

**Hall of the House of Representatives**  
83rd General Assembly - Regular Session, 2001  
**Amendment Form**

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**Subtitle of House Bill No. 1128**

"THE 'DRUG OFFENDER REGISTRATION ACT'."

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**Amendment No. 1 to House Bill No. 1128.**

Amend House Bill No. 1128 as originally introduced:

Page 1, line 9, delete "OFFENDER" and substitute "KINGPIN"

AND

Page 1, line 13, delete "OFFENDER" and substitute "KINGPIN"

AND

Delete everything after the enacting clause and substitute the following:  
"SECTION 1. Arkansas Code Title 12, Chapter 12 is amended by adding the following new subchapter:

12-12-1401. Title.

This subchapter shall be known and may be cited as the "Drug Kingpin Registration Act".

12-12-1402. Legislative findings.

The General Assembly finds that protecting the public from drug offenders who commit the offense of engaging in a criminal enterprise, § 5-64-414, which is commonly known as the drug kingpin law, is a primary governmental interest, that the privacy interest of persons adjudicated guilty of engaging in a criminal enterprise is less important than the government's interest in public safety, and that the release of certain information about the offenders to criminal justice agencies and the general public will assist in protecting the public safety.

12-12-1403. Definitions.

For the purposes of this subchapter:

(1) "Adjudication of guilt" or other words of similar import means a plea of guilty, a plea of nolo contendere, a negotiated plea, a finding of guilt by a judge, or a finding of guilt by a jury;

(2)(A) "Administration of criminal justice" means performing functions of investigation, apprehension, detention, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal

offenders.

(B) "Administration of criminal justice" also includes criminal identification activities and the collection, maintenance, and dissemination of criminal justice information;

(3) "Change of address" or other words of similar import means a change of residence or a change for more than thirty (30) days of temporary domicile;

(4) "Criminal justice agency" means a government agency, or any subunit thereof, which is authorized by law to perform the administration of criminal justice, and which allocates more than one-half (1/2) of its annual budget to the administration of criminal justice;

(5) "Local law enforcement agency having jurisdiction" means the chief law enforcement officer of the municipality in which an offender resides or expects to reside, or the county sheriff if the municipality does not have a chief law enforcement officer, or if an offender resides or expects to reside in an unincorporated area of a county;

(6) "Offender" means a person adjudicated guilty of engaging in a criminal enterprise, § 5-64-414, or acquitted of the offense on the grounds of mental disease or defect;

(7) "Sentencing court" means the judge of the court that sentenced the offender for the offense that triggered registration under this subchapter; and

(8) "Residency" means the place where a person lives notwithstanding that there may be an intent to move or return at some future date to another place.

12-12-1404. Failure to register - Failure to comply with reporting requirements.

(a)(1) A person who fails to register or who fails to report changes of address as required under this subchapter shall be guilty of a Class D felony.

(2) It is an affirmative defense to prosecution if the delay in reporting a change in address is caused by eviction, natural disaster or any other unforeseen circumstance and if the person provides the new address to the Arkansas Crime Information Center in writing no later than five (5) business days after the offender establishes residency.

(b) Any agency or official subject to reporting requirements under this subchapter that knowingly fails to comply with the reporting requirements shall be guilty of a Class B misdemeanor.

12-12-1405. Applicability.

The registration requirements of this subchapter apply to:

(1) A person who is adjudicated guilty of engaging in a criminal enterprise, § 5-64-414, on or after the effective date of this subchapter;

(2) A person who is serving a sentence of incarceration, probation, parole, or other form of community supervision as a result of an adjudication of guilt for engaging in a criminal enterprise, § 5-64-414, on the effective date of this subchapter;

(3) A person who is committed following an acquittal on the grounds of mental disease or defect for engaging in a criminal enterprise, § 5-64-414, on or after the effective date of this subchapter; and

(4) A person who is serving a commitment as a result of an

acquittal on the grounds of mental disease or defect for engaging in a criminal enterprise, § 5-64-414, on or after the effective date of this subchapter.

12-12-1406. Duty to register generally - Review of requirements with offenders.

(a)(1) After the effective date of this subchapter, the sentencing court shall require an offender at the time of the offender's adjudication of guilt to complete the drug offender registration form in the format prepared by the director of the Arkansas Crime Information Center pursuant to § 12-12-1408.

(2) Prior to release, the Department of Correction or the Department of Human Services, whichever is responsible for supervision, shall register an offender who, on the effective date of this subchapter, is confined in a correctional facility or serving a commitment following acquittal on the grounds of mental disease or defect.

(3) No later than thirty (30) days after the effective date of this subchapter, the Department of Correction or the Department of Community Punishment, whichever is responsible for supervision, shall register an offender who, on the effective date of this subchapter, is under supervision in the community on parole, furlough, work release, or a similar program.

(4) An offender moving to or returning to this state from another jurisdiction shall register with the local law enforcement agency having jurisdiction no later than thirty (30) days after the effective date of this subchapter, or thirty (30) days after the offender establishes residency in a municipality or county of this state, whichever is later.

(5) An offender required to register on the basis of an adjudication of guilt prior to the effective date of this subchapter, who is not confined or under supervision on the effective date of this subchapter, shall register with the local law enforcement agency having jurisdiction no later than thirty (30) days after the effective date of this subchapter.

(6) An offender who is under federal supervision in the community on parole, probation, suspended sentence, furlough, work release or a similar program shall register with the local law enforcement agency having jurisdiction no later than thirty (30) calendar days after the effective date of this subchapter.

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

(2) Immediately prior to release or immediately following an escape, the Department of Correction or the Department of Human Services shall update the registration file of the offender who is to be released or who has escaped.

(c)(1) When registering an offender as provided in subsection (a) of this section the Department of Correction, the Department of Community Punishment, the Department of Human Services, the sentencing court, or the local law enforcement agency having jurisdiction shall:

(A) Inform the offender of the duty to register and obtain the information required for registration as described in § 12-12-1407;

(B) Inform the offender that if the offender changes address,

the offender shall give the new address to the Arkansas Crime Information Center in writing no later than ten (10) days before the offender establishes residency or is temporarily domiciled at the new address;

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

(D) Obtain fingerprints and a photograph of the offender if these have not already been obtained in connection with the offense that triggered registration. If the registration is performed by the sentencing court, the arresting law enforcement agency shall provide the court with a copy of the fingerprints and a photograph of the offender;

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

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

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

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

(A) Review with the offender the duty to register and obtain current information required for registration as described in § 12-12-1407;

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

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

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

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

12-12-1407. Report to Arkansas Crime Information Center - Report to law enforcement agency.

(a) Within three (3) days after registering or updating the registration file of an offender, the Department of Correction, the Department of Community Punishment, the Department of Human Services, the sentencing court, or the local law enforcement agency having jurisdiction shall report, by written or electronic means, all information obtained from the offender and regarding the offender to the Arkansas Crime Information Center. The Arkansas Crime Information Center shall immediately enter the information into their record system for maintenance in a central registry and notify the local law enforcement agency having jurisdiction.

(b) No later than ten (10) days after release from incarceration or after the date of sentencing, an offender shall report to the local law enforcement agency having jurisdiction and update the information in the registration file. If the offender is not already registered, the local law enforcement agency having jurisdiction shall register the offender in accordance with this subchapter. Within three (3) days after registering an offender or receiving updated registry information on an offender, the local law enforcement agency having jurisdiction shall report, by written or electronic means, all information obtained from the offender to the Arkansas Crime Information Center.

12-12-1408. Registration format - Requirements.

(a) Within sixty (60) days after the effective date of this subchapter, the Director of the Arkansas Crime Information Center shall prepare the format for registration as required in subsection (b) of this section and shall provide instructions for registration to each organized full-time municipal police department, county sheriff's office, the Department of Correction, the Department of Community Punishment, the Department of Human Services, and the Administrative Office of the Courts.

(b) The registration file required by this subchapter shall include:

- (1) The offender's full name and all aliases which the offender has used, or under which the offender has been known;
- (2) Date of birth;
- (3) Sex;
- (4) Race;
- (5) Height;
- (6) Weight;
- (7) Hair and eye color;
- (8) Address of any temporary residence;
- (9) Anticipated address of legal residence;
- (10) Driver's license number or state identification number, if available;
- (11) Social Security Number;
- (12) Place of employment;
- (13) Photograph, if not already obtained;
- (14) Fingerprints, if not already obtained;
- (15) Date of arrest, arresting agency, offense for which convicted or acquitted, and arrest tracking number for each adjudication of guilt or acquittal on the grounds of mental disease or defect;
- (16) A brief description of the crime for which registration is required;
- (17) A statement in writing signed by the offender acknowledging that the offender has been advised of the duty to register imposed by this

subchapter; and

(18) Any other information that the Arkansas Crime Information Center deems necessary.

12-12-1409. Verification form - Change of address.

(a) For a person required to register as an offender, every six (6) months after the person's initial registration date during the period in which the person is required to register, the following applies:

(1) The Arkansas Crime Information Center shall mail a nonforwardable verification form to the last reported address of the person.

(2) The person shall return the verification form in person to the local law enforcement agency having jurisdiction within ten (10) days after receipt of the form. Within three (3) days after receipt of the form, the local law enforcement agency having jurisdiction shall forward the form to the Arkansas Crime Information Center.

(3) The verification form shall be signed by the person, and state that the person still resides at the address last reported to the Arkansas Crime Information Center.

(4) If the person fails to return the verification form to the local law enforcement agency having jurisdiction within ten (10) days after receipt of the form, the person shall be in violation of this subchapter, unless the person proves that the person has not changed address.

(b)(1) Before a change of address within the state, an offender shall report the change of address to the Arkansas Crime Information Center no later than ten (10) days before the offender establishes residency or is temporarily domiciled at the new address.

(2) When a change of address within the state is reported to the Arkansas Crime Information Center, the Arkansas Crime Information Center shall immediately report the change of address to the local law enforcement agency having jurisdiction where the offender expects to reside.

(c)(1) Before a change of address to another state, an offender shall register the new address with the Arkansas Crime Information Center and with a designated law enforcement agency in the state to which the person moves not later than ten (10) days before such person establishes residence or is temporarily domiciled in the new state, if the new state has a registration requirement.

(2) When a change of address to another state is reported to the Arkansas Crime Information Center, the Arkansas Crime Information Center shall immediately notify the law enforcement agency with which the offender must register in the new state, if the new state has a registration requirement.

(d) The Arkansas Crime Information Center may require an offender to report a change of address through the local law enforcement agency having jurisdiction.

12-12-1410. Fine.

Unless finding that undue hardship would result, the sentencing court shall assess at the time of sentencing a mandatory fine of two hundred fifty dollars (\$250) on any person who is required to register under this subchapter.

12-12-1411. Drug Offenders Registration Fund.

(a) There is established on the books of the Treasurer of State, Auditor of State, and Chief Fiscal Officer of the State a fund to be known as the Drug Offenders Registration Fund.

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

(c) Any unexpended balance of this fund shall be carried forward and made available for the same purpose.

12-12-1412. Arrests for violations.

(a) In order for an offender to be charged with the commission of a violation of this subchapter so that an arrest warrant shall be issued, it shall be the duty of the local law enforcement agency having jurisdiction to notify the prosecutor when the local law enforcement agency having jurisdiction has reasonable grounds for believing that an offender is not registered or has not reported a change of address in violation of this subchapter.

(b) The address of an offender as listed in the offender's registration file shall determine which local law enforcement agency has jurisdiction.

(c) A law enforcement officer shall arrest an offender when a warrant has been issued for the offender's arrest or he has reasonable grounds for believing that an offender is not registered or has not reported a change of address in violation of this subchapter.

12-12-1413. Disclosure.

(a) 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. Registration records may also be open to government agencies authorized by law to conduct confidential background checks.

(b) The name, address, and photograph of the offender shall be public information.

12-12-1414. Notice of release.

(a)(1) The Department of Correction shall provide notice, by written or electronic means, to the Arkansas Crime Information Center of the anticipated release from incarceration in a county or state penal institution of a person serving a sentence for engaging in a criminal enterprise, § 5-64-414.

(2) The Department of Human Services shall provide notice, by written or electronic means, to the Arkansas Crime Information Center of the anticipated release from incarceration of a person committed following an acquittal on the grounds of mental disease or defect for engaging in a criminal enterprise, § 5-64-414.

(b) If available, the notice required in subsection (a) of this section shall be provided to the Arkansas Crime Information Center ninety (90) days before the offender's anticipated release; provided, however, a good faith effort shall be made to provide the notice at least thirty (30) days before release. The notice shall include the person's name, identifying factors, offense history, and anticipated future residence.

(c) Upon receipt of notice, the Arkansas Crime Information Center shall provide notice by written or electronic means to:

(1) The local law enforcement agency having jurisdiction; and  
(2) Such other state and local law enforcement agencies as  
appropriate for public safety.

12-12-1415. Regulations.

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

(b) The Department of Correction, the Department of Community  
Punishment, the Department of Human Services, and the Administrative Office  
of the Courts shall promulgate regulations to establish procedures for  
notifying offenders of the obligation to register pursuant to this subchapter  
and procedures for registration of those offenders.

12-12-1416. Publication and notice of obligation to register.

(a) The Arkansas Crime Information Center shall cause notice of the  
obligation to register to be published in a manner reasonably calculated to  
reach the general public within thirty (30) days after the effective date of  
this subchapter.

(b) The Office of Driver Services of the Department of Finance and  
Administration shall provide notice of the obligation to register pursuant to  
this subchapter in connection with each driver's license issued pursuant to §  
27-16-801 and each identification card issued pursuant to § 27-16-805.

12-12-1417. Termination of obligation to register.

(a)(1) An offender required to register under this subchapter may make  
application to the sentencing court if the person was sentenced in the State  
of Arkansas, or to the circuit court in the county in which the offender  
resides if the offender was sentenced in another state, for an order  
terminating the offender's obligation to register.

(2) The court shall hold a hearing on the application at which  
the applicant and any interested persons may present witnesses and other  
evidence.

(3) Not less than twenty (20) days prior to the date of the  
hearing on the application, a copy of the application for termination of the  
obligation to register shall be served on the prosecutor of the county in  
which the adjudication of guilt triggering registration was obtained.

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

(1) The applicant has not been adjudicated guilty a violation of  
the Uniform Controlled Substance Act within fifteen (15) years after the  
person was released from prison or other institution, placed on parole,  
supervised release, or probation; and

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

12-12-1418. Immunity from civil liability.

(a) Public officials, public employees, and public agencies are immune  
from civil liability for good faith conduct under this subchapter.

(b) This section shall also apply to persons or organizations  
assisting public officials, public employees, and public agencies in  
performing their official duties upon a written request to assist them by the  
public official, public employee or public agency."



The Amendment was read \_\_\_\_\_  
By: Representative Trammell  
DF/CDS - 031520011435  
CDS432 \_\_\_\_\_

Chief Clerk