

1 State of Arkansas
2 84th General Assembly
3 Second Extraordinary Session, 2003
4

Call Item 17

A Bill

HOUSE BILL 1020

5 By: Representative Creekmore
6 By: Senator J. Bookout
7

For An Act To Be Entitled

10 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS
11 CODE CONCERNING THE SEX OFFENDER REGISTRATION ACT
12 OF 1997; AND FOR OTHER PURPOSES.
13

Subtitle

14 TO AMEND VARIOUS SECTIONS OF THE
15 ARKANSAS CODE CONCERNING THE SEX
16 OFFENDER REGISTRATION ACT OF 1997.
17
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

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

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

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

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

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



1 (i) Rendering another person unconscious and then
2 engaging in a sexual act with that other person; or

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

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

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

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

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

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

16 (iii) Knowingly engage or attempt to engage in a
17 sexual act under the circumstances described in subdivisions (3)(A) and
18 (3)(B) of this section with another person who has attained the age of twelve
19 (12) years but has not attained the age of sixteen (16) years and is at least
20 four (4) years younger than the alleged offender;

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

24 (6) "Local law enforcement agency having jurisdiction" means
25 the:

26 (A) Chief law enforcement officer of the municipality in
27 which an offender:

28 (i) ~~resides~~ Resides or expects to reside;

29 (ii) Is employed; or

30 (iii) Is attending an institution of training or
31 education; or

32 (B) County sheriff, if the municipality does not have a
33 chief law enforcement officer or if an offender resides, is employed, is
34 attending an institution of training or education, or expects to reside in an
35 unincorporated area of a county;

36

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

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

- 6 (i)(a) Rape, § 5-14-103;
- 7 (b) Sexual indecency with a child, § 5-14-110;
- 8 (c) Sexual assault in the first degree, § 5-
 9 14-124;
- 10 (d) Sexual assault in the second degree, § 5-
 11 14-125;
- 12 (e) Sexual assault in the third degree, § 5-
 13 14-126;
- 14 (f) Sexual assault in the fourth degree, § 5-
 15 14-127;
- 16 (g) Incest, § 5-26-202;
- 17 (h) Engaging children in sexually explicit
 18 conduct for use in visual or print medium, § 5-27-303;
- 19 (i) Transportation of minors for prohibited
 20 sexual conduct, § 5-27-305;
- 21 (j) Employing or consenting to use of a child
 22 in sexual performance, § 5-27-402;
- 23 (k) Pandering or possessing visual or print
 24 medium depicting sexually explicit conduct involving a child, § 5-27-304;
- 25 (l) Producing, directing, or promoting sexual
 26 performance, § 5-27-403;
- 27 (m) Promoting prostitution in the first
 28 degree, § 5-70-104;
- 29 (n) Stalking, when ordered by the sentencing
 30 court to register as a sex offender, § 5-71-229;
- 31 (o) Indecent exposure ~~to a person under the~~
 32 ~~age of twelve (12) years~~, § 5-14-112(b) if a felony level offense;
- 33 (p) Exposing another person to human
 34 immunodeficiency virus, when ordered by the sentencing court to register as a
 35 sex offender, § 5-14-123;
- 36 (q) Kidnapping pursuant to § 5-11-102(a) when

1 the victim is a minor and the offender is not the parent of the victim;

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

5 (s) Permitting abuse of a child pursuant to §
6 5-27-221;

7 (t) Computer child pornography; § 5-27-603;
8 and

9 (u) Computer exploitation of a child in the
10 first degree, § 5-27-605(a);

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

13 (w) Public sexual indecency, § 5-14-111;

14 (x) Distributing, possessing, or viewing
15 matter depicting sexually explicit conduct involving a child, § 5-27-602;

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

19 (iii) An adjudication of guilt for an offense of the
20 law of another state, for a federal offense, for a tribal court offense, or
21 for a military offense:

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

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

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

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

33 (ii) This authority ~~is limited~~ applies to sex
34 offenses enacted, renamed, or amended at a later date by the General Assembly
35 unless the General Assembly expresses its intent not to consider the offense
36 to be a true sex offense for the purposes of this subchapter;

1 (13)(A) "Sex offender" means a person who is adjudicated guilty
 2 ~~adjudicated delinquent and ordered to register by the juvenile court judge or~~
 3 acquitted on the grounds of mental disease or defect of a sex offense.

4 (B) Unless otherwise specified, "sex offender" includes
 5 those individuals classified by the court as "sexually violent predators";

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

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

12 ~~(16)~~(14) "Sexually violent offense" means any state, federal,
 13 tribal, or military offense which includes a sexual act as defined in 18
 14 U.S.C. §§ 2241 and 2242, as they existed on ~~January 1, 2001~~ March 1, 2003,
 15 with another person if the offense is nonconsensual regardless of the age of
 16 the victim; and

17 ~~(17)~~(15) "Sexually violent predator" means a person who has been
 18 adjudicated guilty, ~~adjudicated delinquent and ordered to register by the~~
 19 ~~juvenile court judge,~~ or acquitted on the grounds of mental disease or defect
 20 of a sexually violent offense and who suffers from a mental abnormality or
 21 personality disorder that makes the person likely to engage in predatory
 22 sexually violent offenses.

23
 24 SECTION 3. 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 and
 30 shall indicate whether the offense is an aggravated sexual offense.

31 (B) The Department of Correction shall ensure that
 32 offenders received for incarceration complete the registration form prepared
 33 by the Director of the Arkansas Crime Information Center pursuant to § 12-12-
 34 908.

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

1 complete the registration form.

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

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

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

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

21 (C) A sex offender sentenced and required to register
 22 outside of Arkansas, ~~whether as an adult or a juvenile,~~ must submit to
 23 reassessment by Sex Offender Screening and Risk Assessment, provide a
 24 deoxyribonucleic acid (DNA) sample if a sample is not already accessible to
 25 the Arkansas State Crime Laboratory and pay the mandatory fee of two hundred
 26 fifty dollars (\$250) to the DNA Detection Fund established by § 12-12-1119.

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

33 (2) Immediately prior to the release of a sex offender or
 34 immediately following a sex offender's escape or his or her absconding
 35 supervision, the Department of Correction, the Department of Community
 36 Correction, or the Department of Human Services shall update the registration

1 file of the sex offender who is to be released or who has escaped or has
 2 absconded supervision.

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

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

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

15 (iii)(a) Inform the offender that if the offender
 16 changes residency to another state or enters another state for fourteen (14)
 17 consecutive days or more or for an aggregate of thirty (30) days or more a
 18 year, the offender must also register in that state regardless of permanent
 19 residency.

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

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

28 (b) Obtain a deoxyribonucleic acid (DNA)
 29 sample if one has not already been provided;

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

34 (vi) Inform the offender that if the offender's
 35 address changes due to an eviction, natural disaster, or any other unforeseen
 36 circumstance, the offender shall give the new address to the Arkansas Crime

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

3 (vii) Inform an offender who has been granted
 4 probation that failure to comply with the provisions of this subchapter ~~shall~~
 5 may be grounds for revocation of the offender's probation.

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

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

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

17 (A) Review with the offender the duty to register and
 18 obtain current information required for registration as described in § 12-12-
 19 908;

20 (B) Review with the offender the requirement that if the
 21 offender changes address, the offender shall give the new address to the
 22 center in writing no later than ten (10) days before the offender establishes
 23 residency or is temporarily domiciled at the new address;

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

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

33 (E) Inform the offender that if the offender's address
 34 changes due to an eviction, natural disaster, or any other unforeseen
 35 circumstance, the offender shall give the new address to the center in
 36 writing no later than five (5) business days after the offender establishes

1 residency.

2 (d) When registering or updating the registration file of a sexually
 3 violent predator, the Department of Correction, the Department of Community
 4 Correction, the Department of Human Services, or the local law enforcement
 5 agency having jurisdiction, in addition to the requirements of subdivision
 6 (c)(1) or (2) of this section, shall obtain documentation of any treatment
 7 received for the mental abnormality or personality disorder of the sexually
 8 violent predator.

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

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

15 (A) Incident to a change in the marital status of the
 16 offender; or

17 (B) Necessary to effect the exercise of religion of the
 18 offender.

19 (2) The change in the offender's name shall be reported to the
 20 Director of the center within thirty (30) calendar days after the official
 21 change in name.

22 (3) A violation of this subsection shall constitute a Class D
 23 felony.

24
 25 SECTION 4. Arkansas Code § 12-12-911(b), concerning the Sex and Child
 26 Offenders Registration Fund, is amended to read as follows:

27 (b) This fund shall consist of special revenues collected pursuant to
 28 § 12-12-910, there to be used equally by the Arkansas Crime Information
 29 Center and the Department of Correction for the administration of this
 30 subchapter.

31
 32 SECTION 5. Arkansas Code § 12-12-913(g) through (j), concerning
 33 disclosure of sex offender information, is amended to read as follows:

34 (g)(1) The State Board of Education, Arkansas Higher Education
 35 Coordinating Board, and the State Board of Workforce Education and Career
 36 Opportunities shall promulgate guidelines for the disclosure to students and

1 parents of information regarding an offender when such information is
 2 released to a local school district or institution of higher education or
 3 vocational training by a local law enforcement agency having jurisdiction.

4 (2) The board of directors of a local school district or
 5 institution of higher education or vocational training shall adopt a written
 6 policy, in accordance with guidelines promulgated by the State Board of
 7 Education, regarding the distribution to students and parents of information
 8 regarding an offender.

9 (h) Nothing in this section shall ~~be construed to~~ prevent law
 10 enforcement officers from notifying members of the public ~~exposed to danger~~
 11 ~~of any persons that~~ about persons who, in the opinion of the Sex Offender
 12 Assessment Committee, may pose a danger to the public under circumstances
 13 that are not enumerated in this subchapter.

14 (i) ~~Nothing in this subchapter shall be interpreted to make~~ The
 15 medical records or treatment evaluations of ~~the~~ a sex offender or sexually
 16 violent predator are not subject to disclosure under the Freedom of
 17 Information Act of 1967, § 25-19-101 et seq.

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

- 21 (i) The offender's complete name, as well as any
- 22 aliases:
- 23 (ii) The offender's date of birth;
- 24 (iii) The sexual offense or offenses to which the
- 25 offender has pleaded guilty or nolo contendere or has been found guilty of by
- 26 a court of competent jurisdiction;
- 27 (iv) The street name and block number, county, city,
- 28 and zip code in which the offender resides;
- 29 (v) The offender's race and gender;
- 30 (vi) The date of the last address verification of
- 31 the offender provided to the center;
- 32 (vii) The most recent photograph of the offender
- 33 that has been submitted to the center; and
- 34 (viii) The offender's parole or probation office.

35 (B) The center shall prepare and place the information in
 36 subdivision (j)(1)(A) of this section on the Internet home page of the State

1 of Arkansas before January 1, 2004.

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

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

7 (1) Are determined to be high risk or a sexually violent
8 predator, Risk Levels 3 and 4;

9 (2) Are determined, according to standards established by the
10 center and published in the guidelines promulgated by the committee, to be
11 delinquent or otherwise in noncompliance with the requirements of
12 registration under rules and regulations promulgated by the committee; or

13 (3) By action of the committee belong to a classification which
14 poses a danger to the safety of the public.

15
16 SECTION 6. Arkansas Code § 12-12-915 is amended to read as follows:
17 12-12-915. Regulations.

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

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

26
27 SECTION 7. Arkansas Code § 12-12-917 is amended to read as follows:
28 12-12-917. Evaluation protocol - ~~Sexually violent predators—~~
29 ~~Juveniles adjudicated delinquent—~~ Examiners.

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

35 (2) The committee shall also establish qualifications for and
36 qualify examiners to prepare reports in accordance with the evaluation

1 protocol.

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

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

9 (b)(1) The committee shall cause an assessment to be conducted on a
 10 case-by-case basis of the public risk posed by a sex offender or sexually
 11 violent predator who is required to register under § 12-12-905:

12 (A) After July 1, 1999; and

13 (B) Who has not been assessed prior to July 1, 1999.

14 (2)(A) Adult offenders sentenced to the Department of Correction
 15 shall be assessed as the necessary information becomes available after
 16 reception into the Department of Correction, with the assessment being
 17 reviewed and updated periodically during incarceration.

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

21 (3) The sentencing court shall require adult offenders
 22 adjudicated guilty but given suspended or probated sentences to contact Sex
 23 Offender Screening and Risk Assessment at the Arkansas Department of
 24 Correction in Pine Bluff within ten (10) days of adjudication to schedule an
 25 assessment to be conducted at a location determined by the Department of
 26 Correction in consultation with the sentencing court.

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

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

33 (ii)(a) If an offender fails to appear or fails to
 34 cooperate fully with assessment personnel:

35 (1) The offender shall be classified in
 36 the highest risk category;

1 (2) The parole or probation officer, if
 2 applicable, shall be notified; and

3 (3) The offender may be considered in
 4 violation of the statute requiring registration.

5 (b) Neither the exercise of the right to
 6 appeal a conviction nor the refusal to admit an offense of which the offender
 7 was convicted after a trial shall be considered as a failure to cooperate
 8 fully.

9 (c) Assessment personnel are not exempt from
 10 reporting ongoing abuse to the central registry as required under § 5-28-201,
 11 et seq.

12 (c)(1) Public agencies shall provide the committee access to all
 13 relevant records and information in the possession of public agencies or any
 14 private entity contracting with a public agency relating to the sex offender
 15 or sexually violent predator under review.

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

17 (A) Police reports;

18 (B) Statements of probable cause;

19 (C) Presentence investigations and reports;

20 (D) Complete judgments and sentences;

21 (E) Current classification referrals;

22 (F) Criminal history summaries;

23 (G) Violation and disciplinary reports;

24 (H) All psychological evaluations and psychiatric hospital
 25 reports;

26 (I) Sex offender or sexually violent predator treatment
 27 program reports;

28 (J) Juvenile records;

29 (K) Victim impact statements;

30 (L) Investigation reports to the child abuse hotline, the
 31 Division of Children and Family Services, and any entity contracting with the
 32 Department of Human Services for investigation or treatment of sexual or
 33 physical abuse or domestic violence; and

34 (M) Statements of medical providers treating victims of
 35 sex offenses indicating the extent of injury to the victim.

36 (d)(1)(A) Records and information obtained under this section shall

1 not be subject to the Freedom of Information Act of 1967, § 25-19-101 et
 2 seq., unless otherwise authorized by law.

3 (B)(i) Records and information obtained under this section
 4 shall not be available to the sex offender or sexually violent predator
 5 except through the agency or individual having primary custody of the
 6 offender, unless otherwise ordered by a court of competent jurisdiction.

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

9 (2)(A)(i) The sex offender or sexually violent predator shall
 10 have access to records and information generated and maintained by the
 11 committee.

12 (ii) These reports may include any reports of the
 13 assessment, and the tape of the interview, but do not include restricted
 14 source documents of commercial psychological test, or working notes of staff.

15 (B) If the record or information generated contains the
 16 identity or addresses of victims or persons who have made statements adverse
 17 to the sex offender or sexually violent predator, the identity or addresses
 18 shall be redacted and the sex offender or sexually violent predator shall
 19 have access to records and information other than the identity and addresses.

20 (e) In classifying the offender into a risk level for the purposes of
 21 public notification under § 12-12-913, the committee shall, through its
 22 staff, review each sex offender or sexually violent predator under its
 23 authority:

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

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

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

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

30 (f)(1)(A) The committee shall issue the offender fact sheet to the
 31 local law enforcement agency having jurisdiction.

32 (B) The offender fact sheet is provided to assist local
 33 law enforcement in its task of community notification.

34 (C) The posting of the fact sheet alone may not meet the
 35 full requirements of community notification under § 12-12-913.

36 (2) The committee shall provide the Post Prison Transfer Board

1 with copies of the offender fact sheet on inmates of the Department of
2 Correction.

3 (3) The committee shall provide the Department of Community
4 Correction with copies of the offender fact sheet on any individual under its
5 supervision.

6 (4)(A)(i) The offender fact sheet shall be prepared on standard
7 forms for ease of transmission and communication.

8 (ii) The offender fact sheet shall also be on an
9 Internet-based application accessible to law enforcement, state boards, and
10 licensing agencies.

11 (iii) The offender fact sheet of sexually violent
12 predators and those offenders found by the center to be in violation of
13 registration requirement shall be made available to the general public unless
14 the release of the fact sheet, in the opinion of the committee based on a
15 risk assessment, places innocent individuals at risk.

16 (B) The standard form shall include, but not be limited
17 to:

18 (i) Registration information as required in § 12-12-
19 908;

20 (ii) Risk level;

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

22 (iv) Psychological factors likely to affect sexual
23 control;

24 (v) Victim age and gender preference;

25 (vi) Treatment history and recommendations; and

26 (vii) Other relevant information deemed necessary by
27 the committee or by professional staff performing sex offender assessments.

28 (5)(A) The committee shall ensure that the notice is complete in
29 its entirety.

30 (B) Law enforcement officers shall notify the center if an
31 offender has moved or is otherwise in violation of registration requirements.

32 (6)(A) All material used in the assessment shall be kept on file
33 in its original form for one (1) year.

34 (B) After one (1) year, the file may be stored
35 electronically.

36 (g)(1) The Department of Correction, in cooperation with the

1 committee, shall promulgate rules and regulations to establish the review
2 process for assessment determinations.

3 (2) The sex offender or sexually violent predator may request a
4 review upon presentation to the committee of:

5 (A) Documentation that the law or guidelines were not
6 properly followed; or

7 (B) Information that was not available at the time of the
8 assessment determination.

9 (3)(A) The findings of the reviewer shall be considered to
10 exhaust the sex offender's administrative remedies.

11 (B) Upon receipt of the findings, the sex offender has
12 thirty (30) days to file a petition under the Arkansas Administrative
13 Procedure Act § 25-15-201 for a review in Pulaski County Circuit Court or in
14 the circuit court of the county in which the sex offender resides or does
15 business.

16 (C) The court shall refuse to hear any appeal of an
17 assigned risk level by a sex offender unless the court finds that the
18 administrative remedies available to the sex offender under this subsection
19 have been exhausted.

20 (D) A copy of the petition for judicial review shall be
21 served on the executive secretary of the Sex Offender Assessment Committee in
22 accordance with the Arkansas Rules of Civil Procedure. When the petition for
23 judicial review has been served on the executive secretary of the committee,
24 a record of the committee's findings, and copies of all records in its
25 possession shall be furnished by the committee to the court within thirty
26 (30) days of service.

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

30 (F) A ruling by the court on the petition for judicial
31 review shall be considered a final judgment and community notification at the
32 level approved in the ruling shall commence.

33 (G) Prior to the completion of the judicial review
34 community notification may be made only at the risk level below the disputed
35 level.

36 (h)(1)(A) A sex offender or sexually violent predator may request the

1 committee to reassess the offender's assigned risk level after five (5) years
 2 have elapsed since initial risk assessment by the committee, and may renew
 3 that request once every five (5) years.

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

7 (2) The committee shall also take into consideration any
 8 subsequent criminal acts by the sex offender or sexually violent predator who
 9 has requested reassessment.

10
 11 SECTION 8. Arkansas Code § 12-12-918 is amended to read as follows:

12 12-12-918. Classification as sexually violent predator - Requirements
 13 and appeal.

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

17 (2)(A) If the defendant is adjudicated guilty, the court shall
 18 enter an order directing an examiner qualified by the Sex Offenders
 19 Assessment Committee to issue a report to the sentencing court that
 20 recommends whether or not the defendant should be classified as a sexually
 21 violent predator.

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

24 (C) The report shall not be admissible for purposes of
 25 sentencing.

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

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

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

32 (B) ~~Sex Offender Screening and Risk Assessment~~ The
 33 committee may elect to send an examiner to the local or regional detention
 34 facility.

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

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

7 (2) The sentencing court shall retain jurisdiction to determine
 8 whether an offender is a sexually violent predator for one (1) year after
 9 sentencing or for so long as the offender remains incarcerated for the sex
 10 offense.

11 (d)(1) The ~~prosecutor's affidavit judgment and commitment order~~ should
 12 state whether or not the offense qualifies as an aggravated sex offense.

13 (2) Should this ~~statement be omitted~~ box not be checked on the
 14 commitment order, the ~~prosecutor~~ court will be contacted by ~~Sex Offender~~
 15 ~~Screening and Risk Assessment~~ the committee and asked to furnish a written
 16 determination as to whether or not the offense qualifies as an aggravated sex
 17 offense.

18
 19 SECTION 9. Arkansas Code § 12-12-919 is amended to read as follows:
 20 12-12-919. Termination of obligation to register.

21 (a) Lifetime registration is required for a sex offender found to have
 22 committed an aggravated sex offense, determined by the court to be a sexually
 23 violent predator, or found to have been adjudicated guilty of a second or
 24 subsequent sex offense under a separate case number, not multiple counts on
 25 the same charge.

26 (b)(1)(A)(i) Any other sex offender required to register under this
 27 subchapter may make application for an order terminating the obligation to
 28 register to the sentencing court fifteen (15) years after release from
 29 incarceration or other institution, or fifteen (15) years after having been
 30 placed on probation or any other form of community supervision by the court.

31 (ii) A sex offender sentenced in another state but
 32 permanently residing in Arkansas may make an application for an order
 33 terminating the obligation to register to the court of the county in which
 34 the offender resides.

35 (B)(i) The court shall hold a hearing on the application
 36 at which the applicant and any interested persons may present witnesses and

1 other evidence.

2 (ii) No fewer than twenty (20) days prior to the
 3 date of the hearing on the application, a copy of the application for
 4 termination of the obligation to register shall be served on the prosecutor
 5 of the county in which the adjudication of guilt triggering registration was
 6 obtained.

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

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

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

15

16 SECTION 10. Arkansas Code Title 12, Chapter 12, Subchapter 9 is
 17 amended to add an additional section to read as follows:

18 12-12-921. Sex Offender Assessment Committee.

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

21 (1) The Governor shall appoint, subject to confirmation by the
 22 Senate:

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

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

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

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

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

29 (F) One (1) member with expertise in juvenile justice or
 30 treatment;

31 (2) The Director of the Department of Correction or the
 32 director's designee;

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

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

1 (b)(1) Members appointed by the Governor shall be for four-year
 2 staggered terms to be assigned by lot at the first meeting.

3 (2) If a vacancy of one (1) of the members appointed by the
 4 Governor occurs for any reason other than expiration of a regular term, the
 5 vacancy shall be filled for the unexpired portion of the term by appointment
 6 of the Governor.

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

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

13 (c) The members of the committee shall elect annually a chair and a
 14 vice chair from their membership.

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

17 (e)(1) A majority of the members of the committee shall constitute a
 18 quorum for the transaction of business.

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

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

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

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

27 (h) The committee shall assist the Department of Correction in
 28 promulgating rules and regulations to ensure the proper implementation of the
 29 Sex Offender Registration Act of 1997, § 12-12-901 et seq. and §§ 12-12-1301
 30 - 1303.

31 (i)(1) The Sex Offender Assessment Committee shall report in writing
 32 to the Governor and to the Legislative Council by July 31 of each year.

33 (2) The report shall contain:

34 (A) A summary of the proceedings of the committee during
 35 the preceding fiscal year;

36 (B) A detailed and itemized statement of all revenue and

1 of all expenditures made by or on behalf of the committee;
 2 (C) Other information deemed necessary or useful; and
 3 (D) Any additional information that may be requested by
 4 the Governor and the Legislative Council.

5
 6 SECTION 11. Arkansas Code Title 12, Chapter 12, Subchapter 9 is
 7 amended to add an additional section to read as follows:

8 12-12-922. Alternative procedure for sex offender evaluations.

9 (a)(1) The alternative procedure under this section may be used for
 10 sex offender evaluations if information emerges in the course of a sex
 11 offender evaluation that is not available to the court or is not admissible
 12 under the rules of evidence.

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

21 (B) If a mental abnormality or personality disorder is
 22 suggested, a licensed psychologist or psychiatrist qualified by the committee
 23 shall conduct further assessment to determine the presence or absence of a
 24 mental abnormality or personality disorder.

25 (C) The report of the assessment shall be presented to the
 26 committee, which shall make that determination according to protocols
 27 established by that committee and published in the committee guidelines.

28 (b)(1) A sex offender may challenge an assigned risk level by
 29 requesting an administrative review.

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

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

36 (B) The evidence considered shall be:

1 (i) A statement that the rules and procedures were
 2 not properly followed in reaching a decision on the risk level of the
 3 individual;

4 (ii) Documents or information not available at the
 5 time of assessment that have a bearing on the risk that the individual poses
 6 to the community; or

7 (iii) A statement that the assessment is not
 8 supported by substantial evidence.

9 (4) Unless a request for an administrative review is received by
 10 the committee within thirty (30) days of sending the advisement to the sex
 11 offender by certified mail, an offender fact sheet shall be made available to
 12 law enforcement so that community notification may commence.

13 (5) If a request for an administrative review is received by the
 14 committee, law enforcement may make community notification only at the level
 15 immediately below the level upon which review has been requested.

16 (6)(A) A member of the committee shall conduct the review and
 17 respond within thirty (30) days of receiving a request for an administrative
 18 review.

19 (B) If additional time is needed to obtain facts, the
 20 committee shall notify the sex offender requesting the review.

21 (7)(A)(i) The findings of the administrative review shall be
 22 sent to the sex offender by certified mail.

23 (ii) Upon receipt of the findings, the sex offender
 24 has thirty (30) days to file a petition under the Arkansas Administrative
 25 Procedure Act, § 25-15-201 et seq. for judicial review in the Pulaski County
 26 Circuit Court or in the circuit court of the county in which the sex offender
 27 resides or does business.

28 (B) The court shall refuse to hear any appeal of an
 29 assigned risk level by a sex offender unless the court finds that the
 30 administrative remedies available to the sex offender under this subsection
 31 (b) have been exhausted.

32 (8)(A)(i) A copy of the petition for judicial review shall be
 33 served on the executive secretary of the committee in accordance with the
 34 Arkansas Rules of Civil Procedure.

35 (ii) When the petition for judicial review has been
 36 served on the executive secretary of the committee, a record of the

1 committee's findings, and copies of all records in its possession shall be
2 furnished by the committee to the court within thirty (30) days of service.

3 (B) The committee may ask the court to seal statements of
4 victims, medical records, and other items that could place third parties at
5 risk of harm.

6 (9) A ruling by the court on the petition for judicial review
7 shall be considered a final judgment and community notification at the level
8 approved in the ruling shall commence.

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