

Hall of the House of Representatives

87th General Assembly - Regular Session, 2009

Amendment Form

Subtitle of House Bill No. 1578

"CONCERNING SEX OFFENDERS AND TO BE KNOWN AS "THE ADAM WALSH ACT"."

Amendment No. 1 to House Bill No. 1578.

Amend House Bill No. 1578 as originally introduced:

Page 1, delete lines 9 through 11 and substitute:

"AN ACT TO AMEND THE PROCEDURES AND REQUIREMENTS REGARDING THE REGISTRATION AND MONITORING OF SEX OFFENDERS; AND FOR OTHER PURPOSES."

AND

Page 1, delete lines 14 and 15 and substitute:

"TO AMEND THE PROCEDURES AND REQUIREMENTS REGARDING THE REGISTRATION AND MONITORING OF SEX OFFENDERS."

AND

Delete everything following the enacting clause and substitute:

"SECTION 1. Arkansas Code § 5-4-104 is amended to read as follows:
5-4-104. Authorized sentences generally.

(a) ~~No defendant convicted of an offense shall be sentenced otherwise than in accordance with this chapter~~ A defendant convicted of an offense shall be sentenced in accordance with this chapter.

(b) A defendant convicted of capital murder, § 5-10-101, or treason, § 5-51-201, shall be sentenced to death or life imprisonment without parole in accordance with §§ 5-4-601 – 5-4-605, 5-4-607, and 5-4-608.

(c)(1) A defendant convicted of a Class Y felony or murder in the second degree, § 5-10-103, shall be sentenced to a term of imprisonment in accordance with §§ 5-4-401 – 5-4-404.

(2) In addition to imposing a term of imprisonment, the trial court may sentence a defendant convicted of a Class Y felony or murder in the second degree, § 5-10-103, to any one (1) or more of the following:

(A) Pay a fine as authorized by §§ 5-4-201 – 5-4-203;

(B) Make restitution as authorized by § 5-4-205; or

(C) Suspend imposition of an additional term of

imprisonment, as authorized by subdivision (e)(3) of this section.

(d) A defendant convicted of an offense other than a Class Y felony, capital murder, § 5-10-101, treason, § 5-51-201, or murder in the second degree, § 5-10-103, may be sentenced to any one (1) or more of the following,



except as precluded by subsection (e) of this section:

- (1) Imprisonment as authorized by §§ 5-4-401 – 5-4-404;
- (2) Probation as authorized by §§ 5-4-301 – 5-4-311;
- (3) Payment of a fine as authorized by §§ 5-4-201 – 5-4-203;
- (4) Restitution as authorized by a provision of § 5-4-205; or
- (5) Imprisonment and payment of a fine.

(e)(1)(A) The court shall not suspend imposition of sentence as to a term of imprisonment nor place the defendant on probation for the following offenses:

(i) Capital murder, § 5-10-101;
(ii) Treason, § 5-51-201;
(iii) A Class Y felony, except to the extent suspension of an additional term of imprisonment is permitted in subsection (c) of this section;

(iv) Driving while intoxicated, § 5-65-103;
(v) Murder in the second degree, § 5-10-103, except to the extent suspension of an additional term of imprisonment is permitted in subsection (c) of this section; or

(vi) Engaging in a continuing criminal enterprise, ~~former § 5-64-414~~ § 5-64-405.

(B)(i) In any other case, the court may suspend imposition of sentence or place the defendant on probation, in accordance with §§ 5-4-301 – 5-4-311, except as otherwise specifically prohibited by statute.

(ii) The court may not suspend execution of sentence.

(2) If the offense is punishable by fine and imprisonment, the court may sentence the defendant to pay a fine and suspend imposition of the sentence as to imprisonment or place the defendant on probation.

(3)(A) The court may sentence the defendant to a term of imprisonment and suspend imposition of sentence as to an additional term of imprisonment.

(B) However, the court shall not sentence a defendant to imprisonment and place him or her on probation, except as authorized by § 5-4-304.

(f)(1) If the court determines that an offender under eighteen (18) years of age would be more amenable to a rehabilitation program of the Division of Youth Services of the ~~Department of Health and Human Services~~ Department of Human Services and that he or she previously has not been committed to the division on more than one (1) occasion, the court may sentence the offender under eighteen (18) years of age to the Department of Correction for a term of years, suspend the sentence, and commit him or her to the custody of the division.

(2) In a case under subdivision (f)(1) of this section, if the offender under eighteen (18) years of age completes the rehabilitation program of the division satisfactorily, the division shall return him or her to the sentencing court and provide the sentencing court with a written report of his or her progress and a recommendation that the offender under eighteen (18) years of age be placed on probation.

(3)(A) In the event that the offender under eighteen (18) years of age ~~violate~~ violates a rule of the division's rehabilitation program or a rule of the facility or is otherwise not amenable to the division's rehabilitative effort, the division may return him or her to the sentencing

court with a written report of his or her conduct and a recommendation that the offender under eighteen (18) years of age be transferred to the Department of Correction.

(B) If the court finds that the offender under eighteen (18) years of age has violated a rule of the division's rehabilitation program or a rule of the facility or is otherwise not amenable to the division's rehabilitative effort, the court shall then revoke the suspension of the sentence originally imposed and commit the offender under eighteen (18) years of age to the Department of Correction.

(g) This chapter does not deprive the court of any authority conferred by law to:

- (1) Order a forfeiture of property;
- (2) Suspend or cancel a license;
- (3) Dissolve a corporation;
- (4) Remove a person from office;
- (5) Cite for contempt;
- (6) Impose any civil penalty; or
- (7) Assess costs as set forth in subsection (h) of this section.

(h) A defendant convicted of violating § 5-11-106, in which a minor was unlawfully detained, restrained, taken, enticed, or kept, may be assessed and ordered to pay expenses incurred by a law enforcement agency, the ~~Department of Health and Human Services~~ Department of Human Services, or the lawful custodian in searching for or returning the minor to the lawful custodian.

SECTION 2. Arkansas Code § 5-4-303(c), concerning conditions of suspension or probation, is amended to read as follows:

(c) If the court suspends imposition of sentence on a defendant or places him or her on probation, as a condition of its order the court may require that the defendant:

- (1) Support his or her dependents and meet his or her family responsibilities;
- (2) Work faithfully at suitable employment;
- (3) Pursue a prescribed secular course of study or vocational training designed to equip him or her for suitable employment;
- (4) Undergo available medical treatment or psychiatric treatment and enter and remain in a specified institution when required for medical treatment or psychiatric treatment;
- (5) Participate in a community-based rehabilitative program or work-release program that meets the minimum state standards for certification and for which the court may impose a reasonable fee or a reasonable assessment on the defendant to be used in support of the community-based rehabilitative program or work-release program;
- (6) Refrain from frequenting an unlawful or designated place or consorting with a designated person;
- (7) Have no firearm in his or her possession;
- (8) Make restitution to an aggrieved party in an amount the defendant can afford to pay for the actual loss or damage caused by his or her offense;
- (9) Post a bond, with or without surety, conditioned on the performance of a prescribed condition; and
- (10) (A) Satisfy any other condition reasonably related to the

rehabilitation of the defendant and not unduly restrictive of his or her liberty or incompatible with his or her freedom of conscience.

(B) Conditions reasonably related to the rehabilitation of a defendant who has pleaded guilty or nolo contendere to or has been found guilty of a sex offense as defined by § 12-12-903, if the trier of fact made a finding that a computer or any device with Internet capability was used by a defendant to facilitate the commission of the sex offense, may include the following Internet access conditions for a period of time not to exceed the maximum term of imprisonment authorized for the underlying sex offense:

(i)(a) Except as provided in subdivision (c)(10)(B)(i)(b) of this section, prohibiting the defendant from accessing or using a computer or any other device with Internet capability without the prior written approval of the court.

(b) If a defendant subject to subdivision (c)(10)(B)(i)(a) of this section is on probation, the defendant may use a computer or any other device with Internet capability in connection with the defendant's employment or search for employment with the prior approval of the defendant's probation officer;

(ii)(a) Requiring the defendant to submit to unannounced examinations of the defendant's computer or any other device with Internet capability by a probation officer, parole officer, law enforcement officer, or assigned computer specialist or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal peripherals or external peripherals and removal of any information, equipment, or device to conduct a more thorough inspection.

(b)(1) A defendant who knowingly uses any form of encryption, cryptography, steganography, compression, password-protected files, or other method to impede or hinder an unannounced examination described in subdivision (c)(10)(B)(ii)(a) of this section upon conviction is guilty of a Class C felony.

(2) A defendant who knowingly directs another person to install any device or alter the defendant's computer in any manner in order to allow the defendant to use any form of encryption, cryptography, steganography, compression, password-protected files, or other method to impede or hinder an examination described in subdivision (c)(10)(B)(ii)(a) of this section upon conviction is guilty of a Class C felony;

(iii)(a) Requiring the defendant to submit to the installation on the defendant's computer or device with Internet capability, at the defendant's expense, one (1) or more hardware systems or software systems to monitor Internet use.

(b)(1) A defendant who knowingly alters, tampers with, damages, or destroys a hardware system or software system described in subdivision (c)(10)(B)(iii)(a) of this section upon conviction is guilty of a Class C felony.

(2) A defendant who knowingly directs another person to alter, tamper with, damage, or destroy a hardware system or software system described in subdivision (c)(10)(B)(iii)(a) of this section upon conviction is guilty of a Class C felony; and

(iv) Requiring the defendant to submit to any other appropriate restrictions concerning the defendant's use or access of a computer or any other device with Internet capability.

SECTION 3. Arkansas Code Title 5, Chapter 14, Subchapter 1 is amended to add an additional section to read as follows:

5-14-133. Registered sex offender prohibited from using more than one email address or one screen name.

(a) As used in this section, "screen name" means any name or identification used for accessing online computer service, Internet service, or Internet bulletin board service.

(b) It is unlawful for a person who is required to register under the Sex Offender Registration Act of 1997, § 12-12-901 et seq., to knowingly:

- (1) Send electronic mail from more than one (1) email address;
- (2) Receive electronic mail at more than one (1) email address;

or

(3) Use more than one (1) screen name to access online computer service, Internet service, or Internet bulletin board service.

(c)(1) It is not a violation of subdivision (b)(1) or (2) of this section if the actor is sending work-related electronic mail from or receiving work-related electronic mail at an additional email address provided by an employer of the sex offender to perform work-related duties.

(2) It is a defense to a prosecution under subdivision (b)(3) of this section if the actor is using an additional screen name provided by an employer of the sex offender to perform work-related duties on a computer provided by the employer.

(d) A violation of subdivision (b)(1), (2), or (3) of this section is a Class C felony.

SECTION 4. Arkansas Code § 9-27-356 is amended to read as follows:

9-27-356. Juvenile sex offender assessment and registration.

(a) If a juvenile is an adjudicated delinquent for any of the following offenses, the court shall order a sex offender screening and risk assessment:

- (1) Rape, § 5-14-103;
- (2) Sexual assault in the ~~first~~ second degree, ~~§ 5-14-124~~ § 5-14-125;
- (3) Sexual assault in the ~~second~~ third degree, ~~§ 5-14-125~~ § 5-14-126(a)(2)(A);
- (4) Incest, § 5-26-202 if the victim is less than twelve (12) years of age; or
- (5) Engaging children in sexually explicit conduct for use in visual or print medium, § 5-27-303 if the victim is less than twelve (12) years of age.

(b)(1) The court may order a sex offender screening and risk assessment ~~if a~~ by the Sex Offender Assessment Committee of any juvenile is adjudicated delinquent for a sex offense or any offense with an underlying sexually motivated component.

(2) The court may require ~~that~~ a juvenile to register as a sex offender ~~upon recommendation of the Sex Offender Assessment Committee and~~ following a hearing ~~as set forth in~~ under subsection (e) of this section.

(c)(1) ~~The juvenile division of circuit court judge court may order reassessment of the sex offender screening and risk assessment by the committee of a juvenile adjudicated delinquent for a sex offense or any offense with an underlying sexually motivated component by the Sex Offender~~

Assessment Committee at any time while the court has jurisdiction over the juvenile.

(2) When the court orders a juvenile to be assessed or reassessed as a sex offender, the court shall order either the Division of Youth Services of the Department of Human Services or a juvenile probation officer to:

(A) Provide a copy of the Juvenile Sex Offender Rights and Responsibilities Form to the juvenile and the juvenile's parent, guardian, or custodian; and

(B) Explain the information on the Juvenile Sex Offender Rights and Responsibilities Form to the juvenile and the juvenile's parent, guardian, or custodian.

(3) Upon completion, a sex offender screening and risk assessment or a reassessment of a sex offender screening and risk assessment under this section shall be sent to the court and notification shall be sent to the juvenile and the juvenile's parent, guardian, or custodian that the assessment or reassessment has been sent to the court.

(d) Following a sex offender screening and risk assessment, the prosecutor may file a motion to request that a juvenile register as a sex offender at any time while the court has jurisdiction of the delinquency case if a juvenile is found delinquent for any of the offenses listed in subsection (a) of this section.

(e)(1) The court shall conduct a hearing within ninety (90) days of the registration motion.

(2)(A) The juvenile defendant shall be represented by counsel, and the court shall consider the following factors in making its decision to require the juvenile to register as a delinquent sex offender:

(i) The seriousness of the offense;
(ii) The protection of society;
(iii) The level of planning and participation in the alleged offense;

(iv) The previous sex offender history of the juvenile, including whether the juvenile has been adjudicated delinquent for prior sex offenses;

(v) Whether there are facilities or programs available to the court that are likely to rehabilitate the juvenile prior to the expiration of the court's jurisdiction;

(vi) The sex offender assessment and any other relevant written reports and other materials relating to the juvenile's mental, physical, educational, and social history; and

(vii) Any other factors deemed relevant by the court.

(B) However, under no circumstances shall the exercise by the juvenile of the right against self-incrimination, the right to an adjudication hearing or appeal, the refusal to admit to an offense for which he or she was adjudicated delinquent, or the refusal to admit to other offenses in the assessment process be considered in the decision whether to require registration as a sex offender.

(f)(1) The court shall make written findings on all the factors in subsection (e) of this section.

(2) Upon a finding by clear and convincing evidence that a juvenile should or should not be required to register as a sex offender, the

court shall enter its order.

(g) When ~~the juvenile division of circuit court judge orders a juvenile is required~~ to register as a sex offender, the judge shall order either the Division of Youth Services of the Department of Human Services or a juvenile probation officer to complete the registration process by:

(1) Completing the sex offender registration form;

(2) Providing a copy of the sex offender registration order, fact sheet, registration form, and the Juvenile Sex Offender Rights and Responsibilities Form to the juvenile and the juvenile's parent, guardian, or custodian and explaining this information to the juvenile and the juvenile's parent, guardian, or custodian;

(3) Mailing a copy of the registration court order, fact sheets, and registration form to the Arkansas Crime Information Center, Sex Offender Registry Manager, One Capitol Mall 4D-200, ~~LR~~ Little Rock, AR 72201;

(4) Providing local law enforcement agencies where the juvenile resides a copy of the sex offender registration form; and

(5) Ensuring that copies of all documents are forwarded to the court for placement in the court file.

(h)(1) The juvenile may petition the court to have his or her name removed from the sex offender register registry at any time while the court has jurisdiction over the juvenile or when the juvenile turns twenty-one (21) years of age, whichever is later, but no later than ninety (90) days before the juvenile reaches twenty-one (21) years of age.

(2) An order granting the petition for the removal of a juvenile's requirement to register as a sex offender must be entered before the juvenile reaches twenty-one (21) years of age.

(i) ~~The juvenile division of circuit court judge court~~ shall order the juvenile's name removed from the sex offender ~~register registry~~ before the juvenile reaches twenty-one (21) years of age upon proof by a preponderance of the evidence that the juvenile does not pose a threat to the safety of others.

(j) If the court does not order the juvenile's name removed from the sex offender ~~register registry~~, the juvenile shall remain on the sex offender register for ten (10) years from the last date on which the juvenile was adjudicated a delinquent or found guilty as an adult for a sex offense or until the juvenile turns twenty-one (21) years of age, whichever is longer.

(k) Once a juvenile is ordered to register as a sex offender, he or she shall be subject to the registration requirements set forth in §§ 12-12-904, 12-12-906, 12-12-908, 12-12-909, and 12-12-912.

(1)(1) A public official, a public employee, or a public agency is immune from civil liability for good faith conduct under this section.

(2) This section does not impose any liability upon or give rise to a cause of action against any public official, public employee, or public agency for any discretionary decision to release relevant and necessary information, unless it is shown that the public official, public employee, or public agency acted with actual malice.

(3) The immunity under subdivisions (1)(1) and (2) of this section applies to a person or an organization assisting a public official, a public employee, or a public agency in performing official duties upon a written request to assist them by the public official, the public employee, or the public agency.

SECTION 5. Arkansas Code § 12-12-903(3), concerning the definition of “aggravated sex offense”, is amended to read as follows:

(3) “Aggravated sex offense” means an offense in the Arkansas Code substantially equivalent to “aggravated sexual abuse” as defined in 18 U.S.C. § 2241 as it existed on ~~March 1, 2003~~ January 1, 2009, which principally encompasses:

- (A) Causing another person to engage in a sexual act:
 - (i) By using force against that other person; or
 - (ii) By threatening or placing, or attempting to threaten or place, that other person in fear that any person will be subjected to death, serious bodily injury, or kidnapping;
- (B) Knowingly:
 - (i) Rendering another person unconscious and then engaging in a sexual act with that other person; or
 - (ii) Administering to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or similar substance and thereby:
 - (a) Substantially impairing the ability of that other person to appraise or control conduct; and
 - (b) Engaging or attempting to engage in a sexual act with that other person; or
- (C) Crossing a state line with intent to:
 - (i) Engage or attempt to engage in a sexual act with a person who has not attained twelve (12) years of age;
 - (ii) Knowingly engage or attempt to engage in a sexual act with another person who has not attained twelve (12) years of age; or
 - (iii) Knowingly engage or attempt to engage in a sexual act under the circumstances described in subdivisions (3)(A) and (B) of this section with another person who has attained twelve (12) years of age but has not attained sixteen (16) years of age and is at least four (4) years younger than the alleged offender;

SECTION 6. Arkansas Code § 12-12-903(6), pertaining to the definition of “local law enforcement agency having jurisdiction”, is amended to read as follows:

(6) “Local law enforcement agency having jurisdiction” means the:

- (A) Chief law enforcement officer of the municipality in which ~~an~~ a sex offender:
 - (i) Resides or expects to reside;
 - (ii) Is employed; or
 - (iii) Is attending an institution of training or education; or
- (B) County sheriff, if:
 - (i) The municipality does not have a chief law enforcement officer; ~~or~~
 - (ii) ~~An~~ A sex offender resides or expects to reside, is employed, or is attending an institution of training or education in an unincorporated area of a county; or
 - (iii) A sex offender or sexually violent predator was homeless and was physically present in a county for an aggregate of three

(3) days or more in any month preceding registration or registration verification under this subchapter;

SECTION 7. Arkansas Code § 12-12-903(12), pertaining to the definition of “sex offense”, as amended by Acts 2009, No. 165, is amended to read as follows:

- (12)(A) “Sex offense” includes, but is not limited to:
- (i) The following offenses:
 - (a) Rape, § 5-14-103;
 - (b) Sexual indecency with a child, § 5-14-110;
 - (c) Sexual assault in the first degree, § 5-14-124;
 - (d) Sexual assault in the second degree, § 5-14-125;
 - (e) Sexual assault in the third degree, § 5-14-126;
 - (f) Sexual assault in the fourth degree, § 5-14-127;
 - (g) Incest, § 5-26-202;
 - (h) Engaging children in sexually explicit conduct for use in visual or print medium, § 5-27-303;
 - (i) Transportation of minors for prohibited sexual conduct, § 5-27-305;
 - (j) Employing or consenting to the use of a child in a sexual performance, § 5-27-402;
 - (k) Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, § 5-27-304;
 - (l) Producing, directing, or promoting a sexual performance by a child, § 5-27-403;
 - (m) Promoting prostitution in the first degree, § 5-70-104;
 - (n) Stalking when ordered by the sentencing court to register as a sex offender, § 5-71-229;
 - (o) Indecent exposure, § 5-14-112, if a felony level offense;
 - (p) Exposing another person to human immunodeficiency virus (HIV) when ordered by the sentencing court to register as a sex offender, § 5-14-123;
 - (q) Kidnapping ~~pursuant to~~ under § 5-11-102(a) when the victim is a minor and the offender is not the parent of the victim;
 - (r) False imprisonment in the first degree, § 5-11-103, and false imprisonment in the second degree, ~~§§ 5-11-103 and 5-11-104~~, when the victim is a minor and the offender is not the parent of the victim;
 - (s) Permitting abuse of a minor ~~pursuant to~~ under § 5-27-221;
 - (t) Computer child pornography, § 5-27-603;
 - (u) Computer exploitation of a child, § 5-27-605;
 - (v) Permanent detention or restraint when the offender is not the parent of the victim, § 5-11-106;
 - (w) Distributing, possessing, or viewing of

matter depicting sexually explicit conduct involving a child, § 5-27-602;
(x) Internet stalking of a child, § 5-27-306;
(y) Crime of video voyeurism, § 5-16-101, if a
felony level offense;

(z) Voyeurism, § 5-16-102, if a felony level
offense; ~~and~~

(aa) Failure to register or verify
registration as required under this subchapter; and

~~(aa)~~(bb) Any felony-homicide offense under §
5-10-101, § 5-10-102, or § 5-10-104 if the underlying felony is an offense
listed in this subdivision (12)(A)(i);

(ii) An attempt, solicitation, or conspiracy to
commit any of the offenses enumerated in subdivision (12)(A)(i) of this
section; ~~and~~

(iii) An adjudication of guilt for an offense of the
law of ~~another state~~ any state, the District of Columbia, and any territory
of the United States, for a federal offense, for a tribal court offense, or
for a military offense:

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

(b) When that adjudication of guilt requires
registration under another ~~state's~~ jurisdiction's sex offender registration
laws; ~~or~~ and

~~(e)~~(iv) A violation of any former law of this state
that is substantially equivalent to any of the offenses enumerated in this
subdivision (12)(A).

(B)(i) The sentencing court ~~has the authority to~~ may order
the registration of any offender shown in court to have attempted to commit
or to have committed a sex offense even though the offense is not enumerated
in subdivision (12)(A)(i) of this section.

(ii) ~~This authority~~ The authority in subdivision
(12)(B)(i) of this section applies to sex offenses enacted, renamed, or
amended at a later date by the General Assembly unless the General Assembly
expresses its intent not to consider the offense to be a true sex offense for
the purposes of this subchapter;

SECTION 8. Arkansas Code § 12-12-903(14), pertaining to the definition
of "sexually violent offense", is amended to read as follows:

(14) "Sexually violent offense" means any state, federal,
tribal, or military offense which includes a sexual act as defined in 18
U.S.C. §§ 2241 and 2242 as they existed on ~~March 1, 2003~~ January 1, 2009,
with another person if the offense is nonconsensual regardless of the age of
the victim; ~~and~~

SECTION 9. Arkansas Code § 12-12-903(15), pertaining to the definition
of "sexually violent predator", is amended to read as follows:

(15) "Sexually violent predator" means a person who has been
adjudicated guilty or acquitted of a sex offense on the grounds of mental
disease or defect ~~of a sexually violent offense~~ and who:

(A) suffers ~~suffers~~ from a mental abnormality or
personality disorder that makes the person likely to engage in acts of
predatory ~~sexually violent offenses~~ sexual violence; or

(B) Has exhibited patterns of behavior, harbors predisposing attitudes, or possesses other characteristics associated with an increased risk for engaging in sexually violent acts of a predatory nature or sexually violent acts that may result in severe injury;

SECTION 10. Arkansas Code § 12-12-903 is amended to add additional subdivisions to read as follows:

(16) "Homeless" means a sex offender or sexually violent predator who is unable to disclose:

(A) An address of any permanent residence or an address of any current temporary residence within this state or out of this state as required in § 12-12-906; or

(B) An address of any temporary residence or an anticipated address of legal residence as required in § 12-12-908; and

(17) "Screen name" means any name or identification used for accessing online computer service, Internet service, or Internet bulletin board service.

SECTION 11. Arkansas Code § 12-12-904 is amended to read as follows:

12-12-904. Failure to comply with registration and reporting requirements – Refusal to cooperate with assessment process.

(a)(1)(A) A Upon adjudication of guilt, a person is guilty of a Class C felony who:

(i) Fails to register or verify registration as required under this subchapter;

(ii) Fails to report a change of address, employment, education, or training as required under this subchapter; ~~or~~

(iii) Refuses to cooperate with the assessment process as required under this subchapter; or

(iv) Knowingly provides false or incorrect information required when verifying registration under § 12-12-906 or when registering under § 12-12-908.

(B)(i) Upon conviction, a A sex offender who has pleaded guilty or nolo contendere to or has been found guilty of a sex offense as defined by § 12-12-903 and who fails or refuses to provide any information necessary to update his or her registration file as required by § 12-12-906(b)(2) is strictly liable and is guilty of a Class C felony.

(ii) If a sex offender fails or refuses to provide any information necessary to update his or her registration file as required by § 12-12-906(b)(2), as soon as administratively feasible the Department of Correction, the Department of Community Correction, the Arkansas State Hospital, or the Department of Human Services shall contact the local law enforcement agency having jurisdiction to report the violation of subdivision (a)(1)(B)(i) of this section.

(2) It is an affirmative defense to prosecution under subdivision (a)(1) of this section if the person:

(A) Delayed reporting a change in address because of:

(i) An eviction;

(ii) A natural disaster; or

(iii) Any other unforeseen circumstance; and

(B) Provided the new address to the Arkansas Crime Information Center in writing no later than ~~five (5)~~ three (3) business days

after the person establishes residency.

(b) Any agency or official subject to reporting requirements under this subchapter that knowingly fails to comply with the reporting requirements under this subchapter is guilty of a Class B misdemeanor.

SECTION 12. Arkansas Code § 12-12-905 is amended to read as follows:
12-12-905. Applicability.

(a) The registration or registration verification requirements of this subchapter apply to a person who:

(1) Is adjudicated guilty on or after August 1, 1997, of a sex offense, aggravated sex offense, or sexually violent offense;

(2) Is serving a sentence of incarceration, probation, parole, or other form of community supervision on or after August 1, 1997, as a result of an adjudication of guilt ~~on or after August 1, 1997,~~ for a sex offense, aggravated sex offense, or sexually violent offense;

(3) Is acquitted on or after August 1, 1997, on the grounds of mental disease or defect for a sex offense, aggravated sex offense, or sexually violent offense;

(4)(A) Relocates to this state and:

(i) Is required to register as a sex offender in any jurisdiction; or

(ii) Has been adjudicated guilty or acquitted on the grounds of mental disease or defect on or after August 1, 1997, in any jurisdiction for a sex offense comparable to a sex offense subject to registration in this state; or

(iii) Was serving a commitment or a sentence of incarceration, probation, parole, or other form of community supervision on or after August 1, 1997, as a result of an adjudication of guilt or an acquittal on the grounds of mental disease or defect for a sex offense subject to registration in this state.

(B) Subdivision (a)(4)(A) of this section applies if the person is living, working, or attending school or other training in this state;

(5) Is serving a commitment as a result of an acquittal on or after August 1, 1997, on the grounds of mental disease or defect for a sex offense, aggravated sex offense, or sexually violent offense; ~~or~~

(6) Is a nonresident worker or student who entered this state and who is required to register in compliance with Pub. L. No. 109-248, as it existed on January 1, 2009;

(7) Was required to be registered under the Habitual Child Sex Offender Registration Act, former § 12-12-901 et seq.; or

(8)(A) Was adjudicated guilty of a sex offense:

(i) Under the law of Canada, the United Kingdom, Australia, or New Zealand, if it is determined that an independent judiciary generally enforced the right to a fair trial in that country during the year in which the conviction occurred; or

(ii) Was adjudicated guilty of a sex offense in a foreign country if the United States Department of State in its Country Report on Human Rights Practices concluded that an independent judiciary generally enforced the rights to a fair trial in the foreign country during the year in which the adjudication of guilt occurred.

(B) Subdivision (a)(8)(A) of this section applies if the

person is living, working, or attending school or other training in this state.

(b)(1) A juvenile required to register as a sex offender in any jurisdiction who moves to or lives in this state, if establishing residency, working, or attending school or other training, is required to register as a sex offender in this state and is subject to all requirements for registration, assessment, and community notification set forth in this subchapter.

(2) A juvenile required to register as a sex offender under subdivision (b)(1) of this section shall register with the local law enforcement agency having jurisdiction within three (3) business days of the juvenile's establishing residency, working, or attending school or other training in a municipality or county of this state.

(c) A sentencing court may waive the registration requirement of this subchapter if the offense was consensual sexual conduct and the victim was at least thirteen (13) years of age and the offender was not more than four (4) years older than the victim.

(d) A person who has been adjudicated guilty of a sex offense and whose record of conviction will be is expunged under the provisions of §§ 16-93-301 - 16-93-303 is not relieved of the duty to register or verify registration.

(e)(1) If the underlying conviction of the registrant a person required to register under this subchapter is reversed, vacated, or set aside or if the registrant person is pardoned, the registrant person is relieved from the duty to register or verify registration.

(2) Registration or registration verification shall cease under subdivision (e)(1) of this section upon the receipt and verification by the Arkansas Crime Information Center of documentation from the:

(A) Court verifying the fact that the conviction has been reversed, vacated, or set aside; or

(B) Governor's office that the Governor has pardoned the registrant person.

(f) A sex offender required to register under this subchapter shall:

(1) Submit to assessment as established by the Sex Offender Assessment Committee;

(2) Provide a deoxyribonucleic acid (DNA) sample if a DNA sample is not already accessible to the State Crime Laboratory; and

(3) Pay the mandatory fee of two hundred fifty dollars (\$250) to be deposited into the DNA Detection Fund established by § 12-12-1119.

SECTION 13. Arkansas Code § 12-12-906(a), concerning the duty of a sex offender to register and verify registration, is amended to read as follows:

(a)(1)(A)(i) At the time of adjudication of guilt or acquittal on the grounds of mental disease or defect for a sex offense, the sentencing court shall enter on the judgment and commitment or judgment and disposition form, if applicable, that the offender is required to register as a sex offender and shall indicate whether the:

(a) Offense Whether the sex offense is an aggravated sex offense;

(b) Sex Whether the sex offender has been adjudicated guilty of a prior sex offense under a separate case number; or

(c) Sex Whether the sex offender has been

classified as a sexually violent predator.

~~(ii) If the sentencing court finds the offender is required to register as a sex offender, then at~~ At the time of adjudication of guilt, the sentencing court shall require the sex offender to complete the sex offender registration form prepared by the Director of the Arkansas Crime Information Center ~~pursuant to~~ under § 12-12-908 and shall forward the completed sex offender registration form to the Arkansas Crime Information Center within three (3) business days.

(B)(i) The Department of Correction shall ensure that a sex offender received for incarceration has completed the sex offender registration form.

(ii) If the Department of Correction cannot confirm that the sex offender has completed the sex offender registration form, the Department of Correction shall require the sex offender to complete the sex offender registration form upon intake, release, or discharge.

(C)(i) The Department of Community Correction shall ensure that a sex offender placed on probation or another form of community supervision has completed the sex offender registration form.

(ii) If the Department of Community Correction cannot confirm that the sex offender has completed the sex offender registration form, the Department of Community Correction shall require the sex offender to complete the sex offender registration form upon intake, release, or discharge.

(D)(i) The Arkansas State Hospital shall ensure that the sex offender registration form has been completed for any sex offender found not guilty by reason of insanity and shall arrange an evaluation by Sex Offender Screening and Risk Assessment.

(ii) If the Arkansas State Hospital cannot confirm that the sex offender has completed the sex offender registration form, the Arkansas State Hospital shall ensure that the sex offender registration form is completed for the sex offender upon intake, release, or discharge.

~~(2)(A)~~ A sex offender moving to or returning to this state from another jurisdiction shall register with the local law enforcement agency having jurisdiction within three (3) business days after the sex offender establishes residency in a municipality or county of this state.

~~(B)(i) Any person living in this state who would be required to register as a sex offender in the jurisdiction in which he or she was adjudicated guilty of a sex offense shall register as a sex offender in this state whether living, working, or attending school or other training in Arkansas.~~

~~(ii) A nonresident worker or student who enters the state shall register in compliance with Pub. L. No. 109-248, as it existed on January 1, 2007.~~

~~(C) A sex offender sentenced and required to register outside of Arkansas shall:~~

~~(i) Submit to assessment by Sex Offender Screening and Risk Assessment;~~

~~(ii) Provide a deoxyribonucleic acid (DNA) sample if a sample is not already accessible to the State Crime Laboratory; and~~

~~(iii) Pay the mandatory fee of two hundred fifty dollars (\$250) to be deposited into the DNA Detection Fund established by § 12-12-1119.~~

SECTION 14. Arkansas Code § 12-12-906(c), concerning information provided to sex offenders during assessment, registration, and registration verification, is amended to read as follows:

(c)(1)(A) When registering a sex offender as provided in subsection (a) of this section, the sentencing court, the Department of Correction, the Department of Community Correction, the Arkansas State Hospital, the Department of Human Services, or the local law enforcement agency having jurisdiction shall:

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

(ii) Inform the sex offender that if the sex offender changes residency within the state, the sex offender shall give the new address and place of employment, education, higher education, or training to the Arkansas Crime Information Center in writing ~~no later than ten (10) days before the sex offender establishes~~ within three (3) business days of the sex offender's establishing residency or ~~is~~ being temporarily domiciled at the new address;

(iii)(a) Inform the sex offender that if the sex offender changes residency to another state or enters another state to work or attend school, the sex offender must also register in that state regardless of permanent residency.

(b) The sex offender shall register the new address and place of employment, education, higher education, or training with the center and with a designated law enforcement agency in the new state not later than three (3) business days after the sex offender establishes residence or is temporarily domiciled in the new state;

(iv) Obtain fingerprints and a photograph of the sex offender if these have not already been obtained in connection with the offense that triggered registration;

(v) Obtain a deoxyribonucleic acid (DNA) sample if ~~one~~ a DNA sample has not already been provided;

(vi) Require the sex offender to complete the entire registration process, including, but not limited to, requiring the sex offender to read and sign a form stating that the duty of the sex offender to register under this subchapter has been explained;

(vii) Inform the sex offender that if the sex offender's address changes within the state or to another state due to an eviction, natural disaster, or any other unforeseen circumstance, the sex offender shall give the new address to the center in writing no later than three (3) business days after the sex offender establishes residency;

(viii) Inform a sex offender who has been granted probation that failure to comply with the provisions of this subchapter may be grounds for revocation of the sex offender's probation; ~~and~~

(ix) Inform a sex offender subject to lifetime registration ~~under § 12-12-919~~ of the duty to:

(a) Verify registration and obtain the information required for registration verification as described in ~~subsections (g) and (h)~~ subsection (g) of this section; and

(b) Ensure that the information required for ~~reregistration~~ registration verification under ~~subsections (g) and (h)~~

subsection (g) of this section is provided to the local law enforcement agency having jurisdiction; and

(x) Inform a sex offender who is homeless of the duty to verify registration and obtain the information required for registration verification as described in subsection (h) of this section.

(B)(i) Any offender required to register as a sex offender must provide a deoxyribonucleic acid (DNA) sample, that is, a blood sample or saliva sample, upon registering if a sample has not already been provided to the State Crime Laboratory.

(ii) Any offender required to register as a sex offender who is entering the State of Arkansas must provide a deoxyribonucleic acid (DNA) sample, that is, a blood sample or saliva sample, upon registration and must pay the mandatory fee of two hundred fifty dollars (\$250) to be deposited into the DNA Detection Fund established by § 12-12-1119.

(2) When updating the registration file of a sex offender, the Department of Correction, the Department of Community Correction, the Arkansas State Hospital, or the Department of Human Services shall:

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

(B) Review with the sex offender the requirement that if the sex offender changes address within the state, the sex offender shall give the new address to the center in writing ~~no later than ten (10) days before the sex offender establishes~~ within three (3) business days of the sex offender's establishing residency or ~~is~~ being temporarily domiciled at the new address;

(C) Review with the sex offender the requirement that if the sex offender changes address to another state, the sex offender shall register the new address with the center and with a designated law enforcement agency in the new state not later than three (3) business days after the sex offender establishes residence or is temporarily domiciled in the new state if the new state has a registration requirement;

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

(E) Inform the sex offender that if the sex offender's address changes within the state or to another state due to an eviction, natural disaster, or any other unforeseen circumstance, the sex offender shall give the new address to the center in writing no later than three (3) business days after the sex offender establishes residency or is temporarily domiciled at the new address;

(F) Review with the sex offender the consequences of failure to provide any information required by subdivision (b)(2) of this section;

(G) Inform a sex offender subject to lifetime registration ~~under § 12-12-919~~ of the duty to:

(i) Verify registration and report the information required for registration verification as described in ~~subsections (g) and (h)~~ subsection (g) of this section; and

(ii) Ensure that the information required for registration verification under ~~subsections (g) and (h)~~ subsection (g) of

this section is provided to the local law enforcement agency having jurisdiction; and

(H) Review with a sex offender subject to lifetime registration ~~under § 12-12-919~~ the consequences of failure to verify registration under § 12-12-904;

(I) Inform a sex offender who is homeless of the duty to:

(i) Verify registration and report the information required for registration verification as described in subsection (h) of this section; and

(ii) Ensure that the information required for registration verification under subsection (h) of this section is provided to the local law enforcement agency having jurisdiction; and

(J) Review with a sex offender who is homeless the consequences of failure to verify registration under § 12-12-904.

SECTION 15. Arkansas Code § 12-12-906(e), concerning registration verification by a sex offender working, enrolled, or volunteering in a public school or training institution, is amended to read as follows:

(e)(1) Any sex offender working, enrolled, or volunteering in a public or private elementary school, secondary or postsecondary school, or institution of training shall notify the center of that status and shall register with the local law enforcement agency having jurisdiction over that campus.

(2)(A) The local law enforcement agency having jurisdiction shall promptly notify the institutional law enforcement office of an institution of higher education, as set forth in § 25-17-304, of the registration of a sex offender under subdivision (e)(1) of this section.

(B) If the institution of higher education does not have an institutional law enforcement office, the local law enforcement agency having jurisdiction shall promptly provide the notice described in subdivision (e)(2)(A) of this section to the president or chancellor of the institution of higher education.

SECTION 16. Arkansas Code § 12-12-906(g), concerning registration verification by a sex offender subject to lifetime registration under § 12-12-919, is amended to read as follows:

(g)(1) Except as provided in subsection (h) of this section, beginning ~~April 7, 2006~~ on the effective date of this act, a sex offender or sexually violent predator subject to lifetime registration ~~under § 12-12-919~~ shall report in person every ~~six (6)~~ three (3) months after registration to the local law enforcement agency having jurisdiction to verify registration.

(2) The local law enforcement agency having jurisdiction may determine the appropriate times and days for reporting by the sex offender or sexually violent predator, and the determination shall be consistent with the reporting requirements of subdivision (g)(1) of this section.

(3)(A) The local law enforcement agency having jurisdiction shall promptly notify the institutional law enforcement office of an institution of higher education, as set forth in § 25-17-304, that a sex offender or sexually violent predator subject to lifetime registration is residing or temporarily domiciled in the local law enforcement agency's jurisdiction and has verified his or her registration as required by subdivision (g)(1) of this section.

(B) If the institution of higher education does not have an institutional law enforcement office, the local law enforcement agency having jurisdiction shall promptly provide the notice described in subdivision (g)(3)(A) of this section to the president or chancellor of the institution of higher education.

~~(3)~~(4) Registration verification shall include reporting any change to the following information concerning the sex offender or sexually violent predator:

- (A) Name;
- (B) Social security number;
- (C) Age;
- (D) Race;
- (E) Gender;
- (F) Date of birth;
- (G) Height;
- (H) Weight;
- (I) Hair and eye color;

(J)(i)(a) Address of any permanent residence and address of any current temporary residence within this state or out of this state, including a rural route address and a post office box.

(b) If a sex offender or sexually violent predator is homeless, the information reported under subdivision (g)(4)(J)(i)(a) of this section shall include the county or counties where the sex offender or sexually violent predator was physically present for an aggregate of three (3) days or more in any month preceding registration verification.

(ii) A post office box shall not be provided in lieu of a physical residential address;

(K) Date and place of any employment;

(L) Vehicle make, model, color, and license tag number that the sex offender owns, operates, or to which he or she has access;

(M)(i) Fingerprints.

(ii) If the local law enforcement agency having jurisdiction cannot confirm that the sex offender's or sexually violent predator's fingerprints are contained in the automated fingerprint identification system, the local law enforcement agency having jurisdiction shall:

(a) Take the sex offender's or sexually violent predator's fingerprints; and

(b) Submit the fingerprints to the center and to the Department of Arkansas State Police; ~~and~~

(N)(i) Photograph.

(ii) The local law enforcement agency having jurisdiction shall take a photograph of the sex offender or sexually violent predator at each registration verification and submit the photograph to the center;

(O) All computers or other devices with Internet capability to which the sex offender or sexually violent predator has access;

(P) All email addresses; and

(Q) All screen names.

~~(4)~~(5) If the sex offender or sexually violent predator is enrolled or employed at an institution of higher education in this state, the

sex offender or sexually violent predator shall also report to the local law enforcement agency having jurisdiction:

(A) The name and address of each institution, including each campus attended;

(B) The county where each campus is located; and

(C) His or her enrollment or employment status.

~~(5)~~(6) If the place of residence of the sex offender or sexually violent predator is a motor vehicle, trailer, mobile home, modular home, or manufactured home, the sex offender or sexually violent predator shall report the following information concerning the motor vehicle, trailer, mobile home, modular home, or manufactured home:

(A) Vehicle identification number;

(B) License tag number;

(C) Registration number; and

(D) A description, including color scheme.

~~(6)~~(7) If the place of residence of the sex offender or sexually violent predator is a vessel, live-aboard vessel, or houseboat, the sex offender or sexually violent predator shall report the following information concerning the vessel, live-aboard vessel, or houseboat:

(A) Hull identification number;

(B) Manufacturer's serial number;

(C) Name;

(D) Registration number; and

(E) A description, including color scheme.

SECTION 17. Arkansas Code § 12-12-906(h), concerning registration verification by a sexually violent predator subject to lifetime registration under § 12-12-919, is amended to read as follows:

~~(h)(1) Beginning on March 21, 2007, a sexually violent predator subject to lifetime registration under § 12-12-919 shall report in person every three (3) months after registration to the local law enforcement agency having jurisdiction to verify registration.~~

~~(2) The local law enforcement agency having jurisdiction may determine the appropriate times and days for reporting by the sexually violent predator, and the determination shall be consistent with the reporting requirements of subdivision (h)(1) of this section.~~

~~(3) Registration verification shall include reporting any change to the following information concerning the sexually violent predator:~~

~~(A) Name;~~

~~(B) Social security number;~~

~~(C) Age;~~

~~(D) Race;~~

~~(E) Gender;~~

~~(F) Date of birth;~~

~~(G) Height;~~

~~(H) Weight;~~

~~(I) Hair and eye color;~~

~~(J)(i) Address of any permanent residence and address of any current temporary residence within this state or out of this state, including a rural route address and a post office box.~~

~~(ii) A post office box shall not be provided in lieu of a physical residential address;~~

~~(K) Date and place of any employment;~~
~~(L) Vehicle make, model, color, and license tag number that the sexually violent predator owns, operates, or to which he or she has access;~~

~~(M)(i) Fingerprints.~~

~~(ii) If the local law enforcement agency having jurisdiction cannot confirm that the sexually violent predator's fingerprints are contained in the automated fingerprint identification system, the local law enforcement agency having jurisdiction shall:~~

~~(a) Take the sexually violent predator's fingerprints; and~~

~~(b) Submit the fingerprints to the center and to the Department of Arkansas State Police; and~~

~~(N)(i) Photograph.~~

~~(ii) The local law enforcement agency having jurisdiction shall take a photograph of the sexually violent predator at each registration verification and submit the photograph to the center.~~

~~(4) If the sexually violent predator is enrolled or employed at an institution of higher education in this state, the sexually violent predator shall also report to the local law enforcement agency having jurisdiction:~~

~~(A) The name and address of each institution, including each campus attended;~~

~~(B) The county where each campus is located; and~~

~~(C) His or her enrollment or employment status.~~

~~(5) If the place of residence of the sexually violent predator is a motor vehicle, trailer, mobile home, modular home, or manufactured home, the sexually violent predator shall report the following information concerning the motor vehicle, trailer, mobile home, modular home, or manufactured home:~~

~~(A) Vehicle identification number;~~

~~(B) License tag number;~~

~~(C) Registration number; and~~

~~(D) A description, including color scheme.~~

~~(6) If the place of residence of the sexually violent predator is a vessel, live-aboard vessel, or houseboat, the sexually violent predator shall report the following information concerning the vessel, live-aboard vessel, or houseboat:~~

~~(A) Hull identification number;~~

~~(B) Manufacturer's serial number;~~

~~(C) Name;~~

~~(D) Registration number; and~~

~~(E) A description, including color scheme.~~

(h)(1) Beginning on the effective date of this act, a sex offender or sexually violent predator who is homeless shall report in person every month after registration to any local law enforcement agency having jurisdiction to verify registration.

(2) A local law enforcement agency having jurisdiction may determine the appropriate times and days for reporting by the homeless sex offender or sexually violent predator, and the determination shall be consistent with the reporting requirements of subdivision (h)(1) of this section.

(3)(A) The local law enforcement agency having jurisdiction shall promptly notify the institutional law enforcement office of an institution of higher education, as set forth in § 25-17-304, that a homeless sex offender or sexually violent predator subject to lifetime registration residing or temporarily domiciled in the local law enforcement agency's jurisdiction has verified his or her registration.

(B) If the institution of higher education does not have an institutional law enforcement office, the local law enforcement agency having jurisdiction shall promptly provide the notice described in subdivision (h)(3)(A) of this section to the president or chancellor of the institution of higher education.

(4) Registration verification shall include reporting any change to the following information concerning the homeless sex offender or sexually violent predator:

(A) Name;

(B) Social security number;

(C) Age;

(D) Race;

(E) Gender;

(F) Date of birth;

(G) Height;

(H) Weight;

(I) Hair and eye color;

(J) The county or counties where the homeless sex offender or sexually violent predator was physically present for an aggregate of three (3) days or more in any month preceding registration verification;

(K) Date and place of any employment;

(L) Vehicle make, model, color, and license tag number that the homeless sex offender or sexually violent predator owns, operates, or to which he or she has access;

(M)(i) Fingerprints.

(ii) If a local law enforcement agency having jurisdiction cannot confirm that the fingerprints of the homeless sex offender or sexually violent predator are contained in the automated fingerprint identification system, the local law enforcement agency having jurisdiction shall:

(a) Take the fingerprints of the homeless sex offender or sexually violent predator; and

(b) Submit the fingerprints of the homeless sex offender or sexually violent predator to the center and to the Department of Arkansas State Police;

(N)(i) Photograph.

(ii) A local law enforcement agency having jurisdiction shall take a photograph of the homeless sex offender or sexually violent predator at each registration verification and submit the photograph to the center;

(O) All computers or other devices with Internet capability to which the homeless sex offender or sexually violent predator has access;

(P) All email addresses; and

(Q) All screen names.

(5) If the homeless sex offender or sexually violent predator is

enrolled or employed at an institution of higher education in this state, the homeless sex offender or sexually violent predator shall also report to the local law enforcement agency having jurisdiction:

(A) The name and address of each institution, including each campus attended;

(B) The county where each campus is located; and

(C) His or her enrollment or employment status.

(6) If the homeless sex offender or sexually violent predator owns a motor vehicle, the homeless sex offender or sexually violent predator shall report the following information concerning the motor vehicle:

(A) Vehicle identification number;

(B) License tag number;

(C) Registration number; and

(D) A description, including color scheme.

(7) If the homeless sex offender or sexually violent predator owns a vessel, live-aboard vessel, or houseboat, the homeless sex offender or sexually violent predator shall report the following information concerning the vessel, live-aboard vessel, or houseboat:

(A) Hull identification number;

(B) Manufacturer's serial number;

(C) Name;

(D) Registration number; and

(E) A description, including color scheme.

SECTION 18. Arkansas Code § 12-12-906(i), concerning the reporting of information obtained when verifying the registration of a sex offender or sexually violent predator, is amended to read as follows:

(i) Within three (3) days after verifying the registration of a sex offender or sexually violent predator under subsection (g) subsection (g) or (h) of this section ~~or a sexually violent predator under subsection (h) of this section~~, the local law enforcement agency having jurisdiction shall report by written or electronic means all information obtained from or provided by the sex offender or sexually violent predator to the center.

SECTION 19. Arkansas Code § 12-12-908 is amended to read as follows:
12-12-908. Registration format – Requirements.

(a) The Director of the Arkansas Crime Information Center shall prepare the format for registration as required in subsection (b) of this section and shall provide instructions for registration to each organized full-time municipal police department, county sheriff's office, the Department of Correction, the Department of Community Correction, the Department of Human Services, and the Administrative Office of the Courts.

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

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

(2) Date of birth;

(3) ~~Sex~~ Gender;

(4) Race;

(5) Height;

(6) Weight;

(7) Hair and eye color;

(8) (A) Address of any temporary residence~~+~~.

(B) If a sex offender or a sexually violent predator is homeless, the registration file required by this subchapter shall include the county or counties where the sex offender or sexually violent predator was physically present for an aggregate of three (3) days or more in the month preceding registration;

- (9) ~~Anticipated~~ Address of legal primary residence;
- (10) Driver's license number or state identification number, if available;
- (11) Social security number;
- (12) Place of employment, education, or training;
- (13) Current photograph, ~~if not already obtained~~;
- (14) Fingerprints, if not already obtained;
- (15) Date of arrest, arresting agency, offense for which convicted or acquitted, and arrest tracking number for each adjudication of guilt or acquittal on the grounds of mental disease or defect;
- (16) A brief description of the ~~crime or crimes~~ offenses for which registration is required;
- (17) The registration status of the offender as a sexually violent predator, aggravated sex offender, or sex offender;
- (18) A statement in writing signed by the offender acknowledging that the offender has been advised of the duty to register imposed by this subchapter; ~~and~~
- (19) All computers or other devices with Internet capability to which the offender has access;
- (20) All email addresses;
- (21) All screen names;
- (22) Telephone numbers, including fixed location phones and cellular or mobile phones;
- (23) Travel and immigration documents, including passports or other documents establishing immigration status;
- (24) Professional licenses or other licenses necessary for the sex offender to carry out a trade or business;
- (25) Confirmation that a deoxyribonucleic (DNA) sample of the sex offender has been taken and analyzed and that the resulting profile is entered into the Combined DNA Index System (CODIS);
- (26) The criminal history of the sex offender, including:
 - (A) The date of all arrests and convictions;
 - (B) The status of parole, probation, or supervised release;
 - (C) The sex offender's registration status; and
 - (D) The existence of any outstanding arrest warrants for the sex offender;
- (27) The license plate number or identification number and description of any vehicle owned or operated by the sex offender for personal use or for work, including watercraft and aircraft; and
- (28) Any other information that the ~~center~~ Arkansas Crime Information Center deems necessary, including, ~~but not limited to~~ without limitation:
 - (A) Criminal and corrections records;
 - (B) Nonprivileged personnel records;
 - (C) Treatment and abuse registry records; and
 - (D) Evidentiary genetic markers.

~~(c)(1) Certain information such as A sex offender's social security number, driver's license number, information concerning arrests not resulting in conviction, travel and immigration document numbers, employer, information that may lead to identification of the victim, and the identity of a victim of a sex offense committed by a sex offender the like may shall be excluded from the information that is released during the course of notification.~~

(2) The name of a sex offender's employer or the name of the educational institution he or she is currently attending may be excluded from the information that is released during the course of notification.

SECTION 20. Arkansas Code § 12-12-909 is amended to read as follows:
12-12-909. Verification form – Change of address.

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

(i) The Arkansas Crime Information Center shall mail a nonforwardable verification form to the last reported address of the person by certified mail;

(ii)(a) The person shall return the verification form in person to the local law enforcement agency having jurisdiction within ~~ten (10)~~ three (3) business days after receipt of the form.

(b) Within three (3) days after receipt of the form, the local law enforcement agency having jurisdiction shall forward the form to the center;

(iii) The verification form shall be signed by the person and state that the person still resides at the address last reported to the center; and

(iv) If the person fails to return the verification form to the local law enforcement agency having jurisdiction within ~~ten (10)~~ three (3) business days after receipt of the form, the person shall be in violation of this subchapter.

(B) ~~Should~~ If the sex offender or sexually violent predator ~~change~~ changes address without notice or ~~fail~~ fails to return the verification of residence, notification will be sent to law enforcement and supervising parole or probation authority, and notice may be posted on the Internet until proper reporting is again established or the person is incarcerated.

(2) The provisions of subdivision (a)(1) of this section shall be applied to a person assessed as a Level 4 offender by the Sex Offender Assessment Committee or a person required to register as a sexually violent predator, except that the person must verify the registration every ~~ninety (90) days~~ three (3) months after the date of the initial release or commencement of parole.

(b)(1) Before a change of address within the state, a sex offender shall report the change of address to the center no later than ~~ten (10) days before~~ three (3) business days after the offender establishes residency or is temporarily domiciled at the new address.

(2) When a change of address within the state is reported to the center, the center shall immediately report the change of address to the local law enforcement agency having jurisdiction where the sex offender expects to reside.

(c)(1) Before a change of address to another state, ~~an~~ a sex offender

shall register the new address with the center and with a designated law enforcement agency in the state to which the ~~person~~ sex offender moves not later than ~~ten (10) days before~~ three (3) business days after ~~such person~~ the sex offender establishes residence or is temporarily domiciled in the new state if the new state has a registration requirement.

(2) When a change of address to another state is reported to the center, the center shall immediately notify the law enforcement agency with which the sex offender must register in the new state if the new state has a registration requirement.

(d) The center may require ~~an~~ a sex offender to report a change of address through the local law enforcement agency having jurisdiction.

SECTION 21. Arkansas Code § 12-12-911 is repealed:

~~12-12-911. Sex and Child Offenders Registration Fund.~~

~~(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Sex and Child Offenders Registration Fund".~~

~~(b)(1) This fund shall consist of special revenues collected pursuant to § 12-12-910, there to be used equally by the Arkansas Crime Information Center and the Department of Correction for the administration of this subchapter.~~

~~(2) Any unexpended balance of this fund shall be carried forward and made available for the same purpose.~~

SECTION 22. Arkansas Code § 12-12-913 is amended to read as follows:
12-12-913. Disclosure.

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

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

(b) In accordance with guidelines promulgated by the Sex Offender Assessment Committee, local law enforcement agencies having jurisdiction shall disclose relevant and necessary information regarding sex offenders to the public when the disclosure of such information is necessary for public protection.

(c)(1)(A) The Sex Offender Assessment Committee shall promulgate guidelines and procedures for the disclosure of relevant and necessary information regarding sex offenders to the public by a local law enforcement agency having jurisdiction when the release of the information is necessary for public protection.

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

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

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

- (i) Level of the sex offender's dangerousness;
- (ii) Sex offender's pattern of offending behavior;

and

(iii) Need of community members for information to enhance their individual and collective safety.

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

(d)(1) A local law enforcement agency having jurisdiction that decides to disclose information ~~pursuant to~~ under this section shall make a good faith effort to notify the public and residents at least fourteen (14) days before a sex offender is released or placed into the community.

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

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

(e)(1) A local law enforcement agency having jurisdiction that decides to disclose information under this section shall make a good faith effort to conceal the identity of the victim or victims of the sex offender's offense.

(2) Except as provided in subsection (j) of this section, information under this section is not subject to disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(f) A local law enforcement agency having jurisdiction may continue to disclose information on a sex offender under this section for as long as the sex offender is required to be registered under this subchapter.

(g)(1) The State Board of Education and the State Board of Workforce Education and Career Opportunities shall promulgate guidelines for the disclosure to students and parents of information regarding a sex offender when such information is released to a local school district or institution of vocational training by a local law enforcement agency having jurisdiction.

(2) The Arkansas Higher Education Coordinating Board shall promulgate guidelines for the disclosure to students of information regarding a sex offender when information regarding a sex offender is released to an institution of higher education by a local law enforcement agency having jurisdiction.

(3) In accordance with guidelines promulgated by the State Board of Education, the board of directors of a local school district or institution of vocational training shall adopt a written policy regarding the distribution to students and parents of information regarding a sex offender.

(4) In accordance with guidelines promulgated by the Arkansas Higher Education Coordinating Board, the board of directors of an institution of higher education shall adopt a written policy regarding the distribution to students of information regarding a sex offender.

(h) Nothing in this section shall prevent a law enforcement officer

from notifying members of the public about a person who may pose a danger to the public for a reason that is not enumerated in this subchapter.

(i) The medical records or treatment evaluations of a sex offender or sexually violent predator are not subject to disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(j)(1)(A) The following information concerning a registered sex offender who is classified as a ~~level~~ Level 3 or ~~level~~ Level 4 offender by the Sex Offender Screening and Risk Assessment shall be made public:

(i) The sex offender's complete name, as well as any alias;

(ii) The sex offender's date of birth;

(iii) Any sex offense to which the sex offender has pleaded guilty or nolo contendere or of which the sex offender has been found guilty by a court of competent jurisdiction;

(iv) The ~~street name and block number, county, city, and zip code~~ address of each residence where the sex offender resides or will reside, including specific information about where the sex offender habitually lives;

(v) The sex offender's race, ~~and~~ gender, and a physical description of the sex offender;

(vi) The date of the last address verification of the sex offender provided to the Arkansas Crime Information Center;

(vii) The most recent photograph of the sex offender that has been submitted to the center; ~~and~~

(viii) The sex offender's parole or probation office;

(ix) The address of any place where the sex offender is a student; and

(x) The license plate number and a description of any vehicle owned or operated by the sex offender.

(B) If a registered sex offender was eighteen (18) years of age or older at time of the commission of the sex offense that required registration under this subchapter and the victim of the sex offense was fourteen (14) years of age or younger and the registered sex offender is classified as a level 2 offender by the Sex Offender Screening and Risk Assessment, the following information concerning the registered sex offender shall be made public:

(i) The registered sex offender's complete name, as well as any alias;

(ii) The registered sex offender's date of birth;

(iii) Any sex offense to which the registered sex offender has pleaded guilty or nolo contendere or of which the registered sex offender has been found guilty by a court of competent jurisdiction;

(iv) The street name and block number, county, city, and zip code where the registered sex offender resides;

(v) The registered sex offender's race and gender;

(vi) The date of the last address verification of the registered sex offender provided to the center;

(vii) The most recent photograph of the registered sex offender that has been submitted to the center; and

(viii) The registered sex offender's parole or probation office.

(C)(i) The center shall prepare and place the information described in subdivisions (j)(1)(A) and (B) of this section on the Internet home page of the State of Arkansas, specifically the sex offender registry maintained by the Arkansas Crime Information Center.

(ii) The center may establish within the public website the ability of the public to enter a telephone number or address to determine if either has been registered by a sex offender. shall begin placing the information described in subdivision (j)(1)(B) of this section on the Internet home page of the State of Arkansas on or before January 1, 2008, if administratively feasible, but under no circumstance later than March 1, 2008.

(2) The center may promulgate any rules necessary to implement and administer this subsection.

(k) Nothing in this subchapter shall be interpreted to prohibit the posting on the Internet or by other appropriate means of offender fact sheets for those sex offenders who are determined to be:

(1) High-risk or sexually violent predators, risk level 3 and level 4; or

(2) In noncompliance with the requirements of registration under rules and regulations promulgated by the Sex Offender Assessment Committee.

(1)(1) A local law enforcement agency having jurisdiction may post an informational flyer or a sex offender fact sheet on a public display board at any public library within its jurisdiction regarding a sex offender who:

(A) Was eighteen (18) years of age or older at the time of the commission of the sex offense that required registration under this subchapter and the victim of the sex offense was a minor; and

(B) Is restricted from using a computer, email, a chat room, or the Internet as a condition of his or her parole or probation.

(2) A public library without a public display board large enough to post all informational flyers or sex offender fact sheets described in subdivision (1)(1) of this section may request that a local law enforcement agency having jurisdiction post a notice on the public library's public display board advising the public that the informational flyers or sex offender fact sheets described in subdivision (1)(1) of this section are available to the public upon request to any member of the staff of the public library.

(3) As used in subdivisions (1)(1) and (2) of this section, "public library" means the same as defined in § 14-1-302.

SECTION 23. Arkansas Code § 12-12-917(b), pertaining to procedures for assessments of sex offenders or sexually violent predators, is amended to read as follows:

(b)(1) The committee shall cause an assessment to be conducted on a case-by-case basis of the public risk posed by a sex offender or sexually violent predator:

(A) Who is required to register under § 12-12-905 after August 1, 1997; and

(B) For whom the Arkansas Crime Information Center has no record of an assessment's being done and a risk level established subsequent to August 1, 1997.

(2)(A)(i) An adult offender convicted of an offense described in 42 U.S.C. § 14071 et seq., as it existed on March 1, 2003, Pub. L. No. 109-

248, as it existed on January 1, 2007, or § 12-12-903(12) shall be assessed.

(ii)(a) Subject to subdivision (c)(1) of this section, the prosecuting attorney and any law enforcement agency shall furnish the file relating to the sex offender to Sex Offender Screening and Risk Assessment at the Department of Correction within thirty (30) days of ~~an~~ a offender's adjudication of guilt.

(b)(1) The prosecuting attorney shall make a copy of any relevant records concerning the sex offender and shall forward the copied relevant records to Sex Offender Screening and Risk Assessment within thirty (30) days of the adjudication.

(2) The relevant records include, ~~but~~ are not limited to without limitation:

- (A) Arrest reports;
 - (B) Incident reports;
 - (C) Offender statements;
 - (D) Judgment and disposition
- forms;
- (E) Medical records;
 - (F) Witness statements; ~~and~~
 - (G) Any record considered relevant
- by the prosecuting attorney; and
- (H) Sealed or expunged records.

(B) A sex offender sentenced to life, life without parole, or death shall be assessed only if the sex offender is being considered for release.

(3) A sex offender currently in the state who has not been assessed and classified shall be identified by the center.

(4)(A) If a sex offender fails to appear for assessment, is aggressive, threatening, or disruptive to the point that Sex Offender Screening and Risk Assessment staff cannot proceed with the assessment process, or voluntarily terminates the assessment process after having been advised of the potential consequences:

(i) The sex offender shall be classified as a risk level 3 or referred to the Sex Offender Assessment Committee as a risk ~~level~~ Level 4; and

(ii) The parole or probation officer, if applicable, shall be notified.

(B) A sex offender has immunity for a statement made by him or her in the course of assessment with respect to prior conduct under the immunity provisions of § 16-43-601 et seq.

(C) Assessment personnel shall report ongoing child maltreatment as required under the Arkansas Child Maltreatment Act, § 12-12-501 et seq.

SECTION 24. Arkansas Code § 12-12-917(c), pertaining to procedures for assessments of sex offenders or sexually violent predators, is amended to read as follows:

(c)(1) To the extent permissible and under the procedures established by state and federal regulations, public agencies shall provide the committee access to all relevant records and information in the possession of public agencies or any private entity contracting with a public agency relating to the sex offender or sexually violent predator under review.

(2) The records and information include, ~~but are not limited to~~ without limitation:

- (A) Police reports;
- (B) Statements of probable cause;
- (C) Presentence investigations and reports;
- (D) Complete judgments and sentences;
- (E) Current classification referrals;
- (F) Criminal history summaries;
- (G) Violation and disciplinary reports;
- (H) All psychological evaluations and psychiatric hospital reports;
- (I) Sex offender or sexually violent predator treatment program reports;
- (J) Juvenile court records;
- (K) Victim impact statements;
- (L) Investigation reports to the child abuse hotline, the Division of Children and Family Services of the Department of Human Services, and any entity contracting with the Department of Human Services for investigation or treatment of sexual or physical abuse or domestic violence; ~~and~~
- (M) Statements of medical providers treating victims of sex offenses indicating the extent of injury to the victim; and
- (N) Sealed or expunged records.

SECTION 25. Arkansas Code § 12-12-918(a)(1), concerning the classification of a sex offender as a sexually violent predator, is amended to read as follows:

(a)(1) ~~In order to classify a person~~ As an alternative to the classification of a person as a sexually violent predator by the Sex Offender Assessment Committee under § 12-12-922, a prosecutor may allege on the face of an information or an indictment that the prosecutor is seeking a determination that the defendant is a sexually violent predator.

SECTION 26. Arkansas Code § 12-12-919 is amended to read as follows:
12-12-919. Termination of obligation to register.

(a) Lifetime registration is required for a sex offender:

- (1) Found to have committed an aggravated sex offense;
- (2) Determined by the court or by assessment of the Sex Offender Assessment Committee to be a sexually violent predator; ~~or~~
- (3) Found to have been adjudicated guilty of a second or subsequent sex offense under a separate case number, not multiple counts on the same charge.

(b)(1)(A)(i) ~~Any other~~ A sex offender, required to register registered under this subchapter and may make application who has not been determined to be a sexually violent predator by a court or assessed as a Level 4 offender by the Sex Offender Assessment Committee may file a petition in the sentencing court for an order terminating the obligation to register to the sentencing court fifteen (15) years after ~~release from incarceration or other institution~~ the date the sex offender first registers as required under this subchapter or fifteen (15) years after having been placed on probation or any other form of community supervision by the court.

(ii) A sex offender sentenced in another state but

permanently residing in Arkansas may make an application for an order terminating the obligation to register to the circuit court of the county in which the sex offender resides.

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

(ii) No ~~fewer~~ less than twenty (20) days prior to the date of the hearing on the application, a copy of the application for termination of the obligation to register shall be served on the ~~prosecutor~~ prosecuting attorney of the county in which the adjudication of guilt triggering registration was obtained, as well as the prosecuting attorney of the county where the petition to terminate the requirement to register is filed, if different from the original adjudicating county.

(2) Time spent incarcerated is excluded in the computation of the fifteen (15) years under subdivision (b)(1)(A)(i) of this section.

~~(2)(3)~~ (3) The circuit court ~~shall~~ may grant an order terminating the obligation to register upon proof by a preponderance of the evidence that:

(A) ~~The applicant placed on parole, supervised release, or probation has not been adjudicated guilty of a sex offense for a period of fifteen (15) years after the applicant was released from prison or other institution; and~~ The petitioner:

(i) Has not been adjudicated guilty of a sex offense for a period of fifteen (15) years after:

(a) The petitioner was released from prison or other institution; or

(b) The date of sentencing if the petitioner was not sentenced to a period of incarceration; and

(ii) Meets the following conditions for the reduction of the registration period:

(a) Has not been convicted for any offense for which imprisonment of more than one (1) year may be imposed since the adjudication of delinquency;

(b) Has not been convicted for any sex offense since the adjudication of delinquency;

(c) Successfully completed any periods of supervised release, probation, or parole without any revocations; and

(d) Successfully completed a sex offender treatment program;

(B) ~~The applicant~~ petitioner is not likely to pose a threat to the safety of others-;

(C) The petitioner has not been determined by a court to be a sexually violent predator or has not been assessed by the Sex Offender Assessment Committee as a Level 4 offender; and

(D) If originally convicted in another state for a sex offense, the petitioner is no longer required to register as a sex offender in the other state.

SECTION 27. Arkansas Code Title 12, Chapter 12, Subchapter 9 is amended to add an additional section to read as follows:

12-12-924. Fees.

(a)(1) Except as provided in subsection (b) of this section, a sex

offender required to register under this subchapter at the time of his or her initial registration shall pay a registration fee of two hundred fifty dollars (\$250) to the entity that performs the initial registration for deposit into the Sex and Child Offenders Registration Fund.

(2) The registration fee described in subdivision (a)(1) of this section may be collected from the sex offender:

(A) In addition to any other fine or fee collected from or to be collected from the sex offender; and

(B) Whether the sex offender is a resident, nonresident, or moving to or returning to this state from another jurisdiction.

(3) The registration fee collected under subdivision (a)(1) of this section shall be remitted by the tenth day of each month to the Administration of Justice Fund Section of the Office of Administrative Services of the Department of Finance and Administration along with a form provided by that office for deposit into the Sex and Child Offenders Registration Fund.

(b)(1) If the initial registration of a sex offender is being performed by the sentencing court, the registration fee described in subdivision (a)(1) of this section may be waived upon a finding that undue hardship would result.

(2)(A) If the initial registration of a sex offender is being performed by the Department of Correction, the Department of Community Correction, the Arkansas State Hospital, the Department of Human Services, or the local law enforcement agency having jurisdiction, the registration fee described in subdivision (a)(1) of this section may be waived if a sex offender claims that he or she is indigent.

(B)(i) A sex offender who claims to be indigent shall provide a completed certificate of indigency to the registering entity.

(ii) The certificate of indigency shall:

(a) Be in a form approved by the registering entity;

(b) Be executed under oath by the sex offender; and

(c) State in bold print that a false statement is punishable as a Class D felony.

(c)(1)(A) A city or a county with any registered sex offenders residing within its jurisdiction by ordinance may establish a sex offender management fee for the purpose of reducing the financial burden caused by sex offender registration and management.

(B) The sex offender management fee described in subdivision (c)(1)(A) of this section:

(i) May be collected from a sex offender in addition to any other fine or fee collected from or to be collected from the sex offender; and

(ii) Shall not exceed the amount of fifty dollars (\$50.00) per year.

(2) A city ordinance or a county ordinance authorized by subdivision (c)(1) of this section shall include an exemption in a substantially similar form to subdivision (b)(2)(B) of this section for an indigent sex offender.

SECTION 28. Arkansas Code § 16-93-206 is amended to read as follows:

16-93-206. Board procedures.

(a)(1) For those persons eligible for parole, the Parole Board shall retain the power to determine which persons shall be placed on parole and to fix the time and conditions of the parole.

(2) The Parole Board shall conduct open meetings and shall make public its findings for each eligible candidate for parole.

(3) Inmate interviews may be closed to the public.

(4) The Parole Board retains the right to formulate all policies, rules, and regulations regarding parole, including amendments to those previously formulated by the former State Board of Parole and Community Rehabilitation.

(b)(1)(A) For persons who on or after January 1, 1994, commit felonies under the provisions of a transfer date, except those enumerated in subdivision (c)(1) of this section, the Department of Correction will transfer inmates to the Department of Community Correction subject to rules and regulations promulgated by the Board of Corrections and conditions set by the Parole Board.

(B) The conditions under which transfer shall occur include, but are not limited to:

- (i) Level of supervision;
- (ii) Economic fee sanction;
- (iii) Treatment program; and
- (iv) Other conditions relevant to the individual

under review.

(C) This review may be conducted without a hearing when:

- (i) The inmate has not received a major disciplinary report against him or her that resulted in the loss of good time;
- (ii) There has not been a request by a victim to have input on transfer conditions; and
- (iii) There is no indication in the risk needs assessment review that special conditions need to be placed on the inmate.

(2)(A) When one (1) or more of the circumstances in subdivision (b)(1) of this section are present, the Parole Board shall conduct a hearing to determine the appropriateness of the inmate for transfer.

(B) The Parole Board has two (2) options:

(i) To transfer the individual to the Department of Community Correction accompanied by conditions of the transfer, ~~including, but not limited to~~ including without limitation, supervision levels, programming requirements, and facility placement when appropriate; or

(ii)(a) To deny the transfer based on a set of established criteria and to accompany the denial with a course of action to be undertaken by the inmate to rectify the ~~board's~~ Parole Board's concerns.

(b) Upon completion of the course of action determined by the Parole Board, after final review of the inmate's file to ensure successful completion, the Parole Board shall authorize the inmate's transfer to the Department of Community Correction in accordance with administrative policies and procedures governing a transfer and subject to conditions attached to the transfer.

(3) Should an inmate fail to fulfill the course of action outlined by the Parole Board to facilitate transfer to the Department of Community Correction, it shall be the responsibility of the inmate to petition the Parole Board for rehearing.

(4)(A) The course of action required by the Parole Board shall not be outside the current resources of the Department of Correction, nor shall conditions set be outside the current resources of the Department of Community Correction.

(B) However, the Department of Correction and the Department of Community Correction shall strive to accommodate the actions required by the Parole Board to the best of ~~their ability~~ the respective departments' abilities.

(c)(1) A person who commits the following felonies on or after January 1, 1994, shall be eligible to be considered for discretionary transfer to the Department of Community Correction by the Parole Board after having served one-third (1/3) or one-half (1/2) of his or her sentence, with credit for meritorious good time, depending on the seriousness determination made by the Arkansas Sentencing Commission, or one-half (1/2) of the time to which his or her sentence is commuted by executive clemency, with credit for meritorious good time:

- (A) Any homicide, §§ 5-10-101 – 5-10-105;
- (B) Sexual assault in the first degree, § 5-14-124;
- (C) Sexual assault in the second degree, § 5-14-125;
- (D) Battery in the first degree, § 5-13-201;
- (E) Domestic battering in the first degree, § 5-26-303; ~~or~~
- (F) The following Class Y felonies:
 - (i) Kidnapping, § 5-11-102;
 - (ii) Rape, § 5-14-103;
 - (iii) Aggravated robbery, § 5-12-103; or
 - (iv) Causing a catastrophe, § 5-38-202(a);
- (G) Engaging in a continuing criminal enterprise, § 5-64-

405; or

106.

- (H) Simultaneous possession of drugs and firearms, § 5-74-

(2)(A) The transfer of an offender convicted of an ~~above-listed~~ offense listed in subdivision (c)(1) of this section is not automatic.

(B) The Parole Board ~~will have the authority to~~ may transfer such an inmate at a time when, based on a combination of its opinion and appropriate assessment by a risk needs assessment tool, there is reasonable probability that the inmate can be released without detriment to the community or the inmate.

(C) After the Parole Board has fully considered and denied the transfer of an offender sentenced for committing an offense listed in subdivision (c)(1) of this section, the Parole Board may delay any reconsideration of the transfer for a maximum period of two (2) years.

(3) Notification of the court, prosecutor, sheriff, and the victim or the victim's next of kin shall follow the procedures set forth below:

(A)(i) Before the Parole Board shall grant any transfer, the Parole Board shall solicit the written or oral recommendations of the committing court, the prosecuting attorney, and the sheriff of the county from which the inmate was committed.

(ii) If the person whose transfer is being considered by the Parole Board was convicted of one (1) of the Class Y felonies enumerated in subdivision (c)(1) of this section, the Parole Board shall also notify the victim of the crime or ~~the victim's~~ his or her next of

kin of the transfer hearing and shall solicit written or oral recommendations of the victim or his or her next of kin regarding the granting of the transfer unless the prosecuting attorney has notified the Parole Board at the time of commitment of the prisoner that the victim or his or her next of kin does not want to be notified of future transfer hearings.

(iii) The recommendations shall not be binding upon the Parole Board in the granting of any transfer but shall be maintained in the inmate's file.

(iv) When soliciting recommendations from a victim of a crime, the Parole Board shall notify the victim or his or her next of kin of the date, time, and place of the transfer hearing;

(B)(i) The Parole Board shall not schedule transfer hearings at which victims or relatives of victims of crimes are invited to appear at a facility ~~wherein where~~ inmates are housed ~~other than the central administration building of the Department of Correction at Pine Bluff.~~

(ii) Nothing ~~herein in this section~~ shall be construed as prohibiting the Parole Board from conducting transfer hearings in two (2) sessions, one (1) at the place of the inmate's incarceration for interviews with the inmate, the inmate's witnesses, and correctional personnel, and the second session for victims and relatives of victims as set out in subdivision (c)(3)(B)(i) of this section;

(C)(i) At the time that any person eligible under subdivision (c)(1) of this section is transferred by the Parole Board, the Department of Community Correction shall give written notice of the granting of the transfer to the sheriff, the committing court, and the chief of police of each city of the first class of the county from which the person was sentenced.

(ii) If the person is transferred to a county other than that from which he or she was committed, the Parole Board shall give notice to the chief of police or marshal of the city to which he or she is transferred, to the chief of police of each city of the first class and the sheriff of the county to which he or she is transferred, and to the sheriff of the county from which the person was committed; and

(D)(i) It shall be the responsibility of the prosecuting attorney of the county from which the inmate was committed to notify the Parole Board at the time of commitment of the desire of the victim or his or her next of kin to be notified of any future transfer hearings and to forward to the Parole Board the last known address and telephone number of the victim or his or her next of kin.

(ii) It shall be the responsibility of the victim or his or her next of kin to notify the Parole Board of any change in address or telephone number.

(iii) It shall be the responsibility of the victim or his or her next of kin to notify the Parole Board after the date of commitment of any change in regard to the desire to be notified of any future transfer hearings.

(d)(1) In all other felonies, before the Parole Board sets conditions for transfer of an inmate to ~~community punishment~~ correction, a victim or his or her next of kin in cases in which the victim is unable to express his or her wishes, who have expressed the wish to be consulted by the Parole Board shall be notified of the date, time, and place of the transfer hearing.

(2)(A) A victim or his or her next of kin who wishes to be

consulted by the Parole Board shall inform the Parole Board in writing at the time of sentencing.

(B) A victim or his or her next of kin who does not so inform the Parole Board shall not be notified by the Parole Board.

(3)(A) Victim input to the Parole Board shall be limited to oral or written recommendations on conditions relevant to the offender under review for transfer.

(B) The recommendations shall not be binding on the Parole Board, but shall be given due consideration within the resources available for transfer.

(e)(1)(A) The Parole Board shall approve a set of conditions that shall be applicable to all inmates transferred from the Department of Correction to the Department of Community Correction.

(B) Conditions reasonably related to the rehabilitation of an inmate who has pleaded guilty or nolo contendere to or has been found guilty of a sex offense as defined by § 12-12-903, if the trier of fact made a finding that a computer or any device with Internet capability was used by the inmate to facilitate the commission of the sex offense, may include the following Internet access conditions for a period of time not to exceed the maximum term of imprisonment authorized for the underlying sex offense:

(i) Prohibiting the inmate from accessing or using a computer or any other device with Internet capability without the prior written approval of the inmate's parole officer;

(ii)(a) Requiring the inmate to submit to unannounced examinations of the inmate's computer or any other device with Internet capability by a probation officer, parole officer, law enforcement officer, or assigned computer specialist or information technology specialist, including the retrieval and copying of all data from the computer or device and any internal peripherals or external peripherals and removal of any information, equipment, or device to conduct a more thorough inspection.

(b)(1) An inmate who knowingly uses any form of encryption, cryptography, steganography, compression, password-protected files, or other method to impede or hinder an unannounced examination described in subdivision (e)(1)(B)(ii)(a) of this section upon conviction is guilty of a Class C felony.

(2) An inmate who knowingly directs another person to install any device or alter the inmate's computer in any manner in order to allow the inmate to use any form of encryption, cryptography, steganography, compression, password-protected files, or other method to impede or hinder an examination described in subdivision (e)(1)(B)(ii)(a) of this section upon conviction is guilty of a Class C felony;

(iii)(a) Requiring the inmate to submit to the installation on the inmate's computer or device with Internet capability, at the inmate's expense, one (1) or more hardware systems or software systems to monitor Internet use.

(b)(1) An inmate who knowingly alters, tampers with, damages, or destroys a hardware system or software system described in subdivision (e)(1)(B)(iii)(a) of this section upon conviction is guilty of a Class C felony.

(2) An inmate who knowingly directs another person to alter, tamper with, damage, or destroy a hardware system or

software system described in subdivision (e)(1)(B)(iii)(a) of this section is upon conviction guilty of a Class C felony; and

(iv) Requiring the inmate to submit to any other appropriate restrictions concerning the inmate's use or access of a computer or any other device with Internet capability.

(2) The set of conditions is subject to periodic review and revision as the Parole Board deems necessary.

(f) The Parole Board shall set such conditions as necessary within the range of correctional resources available at the time of transfer.

(g)(1) The Parole Board shall serve as the revocation review board for any ~~person~~ inmate subject to either parole or transfer from prison.

(2) Revocation proceedings for either parole or transfer shall follow all legal requirements applicable to parole and shall be subject to any additional policies, rules, and regulations set by the Parole Board.

(h) Decisions on parole release, courses of action applicable prior to transfer, and transfer conditions to be set by the Parole Board shall be based on a reasoned and rational plan developed in conjunction with an accepted risk needs assessment tool such that each decision is defensible based on preestablished criteria.”

SECTION 29. Arkansas Code § 19-6-455 is amended to read as follows:
19-6-455. Sex and Child Offender Registration Fund.

~~The Sex and Child Offender Registration Fund shall consist of those special revenues as specified in § 19-6-301(198), there to be used for the administration of the Sex and Child Offender Registration Act of 1997, § 12-12-901 et seq.~~ (a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the “Sex and Child Offender Registration Fund”.

(b)(1) The fund shall consist of special revenues collected under § 12-12-910, § 12-12-924, and § 19-6-301(198), and shall be used for the administration of the Sex and Child Offender Registration Act of 1997, § 12-12-901 et seq., equally by the Arkansas Crime Information Center and the Department of Correction.

(2) Any unexpended balance of the fund shall be carried forward and made available for the same purpose.

The Amendment was read _____

By: Representative D. Creekmore
BPG/BCS - 03-03-2009 16:21
BPG216

Chief Clerk