



ARKANSAS SENTENCING COMMISSION

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Impact Assessment for HB1004 Sponsored by Representative Ray

Subtitle TO AMEND THE SEX OFFENDER REGISTRATION ACT OF 1997 TO INCLUDE DISCLOSURE OF A SEX OFFENDER'S ADDRESS TO THE PUBLIC; AND TO DECLARE AN EMERGENCY.

Impact Summary¹ Cannot be determined. The proposed bill amends the Sex Offender Registration Act of 1997 to include additional public disclosures of sex offender registrant information, the potential impact of which cannot be ascertained from available data.

Change from Current Law² Amends the Sex Offender Registration Act of 1997, specifically, various provisions of Arkansas Code Annotated § 12-12-913, concerning disclosures within the Sex Offender Registration Act of 1997. The proposed bill amends A.C.A. § 12-12-913(j)(1)(A) and (B). Under the proposed bill, A.C.A. § 12-12-913(j)(1)(A)(iv) and A.C.A. § 12-12-913(j)(1)(B)(iv) are amended to include the *physical address of the sex offender, including without limitation the street name, house number, apartment or unit number, county, city, and zip code where the sex offender resides.* A.C.A. § 12-12-913(j)(1)(A)(ix) and A.C.A. § 12-12-913(j)(1)(B)(ix) are amended to include the *name of the sex offender's employer and the street name, building or house number, suite or unit number, county, city, and zip code where the sex offender is employed.* Current language requires disclosure of the block number or addresses. [New language is indicated by *italics.*] A.C.A. § 12-12-913(j)(1)(A) concerns sex offenders classified as Level 3 or Level 4 offenders by the Community Notification Assessment. A.C.A. § 12-12-913(j)(1)(B) concerns sex offenders registered who were eighteen (18) years of age or older at the time of the commission of the sex offense that required registration under the Sex Offender Registration Act of 1997 and the victim of the sex offense was fourteen (14) years of age or younger and the sex offender is classified as a Level 2 offender by the Community Notification Assessment. [See attached for a complete reproduction of A.C.A. § 12-12-913].

Impact Information The proposed bill increases the amount of information disclosed to the public about certain offenders required to submit to the registration under the Sex Offender Registration Act of 1997. The proposed bill affects all sex offenders assessed as Level 3 or Level 4, and sex offenders assessed with a victim < fourteen (14) years of age. Data for the Sex Offender Registry is compiled and made available to the public by the Arkansas Department of Public Safety through the Arkansas Crime Information Center (ACIC).

ACIC reports that as of January 19, 2023, there are 18,418 sex offenders registered in Arkansas. Of those registered, 486 are assessed as Level 4, 5,230 are assessed Level 3, and 7,523 are assessed as Level 2. An additional 4,119 offenders are not yet assessed. The increased public disclosure of personal information may

¹ This impact assessment was prepared 1/25/2023 11:22 AM by the staff of the Arkansas Sentencing Commission pursuant to A. C. A. § 16-90-802(d)(6) with data supplied by the Arkansas Department of Corrections and the Administrative Office of the Courts. A micro-simulation model may be used for bills which have the potential for significant impact on correctional resources. The following designations will be used: "minimal" = less than 10 offenders per year will be affected; "medium" = would require budgetary increases for ADC inmate costs; and "major" = would require budgetary increases for ADC inmate costs and construction costs for additional beds.

² Standard punishment ranges:

Class Y 10-40 years or life
Class A 6-30 years; up to \$15,000
Class B 5-20 years; up to \$15,000

Class C 3-10 years; up to \$10,000
Class D 0-6 years; up to \$10,000
Unclassified As specified in statute

Misdemeanors
Class A Up to 1 year; up to \$2,500
Class B Up to 90 days; up to \$1,000
Class C Up to 30 days; up to \$500

have a potential impact on the housing and employment opportunities for impacted offender, which could result in longer prison stays while awaiting an approved parole plan. Since the proposed bill amends the amount of information made available to the public, the impact on correctional resources cannot be determined.

A.C.A. § 5-12-913. Disclosures.

(a)

- (1) Registration records maintained pursuant to this subchapter shall be open to any criminal justice agency in this state, the United States, or any other state.
- (2) Registration records may also be open to government agencies authorized by law to conduct confidential background checks.
- (3) Registration records shall be open to the Division of Medical Services of the Department of Human Services for Medicaid provider applicants under § 12-12-927.

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

(c)

(1)

(A) The Sex Offender Assessment Committee shall promulgate guidelines and procedures for the disclosure of relevant and necessary information regarding sex offenders to the public when the release of the information is necessary for public protection.

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

(2)

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

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

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

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

Health,
(6)

(d)

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

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

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

(e)

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

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

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

(g)

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

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

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

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

(h) Nothing in this section shall prevent a law enforcement officer from notifying members of the public about a person who may pose a danger to the public for a reason that is not enumerated in this subchapter.

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

(j)

(1)

(A) The following information concerning a sex offender registered under this subchapter who is classified as a Level 3 or Level 4 offender by the Community Notification Assessment shall be made public:

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

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

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

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

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

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

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

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

(ix) The street name and block number, county, city, and zip code where the sex offender is employed;

(x) Any institution of higher education in which the sex offender is enrolled;

(xi) The vehicle identification number and license plate number of any vehicle the sex

offender owns or operates; and

(xii) A physical description of the sex offender.

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

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

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

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

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

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

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

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

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

(ix) The street name and block number, county, city, and zip code where the sex offender is employed;

(x) Any institution of higher education in which the sex offender is enrolled;

(xi) The vehicle identification number and license plate number of any vehicle the sex offender owns or operates; and

(xii) A physical description of the sex offender.

(C) The center shall prepare and place the information described in subdivisions (j)(1)(A) and (B) of this section on the internet home page of the State of Arkansas.

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

(k) This subchapter shall not be interpreted to prohibit the posting on the internet or by other appropriate means of offender fact sheets or the physical description of the sex offender for those sex offenders who are determined to be:

(1) High-risk or sexually dangerous persons, risk Level 3 and Level 4; or

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

History

Acts 1997, No. 989, § 13; 1999, No. 1353, § 8; 2001, No. 1743, § 10; 2003, No. 330, §§ 1, 2; 2003 (2nd Ex. Sess.), No. 21, § 6; 2005, No. 1962, § 35; 2007, No. 147, § 1; 2007, No. 394, § 7; 2009, No. 165, § 7; 2013, No. 505, §§ 11–14; 2013, No. 508, §§ 10, 11; 2013, No. 1504, § 1; 2017, No. 916, §§ 8, 9; 2019, No. 315, § 864; 2019, No. 910, § 716.