

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 83rd General Assembly  
3 Regular Session, 2001  
4

# A Bill

Act 1740 of 2001  
HOUSE BILL 2408

5 By: Representative Carson  
6  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND VARIOUS SECTIONS OF THE ARKANSAS CODE  
10 REGARDING THE ASSESSMENT OF SEX OFFENDERS; AND FOR  
11 OTHER PURPOSES.  
12  
13

## Subtitle

15 AN ACT TO AMEND VARIOUS SECTIONS OF THE  
16 ARKANSAS CODE REGARDING THE ASSESSMENT  
17 OF SEX OFFENDERS.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code 12-12-1301 is amended to read as follows:  
24 12-12-1301. Committee created.

25 (a) There is created the Sex Offenders Assessment Committee, which  
26 shall consist of ~~eight (8)~~ nine (9) members as follows:

27 (1) The Governor shall appoint, subject to confirmation by the  
28 Senate:

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

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

31 (C) Two (2) members who are licensed mental health  
32 professionals, at least one (1) of whom shall have a demonstrated expertise  
33 in the treatment of sex ~~and child~~ offenders;

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

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

36 (2) The Director of the Department of Correction or the

1 director's designee.

2 (3) The Director of the Department of Community Punishment or  
3 the director's designee.

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

6 (b)(1) Members appointed by the Governor shall be appointed for ~~three-~~  
7 ~~year~~ four-year staggered terms.

8 (2) The staggered terms will be assigned by lot.

9 (c)(1) In the event of a vacancy of one (1) of the members appointed  
10 by the Governor for any reason other than expiration of a regular term, the  
11 vacancy shall be filled for the unexpired portion of the term by appointment  
12 of the Governor.

13 (2) The members of the committee appointed by the Governor may  
14 be removed by the Governor for neglect of duty or malfeasance in office.

15 (3) Members of the committee appointed by the Governor shall not  
16 be entitled to compensation for their services but may receive expense  
17 reimbursement and a stipend not to exceed one hundred dollars (\$100) per  
18 meeting, in accordance with § 25-16-902, to be paid by the Department of  
19 Correction.

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21 SECTION 2. Arkansas Code 12-12-1302 is amended to read as follows:

22 12-12-1302. Meetings and responsibilities.

23 (a)(1) The members shall elect from among their number a chairperson  
24 and a vice chairperson.

25 (2) Annually, an organizational meeting shall be held to elect  
26 the chairperson and vice chairperson.

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

29 (4) A majority of the members of the committee shall constitute  
30 a quorum for the transaction of business.

31 (5) Members shall be considered active unless their resignation  
32 has been submitted or requested by the Governor, or they have more than two  
33 (2) unexcused absences from meetings in a twelve (12) month period and this  
34 fact has been reported to the Governor's office.

35 (b)(1) The committee shall meet at least quarterly.

36 (2) Special meetings may be called by the chair or as provided

1 by the rules of the committee.

2 (c) The executive secretary of the committee shall keep full and true  
3 records of all committee proceedings and preserve all books, documents, and  
4 papers relating to the business of the committee.

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

7 (e) The committee shall assist the Department of Correction in  
8 promulgating rules and regulations to ensure the proper implementation of  
9 Acts 1999, No. 1353.

10 (f)(1) The committee shall report in writing to the Governor and to  
11 the Legislative Council by July 31 of each year.

12 (2) The report shall contain:

13 (A) A summary of the proceedings of the committee during  
14 the preceding fiscal year;

15 (B) A detailed and itemized statement of all revenue and  
16 of all expenditures made by or in behalf of the committee;

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

18 (D) Any additional information which may be requested by  
19 the Governor and the Legislative Council.

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21 SECTION 3. Arkansas Code 12-12-1303 is amended to read as follows:

22 12-12-1303. Assessing public risk.

23 (a)(1) The ~~Department of Correction~~ Sex Offender Screening and Risk  
24 Assessment shall assess on a case-by-case basis the public risk posed by a  
25 sex or child offender or sexually violent predator who is required to  
26 register under § 12-12-905.

27 (2) The ~~committee~~ Sex Offender Screening and Risk Assessment  
28 shall assess those persons required to register under § 12-12-905:

29 (A) After July 1, 1999; and

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

31 (3)(A) Adult offenders sentenced to the Department of Correction  
32 shall be assessed ~~at the point of intake~~ as the necessary information becomes  
33 available after reception into the Department of Correction, with that  
34 assessment being reviewed and updated periodically during the course of  
35 incarceration.

36 (B) ~~Sex Offenders~~ offenders sentenced to life, life

1 without parole, or death shall be assessed only if being considered for  
2 release through clemency.

3 (4) Adult offenders adjudicated guilty but given suspended or  
4 probated sentences shall be required by the sentencing court to contact the  
5 ~~Department of Correction~~ Sex Offender Screening and Risk Assessment at Pine  
6 Bluff within ten (10) days of adjudication to schedule an assessment to be  
7 conducted at a location determined by the Department of Correction in  
8 consultation with the sentencing court.

9 (5)(A) ~~Sex Offenders~~ offenders currently in the community who  
10 have not been assessed and classified shall be identified by the Arkansas  
11 Crime Information Center.

12 (B)(i) The Department of Community Punishment shall notify  
13 offenders in a particular area to present themselves at a parole office in  
14 their area or other designated location for assessment by the ~~Department of~~  
15 ~~Correction~~ Sex Offender Screening and Risk Assessment.

16 (ii) Failure to appear or failure to cooperate fully  
17 with assessment shall result in a default classification of the highest risk  
18 category and in notification of the parole or probation officer, if  
19 applicable, and may be considered a violation of the statute requiring  
20 registration.

21 (b)(1) The ~~Department of Correction~~ Sex Offender Screening and Risk  
22 Assessment shall have access to all relevant records and information in the  
23 possession of public agencies or any private entity contracting with a public  
24 agency relating to the sex ~~or child~~ offender or sexually violent predator  
25 under review.

- 26 (2) The records and information include, but are not limited to:
- 27 (A) Police reports;
  - 28 (B) Statements of probable cause;
  - 29 (C) Presentence investigations and reports;
  - 30 (D) Complete judgments and sentences;
  - 31 (E) Current classification referrals;
  - 32 (F) Criminal history summaries;
  - 33 (G) Violation and disciplinary reports;
  - 34 (H) All psychological evaluations and psychiatric hospital  
35 reports;
  - 36 (I) Sex ~~and child~~ offender or sexually violent predator

1 treatment program reports;

2 (J) Juvenile records; ~~and~~

3 (K) Victim impact statements;

4 (L) Investigation reports to the Child Abuse Hotline,  
5 Division of Children and Family Services, and any entity contracting with the  
6 Department of Human Services for investigation or treatment of sexual or  
7 physical abuse or domestic violence; and

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

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

13 (B) Records and information obtained under this section  
14 shall not be available to the sex offender except through the agency or  
15 individual having primary custody of them, unless otherwise ordered by a  
16 court of competent jurisdiction. The offender may be given a list of the  
17 records or information obtained.

18 (2) The sex ~~or child~~ offender or sexually violent predator shall  
19 have access to records and information ~~collected~~ generated and maintained by  
20 the ~~Department of Correction~~ Sex Offender Screening and Risk Assessment  
21 unless the records or information ~~received~~ generated contains the addresses  
22 of victims or persons who have made statements adverse to the sex ~~or child~~  
23 offender or sexually violent predator.

24 (d) In classifying the offender into a risk level for the purposes of  
25 public notification under § 12-12-913, the ~~Department of Correction~~ Sex  
26 Offender Screening and Risk Assessment shall review each sex ~~or child~~  
27 offender or sexually violent predator under its authority:

28 (1) Prior to the offender's release from confinement in a  
29 correctional facility;

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

32 (3) Upon an adjudication of delinquency of a ~~sex offense;~~

33 ~~(A) Sexually violent offense;~~

34 ~~(B) Sex offense; or~~

35 ~~(C) Offense against a victim who is a minor;~~

36 (4) At any time during the juvenile court judge's jurisdiction

1 over a juvenile adjudicated delinquent of a sex offense;

2 ~~(A) Sexually violent offense;~~

3 ~~(B) Sex offense; or~~

4 ~~(C) Offense against a victim who is a minor;~~

5 (5) At the start of an offender's suspended sentence;

6 (6) At the start of the offender's term of community punishment;

7 or

8 (7) At the start of an offender's probation period.

9 (e)(1) The ~~Department of Correction~~ Sex Offender Screening and Risk  
10 Assessment shall issue to the local law enforcement agency having  
11 jurisdiction, for their use in making public notifications under § 12-12-913,  
12 the ~~notice~~ offender fact sheet required by the regulations promulgated by the  
13 Sex Offenders Assessment Committee regarding the sex ~~or child~~ offender or  
14 sexually violent predator.

15 (2) The Post Prison Transfer Board shall receive copies of the  
16 ~~notice~~ offender fact sheet on inmates of the Department of Correction.

17 (3) The Department of Community Punishment shall receive copies  
18 of the ~~notice~~ offender fact sheet on any individuals under its supervision.

19 (4)(A)(i) ~~Notices~~ The offender fact sheet shall be reported on  
20 standard forms for ease of transmission and communication.

21 (ii) The offender fact sheet will also be on a  
22 computer-based application accessible to law enforcement and state boards and  
23 licensing agencies.

24 (iii) The offender fact sheet of sexually violent  
25 predators and those sex offenders found by the Arkansas Crime Information  
26 Center to be in violation of registration requirements may be accessible by  
27 the general public, unless to do so places innocent individuals at risk.

28 (B) The standard forms shall include, but not be limited  
29 to:

30 (i) Registration information as required in § 12-12-  
31 908;

32 (ii) Risk level;

33 (iii) Date of deoxyribonucleic acid, or DNA, sample;

34 (iv) Psychological factors likely to affect sexual  
35 control;

36 (v) Victim target group preference;

1 (vi) Treatment history and recommendations; and  
2 (vii) Other relevant information deemed necessary by  
3 the Sex Offenders Assessment Committee or by professional staff doing sex  
4 offender assessments.

5 (5)(A) ~~The Department of Correction~~ Sex Offender Screening and  
6 Risk Assessment shall ensure that the notice is completed in its entirety.

7 (B) Law enforcement shall notify the ~~Department of~~  
8 ~~Correction~~ Arkansas Crime Information Center if an offender has moved or is  
9 otherwise in violation of registration requirements ~~and then the Department~~  
10 ~~of Correction has responsibility to track them down.~~

11 (6) Copies of relevant documents gathered for the assessment  
12 notice may be attached to the notice as determined appropriate by  
13 professional staff completing the assessment.

14 (7)(A) All material used in the assessment will be kept on file  
15 in its original form for one (1) year.

16 (B) After one (1) year, the file may be stored  
17 electronically.

18 (f)(1) The Department of Correction, in cooperation with the Sex  
19 Offenders Assessment Committee, shall promulgate rules and regulations to  
20 establish the ~~appeal~~ review process for the assessment determinations.

21 (2) The sex offender may request a review upon presentation of  
22 documentation that the law or guidelines were not properly followed, or the  
23 presentation of information that was not available to the Sex Offender  
24 Screening and Risk Assessment at the time of the assessment.

25 (g)(1)(A) A sex ~~or child~~ offender or sexually violent predator may  
26 request the committee to reassess the offender's assigned risk level after  
27 five (5) years have elapsed since the ~~Department of Correction's~~ Sex Offender  
28 Screening and Risk Assessment initial risk assessment and may renew the  
29 request once every five (5) years following subsequent denials.

30 (B) In the request for reassessment, the offender shall  
31 list the facts and circumstances which demonstrate that the offender no  
32 longer poses the same degree of risk to the community.

33 (2) The committee shall also take into consideration any  
34 subsequent criminal acts by the sex ~~or child~~ offender or sexually violent  
35 predator who has requested a reassessment.

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