) A juvenile who is serving an order of commitment, transfer  
10 of legal custody, probation, court-approved voluntary service in the  
11 community, juvenile detention, residential detention, or other form of  
12 commitment as prescribed under § 9-27-330 after an adjudication of  
13 delinquency for ~~a sexually violent offense, a sex offense, or an offense~~  
14 ~~against a victim who is a minor, on September 1, 1999, and after being~~  
15 ordered to register by the juvenile court judge having jurisdiction.

16 ~~(b)(1)~~ A person who has been adjudicated guilty of ~~a sexually violent~~  
17 ~~offense, a sex offense, or an offense against a victim who is a minor and~~  
18 whose record of conviction will be expunged under the provisions of §§ 16-93-  
19 301 - 16-93-303 is not relieved of the duty to register.

20 ~~(2)(A)(i)~~ However, a person's obligation to register under this  
21 subchapter is terminated upon an expungement of the record by the court.

22 ~~(ii)~~ The burden shall be on the offender to file a  
23 petition of expungement with the court having jurisdiction and to present  
24 that order to the Arkansas Crime Information Center in order to stop the  
25 notification process.

26 ~~(B)~~ Upon receiving the order of expungement, the Arkansas  
27 Crime Information Center shall notify the Department of Correction and the  
28 appropriate local law enforcement official that the person is no longer  
29 required to be registered and to cease notification to the public.

30 (c)(1) If the underlying conviction of the registrant is reversed,  
31 vacated, or set aside, or if the registrant is pardoned, the registrant is  
32 relieved from the duty to register.

33 (2) Registration shall cease upon the receipt and verification  
34 by the Arkansas Crime Information Center of documentation from the court  
35 verifying the fact that the conviction has been reversed, vacated or set  
36 aside, or from the Governor's office that the Governor has pardoned the



1 registrant.

2

3 SECTION 5. Arkansas Code 12-12-906 is amended to read as follows:

4 12-12-906. Duty to register generally - Review of requirements with  
5 offenders.

6 ~~(a)(1)(A) At the time of an offender's adjudication of guilt, the~~  
7 ~~sentencing court shall require the offender to complete the sex offender~~  
8 ~~registration form in the format prepared by the Director of the Arkansas~~  
9 ~~Crime Information Center pursuant to § 12-12-908.~~

10 (A) At the time of adjudication of guilt, the sentencing court  
11 shall enter on the Judgment and Commitment or Judgment and Disposition form  
12 whether or not the offender is required to register as a sex offender.

13 (B) The Department of Correction shall ensure that offenders  
14 received for incarceration complete the registration form prepared by the  
15 Director of the Arkansas Crime Information Center under § 12-12-908 .

16 (C) The Department of Community Punishment shall ensure that  
17 offenders placed on probation or another form of community supervision  
18 complete the registration form.

19 (D) The Arkansas State Hospital shall ensure that for any  
20 offender found not guilty by reason of insanity the registration form is  
21 completed, and shall arrange an evaluation by Sex Offender Screening and Risk  
22 Assessment.

23 (E) The Department of Human Services, Division of Youth  
24 Services, shall ensure that juveniles ordered by the juvenile court to  
25 register complete the registration form.

26 (2)(A) ~~A~~ A sex offender moving to or returning to this state  
27 from another jurisdiction shall register with the local law enforcement  
28 agency having jurisdiction no later than thirty (30) days after August 1,  
29 1997, or thirty (30) days after the offender establishes residency in a  
30 municipality or county of this state, whichever is later.

31 (B)(1) All persons living in this state, who would be required  
32 to register as a sex offenders in the jurisdiction in which they were  
33 adjudicated guilty of a sex offense, are required to register as sex  
34 offenders in this state whether living, working or attending school or other  
35 training in Arkansas.

36 (2) Non-resident workers or students who enter the state

1 for fourteen (14) or more consecutive days to work or study, or who enter the  
 2 state for an aggregate of thirty (30) days or more a year, are required to  
 3 register in compliance with 64 Fed. Reg. 585 2nd as it existed on January 1,  
 4 2001.

5 (C) A sex offender sentenced and required to register outside of  
 6 Arkansas, whether as an adult or juvenile, must submit to reassessment by Sex  
 7 Offender Screening and Risk Assessment, provide a DNA sample if a sample is  
 8 not already accessible to the State Crime Lab, and pay the mandatory fee of  
 9 two hundred fifty (\$250) to the DNA Detection Fund established under §§ 12-  
 10 12-1101 through 12-12-1120.

11 (3)(A) After September 1, 1999, a juvenile judge shall require ~~an~~ a  
 12 sex offender to submit at the time of adjudication of a sex offense to an  
 13 assessment by the ~~Sex Offenders Assessment Committee~~ Sex Offender Screening  
 14 and Risk Assessment who is adjudicated delinquent of:

15 ~~(i) A sexually violent offense;~~

16 ~~(ii) A sex offense; or~~

17 ~~(iii) An offense against a victim who is a minor.~~

18 (B)(i) The ~~committee~~ Sex Offender Screening and Risk  
 19 Assessment shall submit its assessment and recommendation to the juvenile  
 20 judge and the juvenile judge may order registration ~~with the clerk of the~~  
 21 ~~juvenile court~~ by so indicating on the on the proper form.

22 (ii)(a) Upon the decision by the juvenile judge to  
 23 order registration by the juvenile, the juvenile shall comply with all the  
 24 provisions of this subchapter.

25 (b) The juvenile court judge may order  
 26 reassessment by the ~~Sex Offenders Assessment Committee~~ Sex Offender Screening  
 27 and Risk Assessment any time during the juvenile judge's jurisdiction over  
 28 the juvenile.

29 (c) The juvenile court judge may order  
 30 registration of the juvenile adjudicated delinquent of a sex offense ~~with the~~  
 31 ~~clerk of the juvenile court~~ at any time during the juvenile judge's  
 32 jurisdiction over the juvenile.

33 (b)(1) The registration file of ~~an~~ a sex offender who is confined in a  
 34 an adult or juvenile correctional facility or serving a commitment following  
 35 acquittal on the grounds of mental disease or defect shall be inactive until  
 36 the registration file is updated by the Department of Correction, or the

1 Department of Human Services, whichever is responsible for supervision.

2 (2) Immediately prior to release or immediately following an  
3 escape or absconding supervision, the Department of Correction, the  
4 Department of Community Punishment, or the Department of Human Services shall  
5 update the registration file of the sex offender who is to be released or who  
6 has escaped or absconded supervision.

7 (c)(1) When registering ~~an~~ a sex offender as provided in subsection  
8 (a) of this section, the Department of Correction, the Department of  
9 Community Punishment, the Department of Human Services, ~~the sentencing court,~~  
10 or the local law enforcement agency having jurisdiction shall:

11 (A) Inform the sex offender of the duty to submit to  
12 assessment and to register and obtain the information required for  
13 registration as described in § 12-12-908;

14 (B) Inform the offender that if the offender changes  
15 ~~address~~ residency, the offender shall give the new address, place of  
16 employment, education, or training to the Arkansas Crime Information Center  
17 in writing no later than ten (10) days before the offender establishes  
18 residency or is temporarily domiciled at the new address;

19 (C) Inform the offender that if the offender changes  
20 ~~address~~ residency to another state, or enters another state for fourteen (14)  
21 consecutive days or more or for an aggregate of thirty (30) days or more a  
22 year, the offender must also register in that state regardless of permanent  
23 residency, the offender shall register the new address, place of employment,  
24 education, or training with the Arkansas Crime Information Center and with a  
25 designated law enforcement agency in the new state not later than ten (10)  
26 days before the offender establishes residence or is temporarily domiciled in  
27 the new state, ~~if the new state has a registration requirement~~;

28 (D)(i) Obtain fingerprints and a photograph of the  
29 offender if these have not already been obtained in connection with the  
30 offense that triggered registration.

31 (ii) ~~If the registration is performed by the~~  
32 ~~sentencing court, the arresting law enforcement agency shall provide the~~  
33 ~~court with a copy of the fingerprints and a photograph of the offender~~ Obtain  
34 a DNA sample, if one has not already been provided;

35 (E) Require the offender to complete the entire  
36 registration process, including, but not limited to, requiring the offender

1 to read and sign a form stating that the duty of the person to register under  
2 this subchapter has been explained;

3 (F) Inform the offender that if the offender's address  
4 changes due to an eviction, natural disaster or any other unforeseen  
5 circumstance, the offender shall give the new address to the Arkansas Crime  
6 Information Center in writing no later than five (5) business days after the  
7 offender establishes residency; and

8 (G) Inform an offender who has been granted probation,  
9 that failure to comply with the provisions of this subchapter shall be  
10 grounds for revocation of the offender's probation.

11 (2) When updating the registration file of an offender, the  
12 Department of Correction or the Department of Human Services shall:

13 (A) Review with the offender the duty to register and  
14 obtain current information required for registration as described in § 12-12-  
15 908;

16 (B) Review with the offender the requirement that if the  
17 offender changes address, the offender shall give the new address to the  
18 Arkansas Crime Information Center in writing no later than ten (10) days  
19 before the offender establishes residency or is temporarily domiciled at the  
20 new address;

21 (C) Review with the offender the requirement that if the  
22 offender changes address to another state, the offender shall register the  
23 new address with the Arkansas Crime Information Center and with a designated  
24 law enforcement agency in the new state not later than ten (10) days before  
25 the offender establishes residence or is temporarily domiciled in the new  
26 state, if the new state has a registration requirement;

27 (D) Require the offender to read and sign a form stating  
28 that the duty of the person to register under this subchapter has been  
29 reviewed; and

30 (E) Inform the offender that if the offender's address  
31 changes due to an eviction, natural disaster, or any other unforeseen  
32 circumstance, the offender shall give the new address to the Arkansas Crime  
33 Information Center in writing no later than five (5) business days after the  
34 offender establishes residency.

35 (d) When registering or updating the registration file of a sexually  
36 violent predator, the Department of Correction, the Department of Community

1 *Punishment, the Department of Human Services, ~~the sentencing court,~~ or the*  
2 *local law enforcement agency having jurisdiction shall, in addition to the*  
3 *requirements of subdivision (c)(1) or (2) of this section, obtain*  
4 *documentation of any treatment received for the mental abnormality or*  
5 *personality disorder of the sexually violent predator.*

6

7 SECTION 6. Arkansas Code 12-12-907 is amended to read as follows:

8 12-12-907. Report to Arkansas Crime Information Center - Report to law  
9 enforcement agency.

10 (a)(1) Within three (3) days after registering or updating the  
11 registration file of an offender, the Department of Correction, the  
12 Department of Community Punishment, the Department of Human Services, the  
13 sentencing court, or the local law enforcement agency having jurisdiction  
14 shall report, by written or electronic means, all information obtained from  
15 the offender and regarding the offender to the Arkansas Crime Information  
16 Center.

17 (2) The Arkansas Crime Information Center shall immediately  
18 enter the information into its record system for maintenance in a central  
19 registry and notify the local law enforcement agency having jurisdiction.

20 (3) The Arkansas Crime Information Center will share information  
21 with the National Sex Offender Registry.

22 (b)(1)(A) No later than ten (10) days after release from incarceration  
23 or after the date of sentencing, an offender shall report to the local law  
24 enforcement agency having jurisdiction and update the information in the  
25 registration file.

26 (B) If the offender is not already registered, the local  
27 law enforcement agency having jurisdiction shall register the offender in  
28 accordance with this subchapter.

29 (2) Within three (3) days after registering an offender or  
30 receiving updated registry information on an offender, the local law  
31 enforcement agency having jurisdiction shall report, by written or electronic  
32 means, all information obtained from the offender to the Arkansas Crime  
33 Information Center.

34 (3) The Arkansas Crime Information Center shall verify the  
35 address of sexually violent predators on a quarterly basis, and the address  
36 of all other sex offenders on a semi annual basis.

1           (4) The Arkansas Crime Information Center shall have access to  
2 the offender tracking systems of the Arkansas Departments of Correction and  
3 Community Punishment to confirm the location of registrants.

4  
5           SECTION 7. Arkansas Code 12-12-908 is amended to read as follows:

6           12-12-908. Registration format - Requirements.

7           (a) Within sixty (60) days after August 1, 1997, the Director of the  
8 Arkansas Crime Information Center shall prepare the format for registration  
9 as required in subsection (b) of this section and shall provide instructions  
10 for registration to each organized full-time municipal police department,  
11 county sheriff's office, the Department of Correction, the Department of  
12 Community Punishment, the Department of Human Services, and the  
13 Administrative Office of the Courts.

14           (b) The registration file required by this subchapter shall include:

15                   (1) The offender's full name and all aliases which the offender  
16 has used or under which the offender has been known;

17                   (2) Date of birth;

18                   (3) Sex;

19                   (4) Race;

20                   (5) Height;

21                   (6) Weight;

22                   (7) Hair and eye color;

23                   (8) Address of any temporary residence;

24                   (9) Anticipated address of legal residence;

25                   (10) Driver's license number or state identification number, if  
26 available;

27                   (11) Social security number;

28                   (12) Place of employment, education, or training;

29                   (13) Photograph, if not already obtained;

30                   (14) Fingerprints, if not already obtained;

31                   (15) Date of arrest, arresting agency, offense for which  
32 convicted or acquitted, and arrest tracking number for each adjudication of  
33 guilt or acquittal on the grounds of mental disease or defect;

34                   (16) A brief description of the crime or crimes for which  
35 registration is required;

36                   (17) The registration status of the offender as a sexually

1 violent predator, aggravated sex offender, or a sex ~~or child~~ offender;

2 (18) A statement in writing signed by the offender acknowledging  
3 that the offender has been advised of the duty to register imposed by this  
4 subchapter; and

5 (19) Any other information that the Arkansas Crime Information  
6 Center deems necessary, including, but not limited to:

7 (A) Criminal and corrections records;

8 (B) Nonprivileged personnel;

9 (C) Treatment and abuse registry records; and

10 (D) Evidentiary genetic markers.

11 (c) Certain information such as social security number, driver's  
12 license number, employer, information that may lead to identification of the  
13 victim, and the like, may be excluded from the information that is released  
14 during the course of notification.

15  
16 SECTION 8. Arkansas Code 12-12-909 is amended to read as follows:

17 12-12-909. Verification form - Change of address.

18 (a)(1) For a person required to register as a sex ~~or child~~ offender,  
19 every six (6) months after the person's initial registration date during the  
20 period in which the person is required to register, the following applies:

21 (A) The Arkansas Crime Information Center shall mail a  
22 nonforwardable verification form to the last reported address of the person;

23 (B)(i) The person shall return the verification form in  
24 person to the local law enforcement agency having jurisdiction within ten  
25 (10) days after receipt of the form.

26 (ii) Within three (3) days after receipt of the  
27 form, the local law enforcement agency having jurisdiction shall forward the  
28 form to the Arkansas Crime Information Center;

29 (C) The verification form shall be signed by the person,  
30 and state that the person still resides at the address last reported to the  
31 Arkansas Crime Information Center; and

32 (D) If the person fails to return the verification form to  
33 the local law enforcement agency having jurisdiction within ten (10) days  
34 after receipt of the form, the person shall be in violation of this  
35 subchapter, ~~unless the person proves that the person has not changed address.~~

36 Should the sex offender or sexually violent predator change address without

1 notice, or fail to return the verification of residence, notification will be  
2 sent to law enforcement, and supervising parole or probation authority, and  
3 notice may be posted on the internet until proper reporting is again  
4 established or the person is incarcerated.

5 (2) The provisions of subdivision (a)(1) of this section shall  
6 be applied to a person required to register as a sexually violent predator,  
7 except that such person must verify the registration every ninety (90) days  
8 after the date of the initial release or commencement of parole.

9 (b)(1) Before a change of address within the state, ~~an~~ a sex offender  
10 shall report the change of address to the Arkansas Crime Information Center  
11 no later than ten (10) days before the offender establishes residency or is  
12 temporarily domiciled at the new address.

13 (2) When a change of address within the state is reported to the  
14 Arkansas Crime Information Center, the Arkansas Crime Information Center  
15 shall immediately report the change of address to the local law enforcement  
16 agency having jurisdiction where the offender expects to reside.

17 (c)(1) Before a change of address to another state, an offender shall  
18 register the new address with the Arkansas Crime Information Center and with  
19 a designated law enforcement agency in the state to which the person moves  
20 not later than ten (10) days before such person establishes residence or is  
21 temporarily domiciled in the new state, if the new state has a registration  
22 requirement.

23 (2) When a change of address to another state is reported to the  
24 Arkansas Crime Information Center, the Arkansas Crime Information Center  
25 shall immediately notify the law enforcement agency with which the offender  
26 must register in the new state, if the new state has a registration  
27 requirement.

28 (d) The Arkansas Crime Information Center may require an offender to  
29 report a change of address through the local law enforcement agency having  
30 jurisdiction.

31  
32 SECTION 9. Arkansas Code 12-12-912 is amended to read as follows:

33 12-12-912. Arrests for violations.

34 (a) In order for an offender to be charged with the commission of a  
35 violation of this subchapter so that an arrest warrant shall be issued, it  
36 shall be the duty of the local law enforcement agency having jurisdiction to



1 notify the prosecutor when the local law enforcement agency having  
2 jurisdiction has reasonable grounds for believing that an offender is not  
3 registered, ~~or~~ has not reported a change of address, or has not verified the  
4 offenders address in violation of this subchapter.

5 (b) The address of an offender as listed in the offender's  
6 registration file shall determine which local law enforcement agency has  
7 jurisdiction.

8 (c) A law enforcement officer shall arrest an offender when a warrant  
9 has been issued for the offender's arrest or he has reasonable grounds for  
10 believing that an offender is not registered or has not reported a change of  
11 address in violation of this subchapter.

12

13 SECTION 10. Arkansas Code 12-12-913 is amended to read as follows:  
14 12-12-913. Disclosure.

15 (a)(1) Registration records maintained pursuant to this subchapter  
16 shall be open to any criminal justice agency in this state, the United  
17 States, or any other state.

18 (2) Registration records may also be open to government agencies  
19 authorized by law to conduct confidential background checks.

20 (b) Local law enforcement agencies having jurisdiction shall disclose,  
21 in accordance with guidelines promulgated by the Sex Offenders Assessment  
22 Committee, relevant and necessary information regarding offenders to the  
23 public when the disclosure of such information is necessary for public  
24 protection.

25 (c)(1)(A) The Sex Offenders Assessment Committee shall promulgate  
26 guidelines and procedures for the disclosure of relevant and necessary  
27 information regarding offenders to the public when the release of the  
28 information is necessary for public protection.

29 (B) In developing the guidelines and procedures, the  
30 ~~commission~~ Sex Offender Assessment Committee shall consult with persons who,  
31 by experience or training, have a personal interest or professional expertise  
32 in law enforcement, crime prevention, victim advocacy, criminology,  
33 psychology, parole, public education, and community relations.

34 (2)(A) The guidelines and procedures shall identify factors  
35 relevant to an offender's future dangerousness and likelihood of reoffense or  
36 threat to the community.

1 (B) The guidelines and procedures shall also address the  
2 extent of the information to be disclosed and the scope of the community to  
3 whom disclosure shall be made as these factors relate to the:

- 4 (i) Level of the offender's dangerousness;
- 5 (ii) Offender's pattern of offending behavior; and
- 6 (iii) Need of community members for information to  
7 enhance their individual and collective safety.

8 (3) The Sex Offenders Assessment Committee shall submit the  
9 proposed guidelines and procedures to the House and Senate Committees on  
10 Public Health, Welfare, and Labor for their review and shall report to the  
11 committees every six (6) months on the implementation of this section.

12 (d)(1) Local law enforcement agencies having jurisdiction that decide  
13 to disclose information pursuant to this section shall make a good faith  
14 effort to notify the public and residents at least fourteen (14) days before  
15 an offender is released or placed into the community.

16 (2) If a change occurs in an offender's release plan, this  
17 notification provision shall not require an extension of the release date.

18 (3) The Department of Correction and the Department of Human  
19 Services shall, in conjunction with the notice provided under § 12-12-914,  
20 make available to a local law enforcement agency having jurisdiction all  
21 information that the departments have concerning the offender, including  
22 information on risk factors in the offender's history.

23 (e)(1) Local law enforcement agencies having jurisdiction that decide  
24 to disclose information under this section shall make a good faith effort to  
25 conceal the identity of the victim or victims of the offender's offense.

26 (2) This information is not subject to disclosure under the  
27 Freedom of Information Act of 1967, § 25-19-101 et seq.

28 (f) Local enforcement agencies having jurisdiction may continue to  
29 disclose information on an offender under this section for as long as the  
30 offender is required to be registered under this subchapter.

31 (g)(1) The State Board of Education shall promulgate guidelines for  
32 the disclosure to students and parents of information regarding an offender  
33 when such information is released to a local school district by a local law  
34 enforcement agency having jurisdiction.

35 (2) The board of directors of a local school district shall  
36 adopt a written policy, in accordance with guidelines promulgated by the

1 state board, regarding the distribution to students and parents of  
2 information regarding an offender.

3 (h) Nothing in this section shall be construed to prevent law  
4 enforcement officers from notifying members of the public exposed to danger  
5 of any persons that pose a danger under circumstances that are not enumerated  
6 in this subchapter.

7 (i) Nothing in this subchapter shall be interpreted to make medical  
8 records or treatment evaluations of the sex offender or sexually violent  
9 predator subject to disclosure under the Freedom of Information Act of 1967,  
10 § 25-19-101 et seq.

11

12 SECTION 11. Arkansas Code 12-12-914 is amended to read as follows:

13 12-12-914. Notice of release.

14 (a)(1) The Department of Correction shall provide notice, by written  
15 or electronic means, to the Arkansas Crime Information Center of the  
16 anticipated release from incarceration in a county or state penal institution  
17 of a person serving a sentence for a ~~sexually violent offense, a sex offense,~~  
18 ~~or an offense against a victim who is a minor.~~

19 (2) The Department of Human Services shall provide notice, by  
20 written or electronic means, to the Arkansas Crime Information Center of the  
21 anticipated release from incarceration of a person committed following an  
22 acquittal on the grounds of mental disease or defect for a ~~sexually violent~~  
23 ~~offense, a sex offense, or an offense against a victim who is a minor.~~

24 (b)(1)(A) If available, the notice required in subsection (a) of this  
25 section shall be provided to the Arkansas Crime Information Center ninety  
26 (90) days before the offender's anticipated release.

27 (B) Provided, however, a good faith effort shall be made  
28 to provide the notice at least thirty (30) days before release.

29 (2) The notice shall include the person's name, identifying  
30 factors, offense history, and anticipated future residence.

31 (c) Upon receipt of notice, the Arkansas Crime Information Center  
32 shall provide notice by written or electronic means to:

33 (1) The local law enforcement agency having jurisdiction; and

34 (2) Such other state and local law enforcement agencies as  
35 appropriate for public safety.

36 (d)(1) Where possible, victim notification pursuant to this subchapter

1 shall be accomplished by means of the computerized victim notification system  
2 established under § 12-12-1201 et seq.

3 (2) If notification cannot be made throughout the system  
4 established under § 12-12-1201 et seq., the Department of Correction shall  
5 provide the notification to the victim.

6

7 SECTION 12. Arkansas Code 12-12-917 is amended to read as follows:

8 12-12-917. Evaluation protocol - Sexually violent predators -  
9 Juveniles adjudicated delinquent - Examiners.

10 (a)(1) The Sex Offenders Assessment Committee shall develop an  
11 evaluation protocol for preparing reports to assist courts in making  
12 determinations whether or not a person adjudicated guilty of a ~~sexually~~  
13 ~~violent~~ sex offense should be considered a sexually violent predator for  
14 purposes of this subchapter.

15 (2) The committee shall also establish qualifications for and  
16 qualify examiners to prepare reports in accordance with the evaluation  
17 protocol.

18 (b)(1) The Sex Offenders Assessment Committee shall develop an  
19 evaluation protocol for preparing reports to assist the ~~Sex Offenders~~  
20 ~~Assessment Committee~~ juvenile division of circuit court in making  
21 determinations whether or not a juvenile adjudicated delinquent of a sex  
22 offense ~~or an offense against a victim who is a minor~~ should be registered  
23 under the provisions of this subchapter.

24 (2) The committee shall also establish qualifications for and  
25 qualify examiners to prepare reports in accordance with the evaluation  
26 protocol.

27

28 SECTION 13. Arkansas Code 12-12-918 is amended to read as follows:

29 12-12-918. Classification as sexually violent predator - Requirements.

30 (a)(1) In order to classify a person as a sexually violent predator, a  
31 prosecutor shall allege on the face of an information that he is seeking a  
32 determination that the defendant is a sexually violent predator.

33 (2)(A) If the defendant is adjudicated guilty, the court shall  
34 enter an order directing an examiner qualified by the Sex Offenders  
35 Assessment Committee to issue a report to the sentencing court that  
36 recommends whether or not the defendant should be classified as a sexually

1 violent predator.

2 (B) Copies of the report shall be forwarded immediately to  
3 the prosecutor and defense attorney.

4 (C) The report shall not be admissible for purposes of  
5 sentencing.

6 (3) After sentencing, the court shall make a determination  
7 regarding the defendant's status as a sexually violent predator.

8 (b)(1) In order for the examiner qualified by the Sex Offenders  
9 Assessment Committee to prepare the report, the defendant shall be sent for  
10 evaluation to a facility designated by the Department of Correction or Sex  
11 Offender Screening and Risk Assessment may elect to send an examiner to the  
12 local or regional detention facility.

13 ~~(2)(A) The cost of the evaluation, including the room and board~~  
14 ~~of the defendant, shall be paid by the Department of Correction.~~

15 ~~(B)(i) However, when the evaluation of the defendant has~~  
16 ~~been completed, the county in which the defendant is being prosecuted shall~~  
17 ~~procure the defendant from the designated facility within three (3) working~~  
18 ~~days.~~

19 ~~(ii) If the county fails to procure the defendant~~  
20 ~~within the three day period, the county shall bear all room and board costs~~  
21 ~~on the fourth and subsequent days.~~

22 (c) Should evidence be found in the course of any assessment conducted  
23 by Sex Offender Screening and Risk Assessment that a sex offender appears to  
24 meet the criteria for being classified as a sexually violent predator, the  
25 Sex Offender Assessment Committee shall bring this information to the  
26 attention of the prosecutor who will determine whether a hearing on the  
27 matter is warranted. The sentencing court shall retain jurisdiction to  
28 determine whether an offender is a sexually violent predator for one (1) year  
29 after sentencing, or for so long as the offender remains incarcerated for the  
30 sex offense.

31 (d) The prosecutor's affidavit should state whether or not the offense  
32 qualifies as an aggravated sex offense. Should this statement be omitted,  
33 the prosecutor will be contacted by Sex Offender Screening and Risk  
34 Assessment, and asked to furnish a written determination as to whether or not  
35 the offense qualifies as an aggravated sex offense.

36

1 SECTION 14. Arkansas Code 12-12-919 is amended to read as follows:

2 12-12-919. Termination of obligation to register.

3 (a) Lifetime registration is required for sex offenders found to have  
 4 committed an aggravated sex offense, determined by the court to be a sexually  
 5 violent predator, or found to have been adjudicated guilty of a second or  
 6 subsequent sex offense under a separate case number, not multiple counts on  
 7 the same charge.

8 ~~(a)(1)(A) (b)(1)(A)(i)~~ A Any other sex ~~or child~~ offender required to  
 9 register under this subchapter may make application for an order terminating  
 10 the ~~child or sex offender's~~ obligation to register to the sentencing court,  
 11 ~~if the person was sentenced in the State of Arkansas, or to the circuit court~~  
 12 ~~in the county in which the sex or child offender resides, if the offender was~~  
 13 ~~sentenced in another state.~~

14 (ii) Sex offenders sentenced in other states but  
 15 permanently residing in Arkansas may make an application for an order  
 16 terminating the obligation to register to the court of the county in which  
 17 they reside.

18 (B)(i) The court shall hold a hearing on the application  
 19 at which the applicant and any interested persons may present witnesses and  
 20 other evidence.

21 (ii) No fewer than twenty (20) days prior to the  
 22 date of the hearing on the application, a copy of the application for  
 23 termination of the obligation to register shall be served on the prosecutor  
 24 of the county in which the adjudication of guilt triggering registration was  
 25 obtained.

26 (2) The court shall grant an order terminating the obligation to  
 27 register upon proof by a preponderance of the evidence that:

28 (A) The applicant, within fifteen (15) years after the  
 29 person was released from prison or other institution, placed on parole,  
 30 supervised release, or probation, has not been adjudicated guilty of: a sex  
 31 offense, and

32 ~~(i) An offense against a victim who is a minor; or~~

33 ~~(ii) A sex offense; and~~

34 (B) The applicant is not likely to pose a threat to the  
 35 safety of others.

36 ~~(b)(1)(A) A sexually violent predator may make application to the~~

1 ~~sentencing court for an order terminating the sexually violent predator's~~  
2 ~~obligation to register.~~

3 ~~(B)(i) The court shall hold a hearing on the application~~  
4 ~~at which the applicant and any interested persons may present witnesses and~~  
5 ~~other evidence.~~

6 ~~(ii) No fewer than sixty (60) days prior to the date~~  
7 ~~of the hearing on the application, a copy of the application for termination~~  
8 ~~of the obligation to register shall be served on the prosecutor of the county~~  
9 ~~in which the adjudication of guilt triggering registration was obtained and~~  
10 ~~on the members of the Department of Correction.~~

11 ~~(iii) No fewer than ten (10) days prior to the date~~  
12 ~~of the hearing on the application, an examiner qualified by the Sex Offenders~~  
13 ~~Assessment Committee shall submit a report to the court that recommends~~  
14 ~~whether or not the applicant's status as a sexually violent predator should~~  
15 ~~be terminated.~~

16 ~~(2) The court shall grant an order terminating the obligation to~~  
17 ~~register upon proof by a preponderance of the evidence that:~~

18 ~~(A) The applicant, within twenty (20) years after the~~  
19 ~~person was released from a prison or other institution or placed on parole,~~  
20 ~~supervised release, or probation has not been adjudicated guilty of an~~  
21 ~~offense against a victim who is a minor or a sex offense; and~~

22 ~~(B) The applicant no longer suffers from a mental~~  
23 ~~abnormality or personality disorder that would make the person likely to~~  
24 ~~engage in a predatory sexually violent offense.~~

25  
26 /s/ Carson

27  
28  
29 APPROVED: 4/18/2001