

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.

INTERIM STUDY PROPOSAL 2007-050

State of Arkansas

As Engrossed: H3/16/07

86th General Assembly

A Bill

Regular Session, 2007

HOUSE BILL 2309

By: Representative Allen

Referred to

Public Health, Welfare And Labor Committee- House

by the House of Representatives

on 03/23/2007

For An Act To Be Entitled

AN ACT TO PROTECT PUBLIC HEALTH; TO CREATE THE
METHAMPHETAMINE OFFENDER REGISTRATION ACT OF
2007; AND FOR OTHER PURPOSES.

Subtitle

TO PROTECT PUBLIC HEALTH AND TO CREATE
THE METHAMPHETAMINE OFFENDER
REGISTRATION ACT OF 2007.

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

SECTION 1. Arkansas Code Title 12, Chapter 12 is amended to add an additional subchapter to read as follows:

SUBCHAPTER 18 – METHAMPHETAMINE OFFENDER REGISTRATION ACT OF 2007

12-12-1801. Title.

This subchapter shall be known and may be cited as the "Methamphetamine Offender Registration Act of 2007".

12-12-1802. Legislative findings.

The General Assembly finds that:

(1) Methamphetamine offenders pose a high risk of exposing the

1 citizens of this state to dangerous chemicals, fires, and explosions;

2 (2) Protecting the public from methamphetamine offenders is a
3 primary governmental interest;

4 (3) The privacy interest of methamphetamine offenders is less
5 important than the government's interest in public safety; and

6 (4) The release of certain information about methamphetamine
7 offenders to criminal justice agencies and the general public will assist in
8 protecting the public safety.

9
10
11 12-12-1803. Definitions.

12 As used in this subchapter:

13 (1) "Adjudication of guilt" means a:

14 (A) Plea of guilty;

15 (B) Plea of nolo contendere;

16 (C) Negotiated plea;

17 (D) Finding of guilt by a judge; or

18 (E) Finding of guilt by a jury;

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

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

26 (3) "Change of address" means a change of residence or a change
27 for more than thirty (30) days of temporary domicile, change of location of
28 employment, education or training, or any other change that alters where a
29 methamphetamine offender regularly spends a substantial amount of time;

30 (4) "Criminal justice agency" means a government agency or any
31 subunit of a government agency that is authorized by law to perform the
32 administration of criminal justice and which allocates more than one-half
33 (1/2) of its annual budget to the administration of criminal justice;

34 (5) "Local law enforcement agency having jurisdiction" means
35 the:

36 (A) Chief law enforcement officer of the municipality in

1 which a methamphetamine offender:

2 (i) Resides or expects to reside;

3 (ii) Is employed; or

4 (iii) Is attending an institution of training or
5 education; or

6 (B) County sheriff, if:

7 (i) The municipality does not have a chief law
8 enforcement officer; or

9 (ii) A methamphetamine offender resides or expects
10 to reside, is employed, or is attending an institution of training or
11 education in an unincorporated area of a county;

12 (6) "Methamphetamine offender" means a person who is adjudicated
13 guilty of a methamphetamine offense or acquitted on the grounds of mental
14 disease or defect of a methamphetamine offense;

15 (7)(A) "Methamphetamine offense" includes without limitation:

16 (i) The following offenses:

17 (a) Manufacture of methamphetamine, § 5-64-
18 401(a)(1); and

19 (b) Possession of drug paraphernalia with the
20 intent to manufacture methamphetamine, § 5-64-403(c)(5);

21 (ii) An attempt, solicitation, or conspiracy to
22 commit any of the offenses enumerated in subdivision (7)(A)(i) of this
23 section; and

24 (iii) An adjudication of guilt for an offense of the
25 law of another state, for a federal offense, for a tribal court offense, or
26 for a military offense:

27 (a) Which is similar to any of the offenses
28 enumerated in subdivision (7)(A)(i) of this section; or

29 (b) When that adjudication of guilt requires
30 registration under another state's methamphetamine offender registration
31 laws; and

32 (iv) A violation of any former law of this state
33 that is substantially equivalent to any of the offenses enumerated in this
34 subdivision (7)(A)(i) of this section.

35 (B)(i) The sentencing court has the authority to order the
36 registration of any methamphetamine offender shown in court to have attempted

1 to commit or to have committed a methamphetamine offense even though the
2 offense is not enumerated in subdivision (7)(A)(i) of this section.

3 (ii) The authority in subdivision (7)(A)(i) of this
4 section applies to methamphetamine offenses enacted, renamed, or amended at a
5 later date by the General Assembly unless the General Assembly expresses its
6 intent not to consider the offense to be a true methamphetamine offense for
7 the purposes of this subchapter;

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

11 (B) "Residency" also includes place of employment,
12 training, or education; and

13 (9) "Sentencing court" means the judge of the court that
14 sentenced the methamphetamine offender for the methamphetamine offense.

15
16 12-12-1804. Failure to comply with registration and reporting
17 requirements - Refusal to cooperate with assessment process.

18 (a)(1)(A) Upon conviction, any person is guilty of a Class C felony
19 who negligently:

20 (i) Fails to register or reregister as
21 required under this subchapter; or

22 (ii) Fails to report a change of address,
23 employment, education, or training as required under this subchapter.

24 (B)(i) Upon conviction, a methamphetamine offender who
25 fails or refuses to provide any information necessary to update his or her
26 registration file as required by § 12-12-1806 is guilty of a Class C felony.

27 (ii) If a methamphetamine offender fails or refuses
28 to provide any information necessary to update his or her registration file
29 as required by § 12-12-1806, as soon as administratively feasible the
30 Department of Correction, the Department of Community Correction, the
31 Arkansas State Hospital, or the Department of Health and Human Services shall
32 contact the local law enforcement agency having jurisdiction to report the
33 violation of subdivision (a)(1)(B)(i) of this section.

34 (2) It is an affirmative defense to prosecution under this
35 subsection if the person:

36 (A) Delayed reporting a change in address because of:

1 (i) An eviction;

2 (ii) A natural disaster; or

3 (iii) Any other unforeseen circumstance; and

4 (B) Provided the new address to the Arkansas Crime
5 Information Center in writing no later than five (5) business days after the
6 person establishes residency.

7 (b) Upon conviction, any agency or official subject to reporting
8 requirements under this subchapter that knowingly fails to comply with the
9 reporting requirements under this subchapter is guilty of a Class B
10 misdeemeanor.

11
12 12-12-1805. Applicability.

13 (a) The registration requirements of this subchapter apply to a person
14 who:

15 (1) Is adjudicated guilty on or after July 1, 2009, of a
16 methamphetamine offense;

17 (2) Is serving a sentence of incarceration, probation, parole,
18 or other form of community correction supervision as a result of an
19 adjudication of guilt on or after July 1, 2009, for a methamphetamine
20 offense;

21 (3) Is acquitted on or after July 1, 2009, on the grounds of
22 mental disease or defect for a methamphetamine offense; or

23 (4) Is serving a commitment as a result of an acquittal on or
24 after July 1, 2009, on the grounds of mental disease or defect for a
25 methamphetamine offense.

26 (b) A person who has been adjudicated guilty of a methamphetamine
27 offense and whose record of conviction will be expunged under the provisions
28 of §§ 16-93-301 - 16-93-303 is not relieved of the duty to register under
29 this subchapter.

30 (c)(1) If the underlying conviction of a person required to register
31 under this subchapter is reversed, vacated, or set aside, or if the person
32 required to register under this subchapter is pardoned, the person is
33 relieved from the duty to register under this subchapter.

34 (2) The duty to register under this subchapter shall cease upon
35 the receipt and verification by the Arkansas Crime Information Center of
36 documentation from the:

1 (A) Sentencing court verifying the fact that the
2 conviction has been reversed, vacated, or set aside; or

3 (B) Office of the Governor that the Governor has pardoned
4 the person required to register under this subchapter.

5
6 12-12-1806. Duty to register generally - Review of requirements with
7 offenders.

8 (a)(1)(A)(i) At the time of adjudication of guilt, the sentencing
9 court shall enter on the judgment and commitment or judgment and disposition
10 form that the defendant is required to register as a methamphetamine
11 offender.

12 (ii) If the sentencing court finds the defendant is
13 required to register as a methamphetamine offender, then at the time of
14 adjudication of guilt the sentencing court shall require the methamphetamine
15 offender to complete the methamphetamine offender registration form prepared
16 by the Director of the Arkansas Crime Information Center pursuant to § 12-12-
17 1808 and shall forward the completed methamphetamine offender registration
18 form to the Arkansas Crime Information Center.

19 (B)(i) The Department of Correction shall ensure that a
20 methamphetamine offender received for incarceration has completed the
21 methamphetamine offender registration form.

22 (ii) If the Department of Correction cannot confirm
23 that the methamphetamine offender has completed the methamphetamine offender
24 registration form, the Department of Correction shall require the
25 methamphetamine offender to complete the methamphetamine offender
26 registration form upon intake, release, or discharge.

27 (C)(i) The Department of Community Correction shall ensure
28 that a methamphetamine offender placed on probation or another form of
29 community correction supervision has completed the methamphetamine offender
30 registration form.

31 (ii) If the Department of Community Correction
32 cannot confirm that the methamphetamine offender has completed the
33 methamphetamine offender registration form, the Department of Community
34 Correction shall require the methamphetamine offender to complete the
35 methamphetamine offender registration form upon intake, release, or
36 discharge.

1 (D)(i) The Arkansas State Hospital shall ensure that the
2 methamphetamine offender registration form has been completed for any
3 methamphetamine offender found not guilty by reason of mental disease or
4 defect.

5 (ii) If the Arkansas State Hospital cannot confirm
6 that the methamphetamine offender has completed the methamphetamine offender
7 registration form, the Arkansas State Hospital shall ensure that the
8 methamphetamine offender registration form is completed for the
9 methamphetamine offender upon intake, release, or discharge.

10 (2)(A) A methamphetamine offender moving to or returning to this
11 state from another jurisdiction shall register with the local law enforcement
12 agency having jurisdiction within ten (10) days after the methamphetamine
13 offender establishes residency in a municipality or county of this state.

14 (B)(i) Any person living in this state who would be
15 required to register as a methamphetamine offender in the jurisdiction in
16 which he or she was adjudicated guilty of a methamphetamine offense shall
17 register as a methamphetamine offender in this state whether living, working,
18 or attending school or other training in Arkansas.

19 (ii) A nonresident worker or student who enters the
20 state for sixty (60) or more consecutive days to work or study or who enters
21 the state for an aggregate of ninety (90) days or more a year shall register
22 with the local law enforcement agency having jurisdiction.

23 (C) A methamphetamine offender sentenced and required to
24 register outside of Arkansas shall:

25 (i) Provide a deoxyribonucleic acid (DNA) sample,
26 that is, a blood sample or saliva sample, if a sample is not already
27 accessible to the State Crime Laboratory; and

28 (ii) Pay the mandatory fee of two hundred fifty
29 dollars (\$250) to be deposited into the DNA Detection Fund established by §
30 12-12-1119.

31 (b)(1) The registration file of a methamphetamine offender who is
32 confined in a correctional facility or serving a commitment following
33 acquittal on the grounds of mental disease or defect shall be inactive until
34 the registration file is updated by the department responsible for
35 supervision of the methamphetamine offender.

36 (2) Immediately prior to the release or discharge of a

1 methamphetamine offender or immediately following a methamphetamine
2 offender's escape or his or her absconding from supervision, the Department
3 of Correction, the Department of Community Correction, the Arkansas State
4 Hospital, or the Department of Health and Human Services shall update the
5 registration file of the methamphetamine offender who is to be released or
6 discharged or who has escaped or has absconded from supervision.

7 (c)(1)(A) When registering a methamphetamine offender as provided in
8 subsection (a) of this section, the sentencing court, the Department of
9 Correction, the Department of Community Correction, the Arkansas State
10 Hospital, the Department of Health and Human Services, or the local law
11 enforcement agency having jurisdiction shall:

12 (i) Inform the methamphetamine offender of the duty
13 to register and obtain the information required for registration as described
14 in § 12-12-1808;

15 (ii) Inform the methamphetamine offender that if the
16 methamphetamine offender changes residency within the state, the
17 methamphetamine offender shall give the new address, place of employment,
18 education, higher education, or training to the Arkansas Crime Information
19 Center in writing no later than ten (10) days before the methamphetamine
20 offender establishes residency or is temporarily domiciled at the new
21 address;

22 (iii) Inform the methamphetamine offender that if
23 the methamphetamine offender changes residency to another state or enters
24 another state to work or attend school, the methamphetamine offender shall
25 register the new address, place of employment, education, higher education,
26 or training with the center not later than five (5) business days after the
27 methamphetamine offender establishes residence or is temporarily domiciled in
28 the new state;

29 (iv) Obtain fingerprints and a photograph of the
30 methamphetamine offender if these have not already been obtained in
31 connection with the offense that triggered registration;

32 (v) Obtain a deoxyribonucleic acid (DNA) sample if
33 one has not already been provided;

34 (vi) Require the methamphetamine offender to
35 complete the entire registration process, including without limitation,
36 requiring the methamphetamine offender to read and sign a form stating that

1 the duty of the methamphetamine offender to register under this subchapter
2 has been explained;

3 (vii) Inform the methamphetamine offender that if
4 the methamphetamine offender's address changes within the state or to another
5 state due to an eviction, natural disaster, or any other unforeseen
6 circumstance, the methamphetamine offender shall give the new address to the
7 center in writing no later than five (5) business days after the
8 methamphetamine offender establishes residency; and

9 (viii) Inform a methamphetamine offender who has
10 been granted probation that failure to comply with the provisions of this
11 subchapter may be grounds for revocation of the methamphetamine offender's
12 probation.

13 (B)(i) Any person required to register as a
14 methamphetamine offender shall provide a deoxyribonucleic acid (DNA) sample,
15 that is, a blood sample or saliva sample, upon registering if a sample has
16 not already been provided to the State Crime Laboratory.

17 (ii) Any person required to register as a
18 methamphetamine offender who is entering the State of Arkansas shall provide
19 a deoxyribonucleic acid (DNA) sample, that is, a blood sample or saliva
20 sample, upon registration and shall pay the mandatory fee of two hundred
21 fifty dollars (\$250) to be deposited into the DNA Detection Fund established
22 by § 12-12-1119.

23 (2) When updating the registration file of a methamphetamine
24 offender, the Department of Correction, the Department of Community
25 Correction, the Arkansas State Hospital, or the Department of Health and
26 Human Services shall:

27 (A) Review with the methamphetamine offender the duty to
28 register and obtain current information required for registration as
29 described in § 12-12-1808;

30 (B) Review with the methamphetamine offender the
31 requirement that if the methamphetamine offender changes address within the
32 state, the methamphetamine offender shall give the new address to the center
33 in writing no later than ten (10) days before the methamphetamine offender
34 establishes residency or is temporarily domiciled at the new address;

35 (C) Review with the methamphetamine offender the
36 requirement that if the methamphetamine offender changes address to another

1 state, the methamphetamine offender shall register the new address with the
2 center not later than five (5) business days after the methamphetamine
3 offender establishes residence or is temporarily domiciled in the new state;

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

7 (E) Inform the methamphetamine offender that if the
8 methamphetamine offender's address changes within the state or to another
9 state due to an eviction, natural disaster, or any other unforeseen
10 circumstance, the methamphetamine offender shall give the new address to the
11 center in writing no later than five (5) business days after the
12 methamphetamine offender establishes residency; and

13 (E) Review with the methamphetamine offender the
14 consequences of failure to provide any information required by subdivision
15 (b)(2) of this section.

16 (d) Any methamphetamine offender working, enrolled, or volunteering in
17 a public or private elementary, secondary or postsecondary school, or
18 institution of training shall notify the center of that status and shall
19 register with the local law enforcement agency having jurisdiction over the
20 campus of the school that the methamphetamine offender is working at,
21 enrolled in, or volunteering in.

22 (e)(1) A person required to register pursuant to this subchapter shall
23 not change his or her name unless the change is:

24 (A) Incident to a change in the marital status of the
25 methamphetamine offender; or

26 (B) Necessary to effect the exercise of the religion of
27 the methamphetamine offender.

28 (2) The change in the methamphetamine offender's name shall be
29 reported to the Director of the Arkansas Crime Information Center within ten
30 (10) calendar days after the change in name.

31 (3) A violation of this subsection is a Class C felony.

32
33 12-12-1807. Report to Arkansas Crime Information Center - Report to
34 law enforcement agency.

35 (a)(1) Within three (3) days after registering or updating the
36 registration file of a methamphetamine offender, the Department of

1 Correction, the Department of Community Correction, the Department of Health
2 and Human Services, the sentencing court, or the local law enforcement agency
3 having jurisdiction shall report, by written or electronic means, all
4 information obtained from the methamphetamine offender and regarding the
5 methamphetamine offender to the Arkansas Crime Information Center.

6 (2) The center shall immediately enter the information into its
7 record system for maintenance in a central registry and notify the local law
8 enforcement agency having jurisdiction.

9 (b)(1)(A) No later than ten (10) days after release from incarceration
10 or after the date of sentencing, a methamphetamine offender shall report to
11 the local law enforcement agency having jurisdiction and update the
12 information in the registration file.

13 (B) If the methamphetamine offender is not already
14 registered, the local law enforcement agency having jurisdiction shall
15 register the methamphetamine offender in accordance with this subchapter.

16 (2) Within three (3) days after registering a methamphetamine
17 offender or receiving updated registry information on a methamphetamine
18 offender, the local law enforcement agency having jurisdiction shall report,
19 by written or electronic means, all information obtained from the
20 methamphetamine offender to the center.

21
22 12-12-1808. Registration format - Requirements.

23 (a) The Director of the Arkansas Crime Information Center shall
24 prepare the format for registration as required in subsection (b) of this
25 section and shall provide instructions for registration to each organized
26 full-time municipal police department, county sheriff's office, the
27 Department of Correction, the Department of Community Correction, the
28 Department of Health and Human Services, and the Administrative Office of the
29 Courts.

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

31 (1) The methamphetamine offender's full name and all aliases
32 that the methamphetamine offender has used or under which the offender has
33 been known;

34 (2) Date of birth;

35 (3) Gender;

36 (4) Race;

- 1 (5) Height;
2 (6) Weight;
3 (7) Hair and eye color;
4 (8) Address of any temporary residence;
5 (9) Anticipated address of legal residence;
6 (10) Driver's license number or state identification number, if
7 available;
8 (11) Social security number;
9 (12) Place of employment, education, or training;
10 (13) Photograph, if not already obtained;
11 (14) Fingerprints, if not already obtained;
12 (15) Date of arrest, arresting agency, offense for which
13 convicted or acquitted, and arrest tracking number for each adjudication of
14 guilt or acquittal on the grounds of mental disease or defect;
15 (16) A brief description of the crime or crimes for which
16 registration is required;
17 (17) The registration status of the person as a methamphetamine
18 offender;
19 (18) A statement in writing signed by the methamphetamine
20 offender acknowledging that the methamphetamine offender has been advised of
21 the duty to register imposed by this subchapter; and
22 (19) Any other information that the center deems necessary,
23 including without limitation:
24 (A) Criminal and corrections records;
25 (B) Nonprivileged personnel records;
26 (C) Treatment and abuse registry records; and
27 (D) Evidentiary genetic markers.
28 (c) Certain information such as a social security number, a driver's
29 license number, an employer, information that may lead to identification of
30 the victim, and other similar information may be excluded from the
31 information that is released during the course of notification.
32
33 12-12-1809. Verification form - Change of address.
34 (a)(1) For a person required to register as a methamphetamine
35 offender, every six (6) months after the methamphetamine offender's initial
36 registration date during the period in which the person is required to

1 register, the following applies:

2 (A) The Arkansas Crime Information Center shall mail a
3 nonforwardable verification form to the last reported address of the
4 methamphetamine offender by certified mail;

5 (B)(i) The methamphetamine offender shall return the
6 verification form in person to the local law enforcement agency having
7 jurisdiction within ten (10) days after receipt of the form.

8 (ii) Within three (3) days after receipt of the
9 form, the local law enforcement agency having jurisdiction shall forward the
10 form to the center;

11 (C) The verification form shall be signed by the person
12 and state that the methamphetamine offender still resides at the address last
13 reported to the center; and

14 (D) If the methamphetamine offender fails to return the
15 verification form to the local law enforcement agency having jurisdiction
16 within ten (10) days after receipt of the form, the methamphetamine offender
17 shall be in violation of this subchapter.

18 (2) If the methamphetamine offender changes address without
19 notice or fails to return the verification of residence, notification will be
20 sent to law enforcement and any supervising parole or probation authority,
21 and notice may be posted on the Internet until proper reporting is again
22 established or the methamphetamine offender is incarcerated.

23 (b)(1) Before a change of address within the state, a methamphetamine
24 offender shall report the change of address to the center no later than ten
25 (10) days before the methamphetamine offender establishes residency or is
26 temporarily domiciled at the new address.

27 (2) When a change of address within the state is reported to the
28 center, the center shall immediately report the change of address to the
29 local law enforcement agency having jurisdiction where the methamphetamine
30 offender expects to reside.

31 (c)(1) Before a change of address to another state, a methamphetamine
32 offender shall register the new address with the center and with a designated
33 law enforcement agency in the state to which the methamphetamine offender
34 moves not later than ten (10) days before the methamphetamine offender
35 establishes residence or is temporarily domiciled in the new state if the new
36 state has a registration requirement.

1 (2) When a change of address to another state is reported to the
2 center, the center shall immediately notify the law enforcement agency with
3 which the methamphetamine offender must register in the new state if the new
4 state has a registration requirement.

5 (d) The center may require a methamphetamine offender to report a
6 change of address through the local law enforcement agency having
7 jurisdiction.

8
9
10 12-12-1810. Fine.

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

15 (b) The fine provided in subsection (a) of this section and collected
16 in circuit court, district court, or city court, shall be remitted by the
17 tenth day of each month to the Administration of Justice Fund Section of the
18 Office of Administrative Services of the Department of Finance and
19 Administration on a form provided by that office for deposit as special
20 revenues into the State Treasury to the credit of the Methamphetamine
21 Offenders Registration Fund as established by § 12-12-1811.

22
23 12-12-1811. Methamphetamine Offenders Registration Fund.

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

27 (b)(1) This fund shall consist of special revenues collected pursuant
28 to § 12-12-1810, 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 (2) Any unexpended balance of this fund shall be carried forward
32 and made available for the same purpose.

33
34 12-12-1812. Arrests for violations.

35 (a) In order for a methamphetamine offender to be charged with the
36 commission of a violation of this subchapter so that an arrest warrant shall

1 be issued, the local law enforcement agency having jurisdiction shall notify
2 the prosecutor when the local law enforcement agency having jurisdiction has
3 reasonable grounds for believing that a methamphetamine offender is not
4 registered, has not reported a change of address, or has not verified the
5 methamphetamine offender's address in violation of this subchapter.

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

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

14
15 12-12-1813. Disclosure.

16 (a)(1) Registration records maintained pursuant to this subchapter
17 shall be open to any criminal justice agency in this state, the United
18 States, or any other state.

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

21 (b) In accordance with rules promulgated by the Methamphetamine
22 Offender Registration Committee, local law enforcement agencies having
23 jurisdiction shall disclose relevant and necessary information regarding
24 methamphetamine offenders to the public when the disclosure of such
25 information is necessary for public protection.

26 (c)(1)(A) The Methamphetamine Offender Registration Committee shall
27 promulgate rules to establish guidelines and procedures for the disclosure of
28 relevant and necessary information regarding methamphetamine offenders to the
29 public when the release of the information is necessary for public
30 protection.

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

36 (2)(A) The guidelines and procedures shall identify factors

1 relevant to a methamphetamine offender's future dangerousness and likelihood
2 of reoffense or threat to the community.

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

6 (i) Level of the methamphetamine offender's
7 dangerousness;

8 (ii) Methamphetamine offender's pattern of offending
9 behavior; and

10 (iii) Need of community members for information to
11 enhance their individual and collective safety.

12 (3) The Methamphetamine Offender Registration Committee shall
13 submit the proposed guidelines and procedures to the House Committee on
14 Public Health, Welfare, and Labor and the Senate Committee on Public Health,
15 Welfare, and Labor for their review and shall report to the House Committee
16 on Public Health, Welfare, and Labor and the Senate Committee on Public
17 Health, Welfare, and Labor every six (6) months on the implementation of this
18 section.

19 (d)(1) A local law enforcement agency having jurisdiction that decides
20 to disclose information pursuant to this section shall make a good faith
21 effort to notify the public and residents in its jurisdiction at least
22 fourteen (14) days before a methamphetamine offender is released or placed
23 into its jurisdiction.

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

27 (3) In conjunction with the notice provided under § 12-12-1814,
28 the Department of Correction and the Department of Health and Human Services
29 shall make available to a local law enforcement agency having jurisdiction
30 all information that the Department of Correction and the Department of
31 Health and Human Services have concerning the methamphetamine offender,
32 including information on risk factors in the methamphetamine offender's
33 history.

34 (e) A local law enforcement agency having jurisdiction may continue to
35 disclose information on a methamphetamine offender under this section for as
36 long as the methamphetamine offender is required to be registered under this

1 subchapter.

2 (f)(1) The State Board of Education, the Arkansas Higher Education
3 Coordinating Board, and the State Board of Workforce Education and Career
4 Opportunities shall promulgate rules for the disclosure to students and
5 parents of information regarding a methamphetamine offender when such
6 information is released to a local school district or institution of higher
7 education or vocational training by a local law enforcement agency having
8 jurisdiction.

9 (2) In accordance with rules promulgated by the State Board of
10 Education, the board of directors of a local school district or institution
11 of higher education or vocational training shall adopt a written policy
12 regarding the distribution to students and parents of information regarding a
13 methamphetamine offender.

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

17 (h) The medical records or treatment evaluations of a methamphetamine
18 offender are not subject to disclosure under the Freedom of Information Act
19 of 1967, § 25-19-101 et seq.

20 (i)(1)(A) The following information concerning a methamphetamine
21 offender shall be made public:

22 (i) The methamphetamine offender's complete name, as
23 well as any aliases;

24 (ii) The methamphetamine offender's date of birth;

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

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

31 (v) The methamphetamine offender's race and gender;

32 (vi) The date of the last address verification of
33 the methamphetamine offender provided to the Arkansas Crime Information
34 Center;

35 (vii) The most recent photograph of the
36 methamphetamine offender that has been submitted to the center; and

1 (viii) The methamphetamine offender's parole or
2 probation office.

3 (B) The center shall prepare and place the information in
4 subdivision (i)(1)(A) of this section on the Internet home page of the State
5 of Arkansas.

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

8 (j) Nothing in this subchapter shall be interpreted to prohibit the
9 posting on the Internet or by other appropriate means of offender fact sheets
10 for those methamphetamine offenders who are determined to be in noncompliance
11 with the requirements of registration under rules and regulations promulgated
12 by the Methamphetamine Offender Registration Committee.

13
14 12-12-1814. Notice of release.

15 (a)(1) The Department of Correction shall provide notice by written or
16 electronic means to the Arkansas Crime Information Center of the anticipated
17 release from incarceration in a county or state correctional institution of a
18 person serving a sentence for a methamphetamine offense.

19 (2) The Department of Health and Human Services shall provide
20 notice by written or electronic means to the center of the anticipated
21 release from incarceration of a person committed following an acquittal on
22 the grounds of mental disease or defect for a methamphetamine offense.

23 (b)(1)(A) If available, the notice required in subsection (a) of this
24 section shall be provided to the center ninety (90) days before the
25 methamphetamine offender's anticipated release.

26 (B) However, a good faith effort shall be made to provide
27 the notice at least thirty (30) days before release.

28 (2) The notice shall include the methamphetamine offender's
29 name, identifying factors, offense history, and anticipated future residence.

30 (c) Upon receipt of notice, the center shall provide notice by written
31 or electronic means to:

32 (1) The local law enforcement agency having jurisdiction; and

33 (2) Other state and local law enforcement agencies as
34 appropriate for public safety.

35
36 12-12-1815. Authority - Rules.

1 The Department of Correction, the Department of Community Correction,
2 the Department of Health and Human Services, the Administrative Office of the
3 Courts, and the Arkansas Crime Information Center shall promulgate rules to
4 establish procedures for:

5 (1) Notifying a methamphetamine offender of the obligation to
6 register pursuant to this subchapter; and

7 (2) Registering a methamphetamine offender.

8
9 12-12-1816. Publication and notice of obligation to register.

10 The Office of Driver Services shall provide notice of the obligation to
11 register pursuant to this subchapter in connection with each driver's license
12 issued pursuant to § 27-16-801 and each identification card issued pursuant
13 to § 27-16-805.

14
15 12-12-1817. Termination of obligation to register.

16 (a)(1)(A) A methamphetamine offender required to register under this
17 subchapter may make application for an order terminating the obligation to
18 register to the sentencing court fifteen (15) years after release from
19 incarceration or other institution or fifteen (15) years after having been
20 placed on probation or any other form of community correction supervision by
21 the sentencing court.

22 (B) A methamphetamine offender sentenced in another state
23 but desiring to permanently reside in Arkansas may make an application under
24 subdivision (a)(1)(A) of this section for an order terminating the obligation
25 to register to the court of the county in which the methamphetamine offender
26 resides.

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

30 (B) No less than twenty (20) days prior to the date of the
31 hearing on the application, a copy of the application for termination of the
32 obligation to register shall be served on the prosecutor of the county in
33 which the adjudication of guilt triggering registration was obtained.

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

36 (1) The applicant released or placed on parole, supervised

1 release, or probation has not been adjudicated guilty of a methamphetamine
2 offense for a period of fifteen (15) years after the applicant was released
3 from prison or other institution; and

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

6
7 12-12-1818. Immunity from civil liability.

8 (a) A public official, public employee, or public agency is immune
9 from civil liability for good faith conduct under this subchapter.

10 (b) This subchapter does not impose any liability upon or to give rise
11 to a cause of action against any public official, public employee, or public
12 agency for any discretionary decision to release relevant and necessary
13 information, unless it is shown that the public official, public employee, or
14 public agency acted with gross negligence or in bad faith.

15 (c) This section also applies to a person or organization assisting a
16 public official, public employee, or public agency in performing official
17 duties upon a written request to assist by the public official, public
18 employee, or public agency.

19
20 12-12-1819. Methamphetamine Offender Registration Committee.

21 (a) The Methamphetamine Offender Registration Committee shall consist
22 of eight (8) members as follows:

23 (1) The Governor shall appoint, subject to confirmation by the
24 Senate:

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

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

27 (C) One (1) member who is a licensed mental health
28 professional and has demonstrated expertise in the treatment of
29 methamphetamine offenders;

30 (D) One (1) member who is a law enforcement officer; and

31 (E) One (1) member with expertise in juvenile justice or
32 treatment;

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

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

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

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

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

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

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

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

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

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

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

22 (3) A special meeting may be called by the chair or as provided
23 by the rules adopted by the committee.

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

27 (g) The meetings of the committee shall be open to the public except
28 when the committee is discussing, deliberating, or voting on an individual
29 methamphetamine offender case.

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

32 (2) The report shall contain:

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

35 (B) A detailed and itemized statement of all revenue and
36 of all expenditures made by or on behalf of the committee;

1 (C) Other information deemed necessary or useful; and
2 (D) Any additional information that may be requested by
3 the Governor and the Legislative Council.

4
5 SECTION 2. Effective date. This act is effective on July 1, 2009.

6
7 /s/ Allen
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