

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

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003

# A Bill

HOUSE BILL 2296

4  
5 By: Representative Lamoureux  
6  
7

## For An Act To Be Entitled

8  
9 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS  
10 CODE CONCERNING THE SEX OFFENDER REGISTRATION ACT  
11 OF 1997; AND FOR OTHER PURPOSES.  
12

## Subtitle

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

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

21 SECTION 1. Arkansas Code § 12-12-903(3), concerning definitions under  
22 the Sex Offender Registration Act of 1997, is amended to read as follows:

23 (3) "Aggravated sex offense" means an offense in the Arkansas Code  
24 substantially equivalent to "aggravated sexual abuse" as defined in 18 U.S.C.  
25 § 2241 as it existed on ~~January 1, 2001~~ March 1, 2003, which principally  
26 encompasses:

27 (A) ~~Engaging in sexual acts involving penetration with victims~~  
28 ~~of any age through the use of force or the threat of serious violence causing~~  
29 another person to engage in a sexual act; or

30 (i) By using force against that other person; or

31 (ii) By threatening or placing, or attempting to threaten  
32 or place, that other person in fear that any person will be subjected to  
33 death, serious bodily injury, or kidnapping; or

34 (B) ~~Engaging in sexual acts involving the penetration of victims~~  
35 ~~below the age of twelve (12) Knowingly:~~

36 (i) Rendering another person unconscious and thereby



1 engages in a sexual act with that other person; or

2 (ii) Administering to another person by force or threat of  
3 force, or without the knowledge or permission of that person, a drug,  
4 intoxicant, or similar substance and thereby;

5 (a) Substantially impairing the ability of that  
6 other person to appraise or control conduct; and

7 (b) Engaging or attempting to engage in a sexual act  
8 with that other person;

9 (C) Crossing a state line with intent to:

10 (i) Engage or attempt to engage in a sexual act with a  
11 person who has not attained the age of twelve (12) years;

12 (ii) Knowingly engage or attempt to engage in a sexual act  
13 with another person who has not attained the age of twelve (12) years; or

14 (iv) Knowingly engage or attempt to engage in a sexual act  
15 under the circumstances described in subdivisions (3)(A) and (3)(B) with  
16 another person who has attained the age of twelve (12) years but has not  
17 attained the age of sixteen (16) years and is at least four (4) years younger  
18 than that person.

19  
20 SECTION 2. Arkansas Code § 12-12-903(6), concerning definitions under  
21 the Sex Offender Registration Act of 1997, is amended to read as follows:

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

24 (A) Chief law enforcement officer of the municipality in  
25 which an offender resides or expects to reside and who is employed or is  
26 attending an institution of training or education; or

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

30  
31 SECTION 3. Arkansas Code § 12-12-903(12) through (17), concerning  
32 definitions under the Sex Offender Registration Act of 1997, is amended to  
33 read as follows:

34 (12)(A) "Sex offense" for the purposes of this subchapter  
35 includes, but is not limited to:

36 ~~(i)(a) Rape, § 5-14-103;~~

1 (b) — Carnal abuse in the first degree, § 5-14-  
 2 ~~104 [repealed];~~  
 3 (c) — Carnal abuse in the second degree, § 5-14-  
 4 ~~105 [repealed];~~  
 5 (d) — Carnal abuse in the third degree, § 5-14-  
 6 ~~106 [repealed];~~  
 7 (e) — Sexual misconduct, § 5-14-107;  
 8 (f) — Sexual abuse in the first degree, § 5-14-  
 9 ~~108;~~  
 10 (g) — Sexual abuse in the second degree, § 5-14-  
 11 ~~109;~~  
 12 (h) — Sexual solicitation of a child, § 5-14-  
 13 ~~110;~~  
 14 (i) — Violation of a minor in the first degree,  
 15 § 5-14-120;  
 16 (j) — Violation of a minor in the second degree,  
 17 § 5-14-121;  
 18 (k) — Incest, § 5-26-202;  
 19 (l) — Engaging children in sexually explicit  
 20 ~~conduct for use in visual or print medium, § 5-27-303;~~  
 21 (m) — Transportation of minors for prohibited  
 22 ~~sexual conduct, § 5-27-305;~~  
 23 (n) — Employing or consenting to use of a child  
 24 ~~in sexual performance, § 5-27-402;~~  
 25 (o) — Pandering or possessing visual or print  
 26 ~~medium depicting sexually explicit conduct involving a child, § 5-27-304;~~  
 27 (p) — Producing, directing, or promoting sexual  
 28 ~~performance, § 5-27-403;~~  
 29 (q) — Promoting prostitution in the first  
 30 ~~degree, § 5-70-104;~~  
 31 (r) — Stalking, when ordered by the sentencing  
 32 ~~court to register as a sex offender, § 5-71-229;~~  
 33 (s) — Indecent exposure to a person under the  
 34 ~~age of twelve (12) years, § 5-14-112(b); or~~  
 35 (t) — Exposing another person to human  
 36 ~~immunodeficiency virus, when ordered by the sentencing court to register as a~~

1 ~~sex offender, § 5-14-123;~~

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

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

7 ~~(w) Permitting abuse of a child pursuant to §~~  
8 ~~5-27-221;~~

9 ~~(x) Computer child pornography; § 5-27-603;~~  
10 ~~and~~

11 ~~(y) Computer exploitation of a child in the~~  
12 ~~first degree, § 5-27-605(a).~~

13 (i)(a) Kidnapping a minor when the offender is not  
14 the parent of the victim, § 5-11-102;

15 (b) False imprisonment in the first degree when  
16 the offender is not the parent of the victim, § 5-11-103;

17 (c) False imprisonment in the second degree, §  
18 5-11-104;

19 (d) Permanent detention or restraint when the  
20 offender is not the parent of the victim, § 5-11-106;

21 (e) Rape, § 5-14-103;

22 (f) Sexual indecency with a child, § 5-14-110;

23 (g) Public sexual indecency, § 5-14-111;

24 (h) Indecent exposure, § 5-14-112;

25 (i) Exposing another person to HIV, if ordered  
26 by the court to register, § 5-14-123;

27 (j) Sexual assault in the first degree, § 5-  
28 14-124;

29 (k) Sexual assault in the second degree, § 5-  
30 14-125;

31 (l) Sexual assault in the third degree, § 5-  
32 14-126;

33 (m) Sexual assault in the fourth degree, § 5-  
34 14-127;

35 (n) Incest, § 5-26-202;

36 (o) Permitting abuse of a child, § 5-27-221;

1 (p) Engaging children in sexually conduct for  
 2 use in visual or print medium, § 5-27-303;

3 (q) Pandering or possessing visual or print  
 4 medium depicting sexually explicit conduct involving a child, §5-27-304;

5 (r) Transportation of minors for prohibited  
 6 sexual conduct, §5-27-305;

7 (s) Employing or consenting to the use of a  
 8 child in a sexual performance, §5-27-402;

9 (t) Producing, directing, or promoting a  
 10 sexual performance, §5-27-403;

11 (u) Distributing, possessing, or viewing  
 12 matter depicting sexually explicit conduct involving a child, §5-27-602;

13 (v) Computer child pornography, § 5-27-603;

14 (w) Computer exploitation of a child, § 5-27-  
 15 605;

16 (x) Promoting prostitution in the first  
 17 degree, § 5-70-104; and

18 (y) Stalking, when ordered by the court to  
 19 register, §5-71-229.

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

23 (iii) An adjudication of guilt for an offense of the  
 24 law of another state, for a federal offense, for a tribal court offense, or  
 25 for a military offense:

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

28 (b) When that adjudication of guilt requires  
 29 registration under another state’s sex offender registration laws; or

30 (c) A violation of any former law of this  
 31 state that is substantially equivalent to any of the offenses enumerated in  
 32 subdivision (12)(A) of this section.

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

1 (ii) This authority is limited to sex offenses  
 2 enacted, renamed, or amended at a later date by the General Assembly unless  
 3 the General Assembly expresses its intent not to consider the offense to be a  
 4 true sex offense for the purposes of this subchapter;

5 (iii) The sentencing court has the authority to  
 6 require the registration of any offender for whom a sex offense is pled down  
 7 to a non sex offense, provided the requirement to register is part of the  
 8 plea agreement.

9 (13)(A) “Sex offender” means a person who is adjudicated guilty  
 10 ~~adjudicated delinquent and ordered to register by the juvenile court judge,~~  
 11 or acquitted on the grounds of mental disease or defect of a sex offense.

12 (B) Unless otherwise specified, “sex offender” includes  
 13 those individuals classified by the court as “sexually violent predators”;

14 (14)(A) “Sex Offender Assessment Committee” ~~means a group of~~  
 15 ~~citizens appointed by the Governor with a specific composition in conformance~~  
 16 ~~with 42 U.S.C. § 14071(a)(2)(A), as it existed on January 1, 2001~~ means the  
 17 Sex Offender Assessment Committee created by § 12-12-921.

18 ~~(15) “Sex Offender Screening and Risk Assessment” means the~~  
 19 ~~individuals or agencies qualified by the Sex Offenders Assessment Committee~~  
 20 ~~to perform assessments of sex offenders;~~

21 (16) “Sexually violent offense” means any state, federal,  
 22 tribal, or military offense which includes a sexual act as defined in 18  
 23 U.S.C. §§ 2241 and 2242, as they existed on ~~January 1, 2001~~ March 1, 2003,  
 24 with another person if the offense is nonconsensual regardless of the age of  
 25 the victim; and

26 (17) “Sexually violent predator” means a person who has been  
 27 ~~adjudicated guilty, adjudicated delinquent and ordered to register by the~~  
 28 ~~juvenile court judge,~~ or acquitted on the grounds of mental disease or defect  
 29 of a sexually violent offense and who suffers from a mental abnormality or  
 30 personality disorder that makes the person likely to engage in predatory  
 31 sexually violent offenses.

32  
 33 SECTION 4. Arkansas Code 12-12-905(a), concerning applicability of the  
 34 Sex Offender Registration Act of 1997, is amended to read as follows:

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

36 (1) A person who is adjudicated guilty on or after August 1,

1 1997, of a sex offense;

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

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

7 (4) A person who is serving a commitment as a result of an  
8 acquittal on August 1, 1997, on the grounds of mental disease or defect for a  
9 sex offense; and

10 (5) A person who was required to be registered under the  
11 Habitual Child Sex Offender Registration Act, former § 12-12-901 et seq.,  
12 enacted by Acts 1987, No. 587, §§ 1-10, which was repealed by Acts 1997, No.  
13 989, § 23~~+~~.

14 ~~(6) A juvenile who has been ordered to register by a juvenile~~  
15 ~~court judge after an adjudication of delinquency on or after September 1,~~  
16 ~~1999, of a sex offense; and~~

17 ~~(7) A juvenile who is serving an order of commitment, transfer~~  
18 ~~of legal custody, probation, court approved voluntary service in the~~  
19 ~~community, juvenile detention, residential detention, or other form of~~  
20 ~~commitment as prescribed under § 9-27-330 after an adjudication of~~  
21 ~~delinquency for a sex offense, on September 1, 1999, and after being ordered~~  
22 ~~to register by the juvenile court judge having jurisdiction.~~

23

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

25 12-12-906. Duty to register generally - Review of requirements with  
26 offenders.

27 (a)(1)(A) At the time of adjudication of guilt, the sentencing court  
28 shall enter on the judgment and commitment or judgment and disposition form  
29 whether or not the offender is required to register as a sex offender.

30 (B) The Department of Correction shall ensure that  
31 offenders received for incarceration complete the registration form prepared  
32 by the Director of the Arkansas Crime Information Center pursuant to § 12-12-  
33 908.

34 (C) The Department of Community Correction shall ensure  
35 that offenders placed on probation or another form of community supervision  
36 complete the registration form.

1 (D) The Arkansas State Hospital shall ensure that the  
 2 registration form is completed for any offender found not guilty by reason of  
 3 insanity and shall arrange an evaluation by Sex Offender Screening and Risk  
 4 Assessment.

5 ~~(E) The Division of Youth Services of the Department of~~  
 6 ~~Human Services shall ensure that juveniles ordered by the juvenile court to~~  
 7 ~~register complete the registration form.~~

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

13 (B)(i) All persons living in this state who would be  
 14 required to register as sex offenders in the jurisdiction in which they were  
 15 adjudicated guilty of a sex offense are required to register as sex offenders  
 16 in this state whether living, working, or attending school or other training  
 17 in Arkansas.

18 (ii) Nonresident workers or students who enter the  
 19 state for fourteen (14) or more consecutive days to work or study or who  
 20 enter the state for an aggregate of thirty (30) days or more a year are  
 21 required to register in compliance with 64 Fed. Reg. 585 2nd, as it existed  
 22 on ~~January 1, 2001~~ March 1, 2003.

23 (C) A sex offender sentenced and required to register  
 24 outside of Arkansas, ~~whether as an adult or a juvenile,~~ must submit to  
 25 reassessment by Sex Offender Screening and Risk Assessment, provide a  
 26 deoxyribonucleic acid sample if a sample is not already accessible to the  
 27 Arkansas State Crime Laboratory, and pay the mandatory fee of two hundred  
 28 fifty dollars (\$250) to the DNA Detection Fund established under § 12-12-1101  
 29 et seq.

30 ~~(3)(A) After September 1, 1999, a juvenile judge shall require a~~  
 31 ~~sex offender to submit at the time of adjudication of a sex offense to an~~  
 32 ~~assessment by Sex Offender Screening and Risk Assessment.~~

33 ~~(B)(i) Sex Offender Screening and Risk Assessment shall~~  
 34 ~~submit its assessment and recommendation to the juvenile judge, and the~~  
 35 ~~juvenile judge may order registration by so indicating on the proper form.~~

36 ~~(ii)(a) Upon the decision by the juvenile judge to~~



1 ~~order registration by the juvenile, the juvenile shall comply with all the~~  
 2 ~~provisions of this subchapter.~~

3 ~~(b) The juvenile court judge may order~~  
 4 ~~reassessment by Sex Offender Screening and Risk Assessment at any time during~~  
 5 ~~the juvenile judge's jurisdiction over the juvenile.~~

6 ~~(c) The juvenile court judge may order~~  
 7 ~~registration of the juvenile adjudicated delinquent of a sex offense at any~~  
 8 ~~time during the juvenile judge's jurisdiction over the juvenile.~~

9 (b)(1) The registration file of a sex offender who is confined in an  
 10 ~~adult or juvenile~~ a correctional facility or serving a commitment following  
 11 acquittal on the grounds of mental disease or defect shall be inactive until  
 12 the registration file is updated by the ~~Department of Correction or the~~  
 13 ~~Department of Human Services, whichever is~~ department responsible for  
 14 supervision.

15 (2) Immediately prior to the release of a sex offender or  
 16 immediately following a sex offender's escape or his or her absconding  
 17 supervision, the Department of Correction, the Department of Community  
 18 Correction, or the Department of Human Services shall update the registration  
 19 file of the sex offender who is to be released or who has escaped or has  
 20 absconded supervision.

21 (c)(1)(A) When registering a sex offender as provided in subsection  
 22 (a) of this section, the Department of Correction, the Department of  
 23 Community Correction, the Department of Human Services, or the local law  
 24 enforcement agency having jurisdiction shall:

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

28 (ii) Inform the offender that if the offender  
 29 changes residency, the offender shall give the new address and place of  
 30 employment, education, or training to the Arkansas Crime Information Center  
 31 in writing no later than ten (10) days before the offender establishes  
 32 residency or is temporarily domiciled at the new address;

33 (iii)(a) Inform the offender that if the offender  
 34 changes residency to another state or enters another state for fourteen (14)  
 35 consecutive days or more or for an aggregate of thirty (30) days or more a  
 36 year, the offender must also register in that state regardless of permanent

1 residency.

2 (b) The offender shall register the new  
 3 address and place of employment, education, or training with the Arkansas  
 4 Crime Information Center and with a designated law enforcement agency in the  
 5 new state not later than ten (10) days before the offender establishes  
 6 residence or is temporarily domiciled in the new state;

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

10 (b) Obtain a deoxyribonucleic acid sample if  
 11 one has not already been provided;

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

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

21 (vii) Inform an offender who has been granted  
 22 probation that failure to comply with the provisions of this subchapter shall  
 23 be grounds for revocation of the offender's probation.

24 (B)(i) Any offender required to register as a sex offender  
 25 must provide a deoxyribonucleic acid sample, i.e., a blood sample or saliva  
 26 sample, upon registering if a sample has not already been provided to the  
 27 Arkansas State Crime Laboratory.

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

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

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

1 908;

2 (B) Review with the offender the requirement that if the  
 3 offender changes address, the offender shall give the new address to the  
 4 Arkansas Crime Information Center in writing no later than ten (10) days  
 5 before the offender establishes residency or is temporarily domiciled at the  
 6 new address;

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

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

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

21 (d) When registering or updating the registration file of a sexually  
 22 violent predator, the Department of Correction, the Department of Community  
 23 Correction, the Department of Human Services, or the local law enforcement  
 24 agency having jurisdiction, in addition to the requirements of subdivision  
 25 (c)(1) or (2) of this section, shall obtain documentation of any treatment  
 26 received for the mental abnormality or personality disorder of the sexually  
 27 violent predator.

28 (e) Any offender working, enrolled, or volunteering in a public or  
 29 private elementary, secondary or post-secondary school or institution of  
 30 training shall notify the Arkansas Crime Information Center of that status  
 31 and shall register with the law enforcement agency having jurisdiction over  
 32 that campus.

33 ~~(e)~~ (f)(1) An offender required to register pursuant to the provisions  
 34 of this subchapter shall not change his or her name unless the change is:

35 (A) Incident to a change in the marital status of the  
 36 offender; or

1 (B) Necessary to effect the exercise of religion of the  
2 offender.

3 (2) The change in the offender’s name shall be reported to the  
4 Director of the Arkansas Crime Information Center within thirty (30) calendar  
5 days after the official change in name.

6 (3) A violation of this subsection shall constitute a Class D  
7 felony.

8

9 SECTION 6. Arkansas Code § 12-12-911(b), concerning the Sexual and  
10 Child Offenders Registration Fund, is amended to read as follows:

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

15

16 SECTION 7. Arkansas Code § 12-12-913(g), concerning disclosure of sex  
17 offender information, is amended to read as follows:

18 (g)(1) The State Board of Education shall promulgate guidelines for  
19 the disclosure to students and parents of information regarding an offender  
20 when such information is released to a local school district or institution  
21 of higher education or vocational training by a local law enforcement agency  
22 having jurisdiction.

23 (2) The board of directors of a local school district, or  
24 institution of higher education or vocational training shall adopt a written  
25 policy, in accordance with guidelines promulgated by the state board,  
26 regarding the distribution to students and parents of information regarding  
27 an offender.

28

29 SECTION 8. Arkansas Code § 12-12-913(h) through (j), concerning  
30 disclosure of sex offender information, is amended to read as follows:

31 ~~(h) Nothing in this section shall be construed to prevent law~~  
32 ~~enforcement officers from notifying members of the public exposed to danger~~  
33 ~~of any persons that pose a danger under circumstances that are not enumerated~~  
34 ~~in this subchapter.~~

35 ~~(i) Nothing in this subchapter shall be interpreted to make medical~~  
36 ~~records or treatment evaluations of the sex offender or sexually violent~~

1 ~~predator subject to disclosure under the Freedom of Information Act of 1967,~~  
 2 ~~§ 25-19-101 et seq.~~

3 (h) Nothing in this section shall prevent law enforcement officers  
 4 from notifying members of the public of dangerous persons that are not  
 5 enumerated in this subchapter.

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

9 (j) Nothing in this subchapter shall be interpreted to prohibit the  
 10 posting of offender fact sheets on the Internet, or by other appropriate  
 11 means of those offenders who:

12 (1) Are determined to be a sexually violent predator, Risk Level  
 13 4;

14 (2) Are delinquent or otherwise in non compliance with the  
 15 requirements of registration; or

16 (3) By action of the Sex Offender Assessment Committee belong to  
 17 a classification which pose a danger to the safety of the public.

18  
 19 SECTION 9. Arkansas Code § 12-12-915 is amended to read as follows:  
 20 12-12-915. Regulations.

21 ~~(a) The Arkansas Crime Information Center shall promulgate regulations~~  
 22 ~~necessary to administer this subchapter.~~

23 ~~(b) The Department of Correction, the Department of Community~~  
 24 ~~Punishment~~ Correction, the Department of Human Services, ~~and~~ the  
 25 Administrative Office of the Courts, and the Arkansas Crime Information  
 26 Center shall promulgate regulations to establish procedures for notifying  
 27 offenders of the obligation to register pursuant to this subchapter and  
 28 procedures for registration of those offenders.

29  
 30 SECTION 10. Arkansas Code § 12-12-917 is amended to read as follows:  
 31 12-12-917. Evaluation protocol ~~—Sexually violent predators—~~  
 32 ~~Juveniles adjudicated delinquent~~ - Examiners.

33 (a)(1) The Sex Offender Assessment Committee shall develop an  
 34 evaluation protocol for preparing reports to assist courts in making  
 35 determinations whether or not a person adjudicated guilty of a sex offense  
 36 should be considered a sexually violent predator for purposes of this

1 subchapter.

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

5 ~~(b)(1) The committee shall develop an evaluation protocol for~~  
 6 ~~preparing reports to assist the juvenile division of circuit court in making~~  
 7 ~~determinations whether or not a juvenile adjudicated delinquent of a sex~~  
 8 ~~offense should be registered under the provisions of this subchapter.~~

9 ~~(2) The committee shall also establish qualifications for~~  
 10 ~~examiners and qualify examiners to prepare reports in accordance with the~~  
 11 ~~evaluation protocol.~~

12 (b)(1) The Sex Offender Assessment Committee shall cause an assessment  
 13 to be conducted on a case-by-case basis of the public risk posed by a sex  
 14 offender or sexually violent predator who is required to register under § 12-  
 15 12-905:

16 (A) After July 1, 1999; and

17 (B) Who have not been assessed prior to July 1, 1999.

18 (2)(A) Adult offenders sentenced to the Department of Correction  
 19 shall be assessed as the necessary information becomes available after  
 20 reception into the Department of Correction, with that assessment being  
 21 reviewed and updated periodically during the course of incarceration.

22 (B) Sex offenders sentenced to life, life without parole,  
 23 or death shall be assessed only if being considered for release through  
 24 clemency.

25 (3) Adult offenders adjudicated guilty but given suspended or  
 26 probated sentences shall be required by the sentencing court to contact Sex  
 27 Offender Screening and Risk Assessment at the Arkansas Department of  
 28 Correction in Pine Bluff within ten (10) days of adjudication to schedule an  
 29 assessment to be conducted at a location determined by the Department of  
 30 Correction in consultation with the sentencing court.

31 (4)(A) Sex offenders currently in the community who have not  
 32 been assessed and classified shall be identified by the Arkansas Crime  
 33 Information Center.

34 (B)(i) The Department of Community Correction shall notify  
 35 offenders in a particular area to present themselves at a designated location  
 36 for assessment.

1                   (ii) Failure to appear or failure to cooperate fully  
 2 with assessment personnel shall result in a default classification of the  
 3 highest risk category and in notification of the parole or probation officer,  
 4 if applicable, and may be considered a violation of the statute requiring  
 5 registration.

6           (d)(1) The Sex Offender Assessment Committee shall have access to all  
 7 relevant records and information in the possession of public agencies or any  
 8 private entity contracting with a public agency relating to the sex offender  
 9 or sexually violent predator under review.

10                   (2) The records and information include, but are not limited to:

- 11                   (A) Police reports;
- 12                   (B) Statements of probable cause;
- 13                   (C) Presentence investigations and reports;
- 14                   (D) Complete judgments and sentences;
- 15                   (E) Current classification referrals;
- 16                   (F) Criminal history summaries;
- 17                   (G) Violation and disciplinary reports;
- 18                   (H) All psychological evaluations and psychiatric hospital  
 19 reports;
- 20                   (I) Sex offender or sexually violent predator treatment  
 21 program reports;
- 22                   (J) Juvenile records;
- 23                   (K) Victim impact statements;
- 24                   (L) Investigation reports to the child abuse hotline, the  
 25 Division of Children and Family Services, and any entity contracting with the  
 26 Department of Human Services for investigation or treatment of sexual or  
 27 physical abuse or domestic violence; and
- 28                   (M) Statement of medical providers treating victims of sex  
 29 offenses indicating the extent of injury to the victim.

30           (e)(1)(A) Records and information obtained under this section shall not  
 31 be subject to the Freedom of Information Act of 1967, § 25-19-101, et seq.,  
 32 unless otherwise authorized by law.

33                   (B)(i) Records and information obtained under this section  
 34 shall not be available to the sex offender except through the agency or  
 35 individual having primary custody of the offender, unless otherwise ordered  
 36 by a court of competent jurisdiction.

1                   (ii) The offender may be given a list of the records  
 2 or information obtained.

3                   (2) The sex offender or sexually violent predator shall have  
 4 access to records and information generated and maintained by the Sex  
 5 Offender Assessment Committee unless the record or information generated  
 6 contains the addresses of victims or persons who have made statement adverse  
 7 to the sex offender or sexually violent predator.

8                   (f) In classifying the offender into a risk level for the purposes of  
 9 public notification under § 12-12-913, the Sex Offender Assessment Committee  
 10 shall review each sex offender or sexually violent predator under its  
 11 authority:

12                   (1) Prior to the offender's release for confinement in a  
 13 correctional facility;

14                   (2) Prior to the release of a person who has been committed  
 15 following an acquittal on the grounds of mental disease or defect;

16                   (3) At the start of an offender's suspended sentence; or

17                   (4) At the start of an offender's probation period.

18                   (g)(1) The Sex Offender Assessment Committee shall issue to the local  
 19 law enforcement agency having jurisdiction, for its use in making public  
 20 notifications under § 12-12-913, the offender fact sheet required by the  
 21 regulations promulgated by the Sex Offender Assessment Committee regarding  
 22 the sex offender or sexually violent predator.

23                   (2) The Post Prison Transfer Board shall receive copies of the  
 24 offender fact sheet on inmates of the Department of Correction.

25                   (3) The Department of Community Correction shall receive copies  
 26 of the offender fact sheet on any individual under its supervision.

27                   (4)(A)(i) The offender fact sheet shall be reported on standard  
 28 forms for ease of transmission and communication.

29                   (ii) The offender fact sheet shall also be on an  
 30 internet based application accessible to law enforcement and state boards and  
 31 licensing agencies.

32                   (iii) The offender fact sheet of sexually violent  
 33 predators and those offenders found by the Arkansas Crime Information Center  
 34 to be in violation of registration requirement may be accessible by the  
 35 general public unless to do so places innocent individuals at risk.

36                   (B) The standard forms shall include, but not be limited



1 to:

2 (i) Registration information as required in § 12-12-  
 3 908;

4 (ii) Risk level;

5 (iii) Date of deoxyribonucleic acid (DNA) sample;

6 (iv) Psychological factors likely to affect sexual  
 7 control;

8 (v) Victim age and gender preference;

9 (vi) Treatment history and recommendations; and

10 (viii) Other relevant information deemed necessary  
 11 by the Sex Offender Assessment Committee or by professional staff performing  
 12 sex offender assessments.

13 (5)(A) The Sex Offender Assessment Committee shall ensure that  
 14 the notice is complete in its entirety.

15 (B) Law enforcement officers shall notify the Arkansas  
 16 Crime Information Center if an offender has moved or is otherwise in  
 17 violation of registration requirements.

18 (6)(A) All material used in the assessment will be kept on file  
 19 in its original form for one (1) year.

20 (B) After one (1) year, the file may be stored  
 21 electronically.

22 (h)(1) The Department of Correction, in cooperation with the Sex  
 23 Offender Assessment Committee, shall promulgate rules and regulations to  
 24 establish the review process for assessment determinations.

25 (2) The sex offender or sexually violent predator may request a  
 26 review upon presentation of documentation that the law or guidelines were not  
 27 properly followed or upon the presentation of information that was not  
 28 available at the time of the assessment determination.

29 (g)(1)(A) A sex offender or sexually violent predator may request the  
 30 Sex Offender Assessment Committee to reassess the offender's assigned risk  
 31 level after five (5) years have elapsed since initial risk assessment by the  
 32 Sex Offender Assessment Committee, and may renew that request once every five  
 33 (5) years.

34 (B) In the request for reassessment, the offender shall  
 35 list the facts and circumstances that demonstrate that the offender no longer  
 36 poses the same degree of risk to the community.

1           (2) The Sex Offender Assessment Committee shall also take into  
 2 consideration any subsequent criminal acts by the sex offender or sexually  
 3 violent predator who has requested reassessment.

4  
 5           SECTION 11. Arkansas Code § 12-12-918 is amended to read as follows:  
 6           12-12-918. Classification as sexually violent predator – Requirements  
 7 and Appeal.

8           (a)(1) In order to classify a person as a sexually violent predator, a  
 9 prosecutor ~~shall~~ may allege on the face of an information that the prosecutor  
 10 is seeking a determination that the defendant is a sexually violent predator.

11           (2)(A) If the defendant is adjudicated guilty, the court shall  
 12 enter an order directing an examiner qualified by the Sex Offender Assessment  
 13 Committee to issue a report to the sentencing court that recommends whether  
 14 or not the defendant should be classified as a sexually violent predator.

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

17           (C) The report shall not be admissible for purposes of  
 18 sentencing.

19           (3) After sentencing, the court shall make a determination  
 20 regarding the defendant’s status as a sexually violent predator.

21           (b)(1) In order for the examiner qualified by the committee to prepare  
 22 the report:

23           (A) The defendant ~~shall~~ may be sent for evaluation to a  
 24 facility designated by the Department of Correction; or

25           (B) The Sex Offender ~~Screening and Risk~~ Assessment  
 26 Committee may elect to send an examiner to the local or regional detention  
 27 facility.

28           (2) The cost of the evaluation shall be paid by the ~~department~~  
 29 Department of Correction.

30           (c)(1) Should evidence be found in the course of any assessment  
 31 conducted by Sex Offender ~~Screening and Risk~~ Assessment Committee that a sex  
 32 offender appears to meet the criteria for being classified as a sexually  
 33 violent predator, the committee shall bring this information to the attention  
 34 of the prosecutor, who will determine whether a hearing on the matter is  
 35 warranted.

36           (2) The sentencing court shall retain jurisdiction to determine

1 whether an offender is a sexually violent predator for one (1) year after  
 2 sentencing or for so long as the offender remains incarcerated for the sex  
 3 offense.

4 (d)(1) The prosecutor’s affidavit should state whether or not the  
 5 offense qualifies as an aggravated sex offense.

6 (2) Should this statement be omitted, the prosecutor will be  
 7 contacted by Sex Offender ~~Screening and Risk Assessment~~ Committee and asked  
 8 to furnish a written determination as to whether or not the offense qualifies  
 9 as an aggravated sex offense.

10 (e) Because information often emerges in the course of a sex offender  
 11 evaluation that is not available to the court or is not admissible under the  
 12 rules of evidence, the following alternative procedure is established:

13 (1) Examiners qualified by the Sex Offender Assessment Committee  
 14 shall, after the effective date of this subsection, include in the assessment  
 15 of any sex offender convicted of a sex offense, as defined in § 12-12-903, a  
 16 review as to whether the frequency, repetition over time, severity of trauma  
 17 to the victim, or established pattern of predatory behaviors suggests that  
 18 the individual suffers from a mental abnormality or personality disorder that  
 19 makes the person likely to engage in future predatory sexual offenses;

20 (2) If a mental abnormality or personality disorder is  
 21 suggested, a licensed psychologist or psychiatrist qualified by the Sex  
 22 Offender Assessment Committee shall conduct further assessment to determine  
 23 the presence or absence of a mental abnormality or personality disorder;

24 (4) The report of the assessment shall be presented to the Sex  
 25 Offender Assessment Committee, which shall make that determination according  
 26 to protocols established by that committee and published in the guidelines.

27 (f) Challenges of any assigned risk level shall proceed as follows:

28 (1) Any individual may request, pro se, or through counsel, an  
 29 administrative review of any risk level assigned;

30 (2) The request for an administrative review shall be made in  
 31 accordance with instructions provided on the risk level notification within  
 32 thirty (30) days of sending the advisement by certified mail;

33 (3) The basis of the request for administrative review shall be  
 34 clearly stated and any documentary evidence attached. The evidence  
 35 considered shall be:

36 (A) A statement that the rules and procedures were not

1 properly followed in reaching a decision on the risk level of the individual;  
 2 and

3 (B) Documents not available at the time of assessment that  
 4 have a bearing on the risk that the individual poses to the community;

5 (4) Unless a request for an administrative review is received  
 6 within thirty (30) days, an offender fact sheet shall be made available to  
 7 law enforcement so that community notification may commence;

8 (5) If a request for an administrative review is received, law  
 9 enforcement may make community notification only at the level immediately  
 10 below the level upon which review has been requested;

11 (6)(A) A member of the Sex Offender Assessment Committee shall  
 12 conduct the review and respond within thirty (30) days.

13 (B) If additional time is needed to obtain facts, the  
 14 individual requesting the review shall be so notified.

15 (7)(A) Upon receipt of the findings of the reviewer by certified  
 16 mail, the recipient has thirty (30) days to file a petition for judicial  
 17 review in the Circuit Court of Pulaski County or in the county in which the  
 18 offender resides or does business under the Administrative Procedures Act, §  
 19 25-15-201 et seq.

20 (B) The court may refuse to accept any appeal of a risk  
 21 level that has not undergone administrative review;

22 (8)(A) When the petition for judicial review has been served on  
 23 the executive secretary of the Sex Offender Assessment Committee, a record of  
 24 the committee's findings, and copies of all records in its possession shall  
 25 be furnished to the court.

26 (B) The committee may ask the court to seal statements of  
 27 victims, medical records, and other items that could place third parties at  
 28 risk of harm; and

29 (9) Upon ruling by the court, community notification at  
 30 the level approved in the ruling shall commence.

31  
 32 SECTION 12. Arkansas Code § 12-12-919(a), concerning termination of  
 33 the obligation to register as a sex offender, is amended to read as follows:

34 (a) Lifetime registration is required for a sex offender found to have  
 35 committed an aggravated sex offense, determined by the court to be a sexually  
 36 violent predator, or ~~found to have been~~ adjudicated guilty of a second or

1 subsequent sex offense under a separate case number, not multiple counts on  
 2 the same charge.

3  
 4 SECTION 13. Arkansas Code Title 12, Chapter 12, Subchapter 9 is  
 5 amended to add an additional section to read as follows:

6 12-12-921. Sex Offender Assessment Committee.

7 (a) The Sex Offender Assessment Committee shall consist of nine (9)  
 8 members as follows:

9 (1) The Governor shall appoint, subject to confirmation by the  
 10 Senate:

11 (A) One (1) member who is a defense attorney;

12 (B) One (1) member who is a prosecuting attorney;

13 (C) One (1) member who is a licensed mental health  
 14 professional and has demonstrated expertise in treatment of sex offenders;

15 (D) One (1) member who is a victims' rights advocate;

16 (E) One (1) member who is a law enforcement officer; and

17 (F) One (1) member with expertise in juvenile justice or  
 18 treatment.

19 (2) The Director of the Department of Correction or the  
 20 director's designee;

21 (3) The Director of the Department of Community Correction or  
 22 the director's designee; and

23 (4) The Director of the Arkansas Crime Information Center or the  
 24 director's designee.

25 (b)(1) Members appointed by the Governor shall be for four-year  
 26 staggered terms.

27 (2) If a vacancy of one (1) of the members appointed by the  
 28 Governor occurs for any reason other than expiration of a regular term, the  
 29 vacancy shall be filled for the unexpired portion of the term by appointment  
 30 of the Governor.

31 (3) A member of the committee appointed by the Governor may be  
 32 removed by the Governor for neglect of duty or malfeasance in office.

33 (4) A member shall be considered active unless his or her  
 34 resignation has been submitted or requested by the Governor, or he or she has  
 35 more than two (2) unexcused absences from meetings in a twelve-month period  
 36 and this fact has been reported to the Governor's office.

1       (c) The members of the Sex Offender Assessment Committee shall elect  
2 from their membership, a chair and a vice chair, annually.

3       (d) The Director of the Department of Correction or the director's  
4 designee shall serve as the executive secretary.

5       (e)(1) A majority of the members of the committee shall constitute a  
6 quorum for the transaction of business

7               (2) The committee shall meet at least quarterly.

8               (3) Special meetings may be called by the chair or as provided  
9 by the rules adopted by the committee.

10       (f) The executive secretary of the committee shall keep full and true  
11 records of all committee proceedings and preserve all books, documents, and  
12 papers relating to the business of the committee.

13       (g) The meetings shall not be open to the public under the Freedom of  
14 Information Act of 1967, § 25-19-101, et seq.

15       (h) The committee shall assist the Department of Correction in  
16 promulgating rules and regulations to ensure the proper implementation of  
17 Acts 1999, No. 1353.

18       (i)(1) The committee shall report in writing to the Governor and to  
19 the Legislative Council by July 31 of each year.

20               (2) The report shall contain:

21                       (A) A summary of the proceedings of the committee during  
22 the preceding fiscal year;

23                       (B) A detailed and itemized statement of all revenue and  
24 of all expenditures made by or on behalf of the committee;

25                       (C) Other information deemed necessary or useful; and

26                       (D) Any additional information that may be requested by  
27 the Governor and the Legislative Council.

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