

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 2310

4  
5 By: Representatives Pate, Martin  
6  
7

## For An Act To Be Entitled

9 AN ACT TO PROVIDE FOR JUVENILE SEX OFFENDER  
10 ASSESSMENT, REGISTRATION AND DNA SAMPLES; AND FOR  
11 OTHER PURPOSES.  
12

## Subtitle

13 AN ACT TO PROVIDE FOR JUVENILE SEX  
14 OFFENDER ASSESSMENT, REGISTRATION AND  
15 DNA SAMPLES.  
16  
17  
18

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

21 SECTION 1. Arkansas Code Title 9, Chapter 27, Subchapter 3 is  
22 amended to add an additional section to read as follows:

23 9-27-356. Juvenile Sex Offender Assessment and Registration.

24 (a) If a juvenile is a adjudicated delinquent for any of the following  
25 offenses the court shall order a Sex Offenders Screening and Risk Assessment:

26 (1) Rape, § 5-14-103;

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

28 (3) Sexual assault in the second degree, § 5-14-125;

29 (4) Incest, § 5-26-202; or

30 (5) Engaging children in sexually explicit conduct for use in  
31 visual or print medium, § 5-27-303.

32 (b)(1) The court may order a Sex Offenders Screening and Risk  
33 Assessment if a juvenile is adjudicated for any offense with an underlying  
34 sexually motivated component.

35 (2) The court may require that a juvenile register as a sex  
36 offender upon recommendation of the Sex Offender Assessment Committee and



1 following a hearing as set forth in subsection (e) of this section.

2 (c) The juvenile court judge may order reassessment of the Sex  
 3 Offenders Screening and Risk Assessment by the Sex Offender Assessment  
 4 Committee at any time while the court has jurisdiction over the juvenile.

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

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

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

14 (A) The seriousness of the offense;

15 (B) The protection of society;

16 (C) The level of planning and participation in the alleged  
 17 offense;

18 (D) The previous sex offending history of the juvenile,  
 19 including whether the juvenile has been adjudicated delinquent for prior sex  
 20 offenses;

21 (E) Whether there are facilities or programs available to  
 22 the court which are likely to rehabilitate the juvenile prior to the  
 23 expiration of the court's jurisdiction;

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

27 (G) Any other factors deemed relevant by the court.

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

30 (2) Upon a finding, by clear and convincing evidence, that a  
 31 juvenile should or should not be required to register as a sex offender, the  
 32 court shall enter its order.

33 (g) When the juvenile court judge orders a juvenile to register as a  
 34 sex offender, the juvenile court judge shall order either the Division of  
 35 Youth Services of the Department of Human Services or a juvenile probation  
 36 officer to complete the registration process by:

1           (1) Completing the sex offender registration form;

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

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

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

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

14          (h) The juvenile may petition the court to have his or her name  
15 removed from the sex offender register at anytime while the court has  
16 jurisdiction over the juvenile or when the juvenile turns twenty-one (21)  
17 years of age, whichever is later.

18          (i) The juvenile court judge shall order the juvenile’s name removed  
19 from the sex offender register upon proof, by a preponderance of the  
20 evidence, that the juvenile does not pose a threat to the safety of others.

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

26          (k) Once a juvenile is ordered to register as a sex offender, he or  
27 she shall be subject to the registration requirements set forth in §§ 12-12-  
28 904, 12-12-906, 12-12-908, 12-12-909, and 12-12-912.

29  
30          SECTION 2. Arkansas Code § 12-12-905 is amended to read as follows:  
31          12-12-905. Applicability.

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

33                  (1) A person who is adjudicated guilty on or after August 1,  
34 1997, of a sex offense;

35                  (2) A person who is serving a sentence of incarceration,  
36 probation, parole, or other form of community supervision as a result of an

1 adjudication of guilt on August 1, 1997, for a sex offense;

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

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

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

11 ~~(6) A juvenile who has been ordered to register by a juvenile~~  
12 ~~court judge after an adjudication of delinquency on or after September 1,~~  
13 ~~1999, of a sex offense; and~~

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

20 (b) A person who has been adjudicated guilty of a sex offense and  
21 whose record of conviction will be expunged under the provisions of §§ 16-93-  
22 301 - 16-93-303 is not relieved of the duty to register.

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

26 (2) Registration shall cease upon the receipt and verification  
27 by the Arkansas Crime Information Center of documentation from the court  
28 verifying the fact that the conviction has been reversed, vacated, or set  
29 aside or from the Governor's office that the Governor has pardoned the  
30 registrant.

31  
32 SECTION 4. Arkansas Code § 12-12-906(a), concerning the duty to  
33 register as a sex offender, is amended to read as follows:

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

1 (B) The Department of Correction shall ensure that  
 2 offenders received for incarceration complete the registration form prepared  
 3 by the Director of the Arkansas Crime Information Center pursuant to § 12-12-  
 4 908.

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

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

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

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

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

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

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

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

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

7           ~~(ii)(a) Upon the decision by the juvenile judge to~~  
 8 ~~order registration by the juvenile, the juvenile shall comply with all the~~  
 9 ~~provisions of this subchapter.~~

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

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

16  
 17       SECTION 5. Arkansas Code § 12-12-917 is repealed.

18       ~~12-12-917. Evaluation protocol—Sexually violent predators—~~  
 19 ~~Juveniles adjudicated delinquent—Examiners.~~

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

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

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

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

35  
 36       SECTION 6. Arkansas Code Title 9, Chapter 27, Subchapter 3 is amended

1 to add an additional section to read as follows:

2 9-27-356. Deoxyribonucleic acid (DNA) samples.

3 (a) A person who is adjudicated delinquent for the following offenses  
 4 shall have a deoxyribonucleic acid (DNA) sample drawn:

- 5 (1) Rape, § 5-14-103;
- 6 (2) Sexual assault in the first degree, § 5-14-124;
- 7 (3) Sexual assault in the second degree, § 5-14-125;
- 8 (4) Incest, § 5-26-202;
- 9 (5) Capital murder, § 5-10-101;
- 10 (6) Murder in the first degree, §5-10-102;
- 11 (7) Murder in the second degree, § 5-10-103;
- 12 (8) Kidnapping, § 5-12-102;
- 13 (9) Aggravated robbery, § 5-12-103; and
- 14 (10) Terroristic Act, § 5-13-310.

15 (b) The court shall order a two hundred fifty dollar (\$250) fine  
 16 unless the court finds that the fine would cause an undue hardship.

17 (c)(1) A juvenile adjudicated delinquent for one of the offenses  
 18 listed in subsection (a) of this section shall have a deoxyribonucleic acid  
 19 (DNA) sample drawn upon intake at a juvenile detention facility or intake at  
 20 a Division of Youth Services of the Department of Human Services facility.

21 (2) If the juvenile is not placed in a facility, the juvenile  
 22 probation officer to which the juvenile is assigned shall ensure that the  
 23 deoxyribonucleic acid (DNA) sample is drawn.

24 (d) All deoxyribonucleic acid (DNA) samples taken under this section  
 25 shall be taken in accordance with regulations promulgated by the State Crime  
 26 Laboratory.

27  
 28 SECTION 7. Arkansas Code 12-12-1109 is amended to read as follows:

29 12-12-1109. DNA sample required upon adjudication of guilt.

30 (a) Adjudication of guilt. A person who is adjudicated guilty ~~or~~  
 31 ~~adjudicated delinquent~~ for a sex offense, a violent offense, a residential or  
 32 commercial burglary under § 5-39-201(a) or (b), or a repeat offense on or  
 33 after August 1, 1997, shall have a deoxyribonucleic acid (DNA) sample drawn  
 34 as follows:

35 (1)(A) A person who is adjudicated guilty ~~or adjudicated~~  
 36 ~~delinquent~~ for a sex offense, a violent offense, a residential or commercial

1 burglary under § 5-39-201(a) or (b), or repeat offense and sentenced to a  
 2 term of confinement for that sex offense, violent offense, residential or  
 3 commercial burglary under § 5-39-201(a) or (b), or repeat offense shall have  
 4 a deoxyribonucleic acid (DNA) sample drawn upon intake into prison, jail,  
 5 ~~juvenile detention facility~~ or institution.

6 (B) If the person is already confined at the time of  
 7 sentencing, the person shall have a deoxyribonucleic acid (DNA) sample drawn  
 8 immediately after the sentencing;

9 (2) A person who is adjudicated guilty ~~or adjudicated delinquent~~  
 10 for a sex offense, a violent offense, a residential or commercial burglary  
 11 under § 5-39-201(a) or (b), or a repeat offense shall have a deoxyribonucleic  
 12 acid (DNA) sample drawn as a condition of any sentence in which disposition  
 13 will not involve an intake into a prison, jail, ~~juvenile detention facility~~,  
 14 or any other detention facility or institution;

15 (3) A person who is acquitted on the grounds of mental disease  
 16 or defect of the commission of a sex offense, a violent offense, a  
 17 residential or commercial burglary under § 5-39-201(a) or (b), or a repeat  
 18 offense and committed to an institution or other facility shall have a  
 19 deoxyribonucleic acid (DNA) sample drawn upon intake to that institution or  
 20 other facility; and

21 (4) Under no circumstances shall a person who is adjudicated  
 22 guilty ~~or adjudicated delinquent~~ for a sex offense, a violent offense, a  
 23 residential or commercial burglary under § 5-39-201(a) or (b), or a repeat  
 24 offense be released in any manner after such disposition unless and until a  
 25 deoxyribonucleic acid (DNA) sample has been drawn.

26 (b) Adjudication of guilt before August 1, 1997. A person who is  
 27 adjudicated guilty ~~or adjudicated delinquent~~ for a sex offense, a violent  
 28 offense, a residential or commercial burglary under § 5-39-201(a) or (b), or  
 29 a repeat offense before August 1, 1997, and who is still serving a term of  
 30 confinement in connection therewith on August 1, 1997, shall not be released  
 31 in any manner prior to the expiration of his maximum term of confinement  
 32 unless and until a deoxyribonucleic acid (DNA) sample has been drawn.

33 (c) Supervision of deoxyribonucleic acid (DNA) samples. All  
 34 deoxyribonucleic acid (DNA) samples taken pursuant to this section shall be  
 35 taken in accordance with regulations promulgated by the State Crime  
 36 Laboratory in consultation with the Department of Correction, the Department



1 of Community Correction, the Department of Human Services, and the  
2 Administrative Office of the Courts.

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