

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

As Enrolled: H1/29/97

# A Bill

HOUSE BILL 1061

4  
5 By: Representatives Flanagan, Lynn, Broadway, Capps, Choate, Cunningham, Curran, Davis, Dietz, Faris, Ferguson, Ferrell, Goodwin, Hogue, Johnson, Jones,  
6 Kidd, Madison, McGehee, McGinnis, Miller, Molinaro, Pollan, Rorie, Schexnayder, Simmons, Judy Smith, Terry Smith, Stalnaker, Teague, Thicksten, Trammel,  
7 Wagner, Willems, Wilkinson, Wren, Wooldridge, *Bennett, Horn, Ingram, Lavery, Roberts, and Wallis*

## For An Act To Be Entitled

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9  
10  
11 "AN ACT TO ESTABLISH A SYSTEM OF REGISTRATION FOR SEXUALLY  
12 VIOLENT PREDATORS AND SEX AND CHILD OFFENDERS; TO PROVIDE  
13 FOR COMMUNITY NOTIFICATION OF THE RELEASE OF SEXUALLY  
14 VIOLENT PREDATORS AND SEX AND CHILD OFFENDERS; TO  
15 ESTABLISH A STATE BOARD FOR THE EVALUATION OF SEXUALLY  
16 VIOLENT PREDATORS; AND FOR OTHER PURPOSES."

## Subtitle

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19 "TO ESTABLISH A SYSTEM OF REGISTRATION  
20 FOR SEX AND CHILD OFFENDERS AND TO  
21 PROVIDE FOR COMMUNITY NOTIFICATION"

22  
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24  
25 SECTION 1. This act shall be known and may be cited as the "Sex and  
26 Child Offender Registration Act of 1997."

27  
28 SECTION 2. The General Assembly finds that sex offenders pose a high  
29 risk of reoffending after release from custody, that protecting the public  
30 from sex offenders is a primary governmental interest, that the privacy  
31 interest of persons adjudicated guilty of sex offenses are less important than  
32 the government's interest in public safety, and that the release of certain  
33 information about sex offenders to criminal justice agencies and the general  
34 public will assist in protecting the public safety.

35  
36 SECTION 3. For the purposes of this act:

1           (1) "Administration of criminal justice" means performing functions of  
2 investigation, apprehension, detention, prosecution, adjudication,  
3 correctional supervision, or rehabilitation of accused persons or criminal  
4 offenders. The administration of criminal justice also includes criminal  
5 identification activities and the collection, maintenance, and dissemination  
6 of criminal justice information;

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

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

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

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

21           (6) "Mental abnormality" means a congenital or acquired condition of a  
22 person that affects the emotional or volitional capacity of the person in a  
23 manner that presupposes that person to the commission of criminally sexual  
24 acts to a degree that makes the person a menace to the health and safety of  
25 other persons;

26           (7) "Offender" means a sexually violent predator or a sex or child  
27 offender;

28           (8) "Offense against a victim who is a minor" means:

29           (A) Kidnapping pursuant to A.C.A. 5-11-102(a)(4) when the victim  
30 is a minor and the offender is not the parent of the victim;

31           (B) False imprisonment in the first degree pursuant to A.C.A.  
32 5-11-103 when the victim is a minor and the offender is not the parent of the  
33 victim,

34           (C) Permanent detention or restraint pursuant to A.C.A. 5-11-106  
35 when the victim is a minor and the offender is not the parent of the victim;

36           (D) Any sex offense when the victim is a minor;

1           (E) An attempt, solicitation, or conspiracy to commit any of the  
2 offenses enumerated in this subsection (7);

3           (F) An adjudication of guilt for an offense of the law of another  
4 state, for a federal offense, or for a military offense, which is  
5 substantially equivalent to any of the offenses enumerated in this subsection  
6 (7); or

7           (G) A violation of any former law of this state which is  
8 substantially equivalent to any of the offenses enumerated in this subsection  
9 (7);

10          (9) "Personality disorder" means an enduring pattern of inner  
11 experience and behavior that deviates markedly from the expectation of the  
12 person's culture, is pervasive and inflexible across a broad range of personal  
13 and social situations, leads to clinically significant distress or impairment  
14 in social, occupational or other important areas of functioning, is stable  
15 over time, has onset in adolescence or early adulthood, is not better  
16 accounted for as a manifestation or consequence of another mental disorder,  
17 and is not due to the direct physiological effects of a substance or a general  
18 medical condition;

19          (10) "Predatory" means an act directed at a stranger or a person with  
20 whom a relationship has been established or promoted for the primary purpose  
21 of victimization;

22          (11) "Sentencing court" means the judge of the court that sentenced the  
23 offender for the sexually violent offense, the sex offense, or the offense  
24 against a victim who is a minor that triggered registration under this act;

25          (12) "Sex offense" means:

26           (A) Rape - 5-14-103;

27           (B) Carnal abuse in the first degree - 5-14-104;

28           (C) Carnal abuse in the second degree - 5-14-105;

29           (D) Carnal abuse in the third degree - 5-14-106;

30           (E) Sexual misconduct - 5-14-107;

31           (F) Sexual abuse in the first degree - 5-14-108;

32           (G) Sexual abuse in the second degree - 5-14-109;

33           (H) Sexual solicitation of a child - 5-14-110;

34           (I) Violation of minor in the first degree - 5-14-120;

35           (J) Violation of a minor in the second degree - 5-14-121;

36           (K) Incest - 5-26-202;

1                   (L) Engaging children in sexually explicit conduct for use in  
2 visual or print medium - 5-27-303;

3                   (M) Transportation of minors for prohibited sexual conduct -  
4 5-27-305;

5                   (N) Employing or consenting to use of child in sexual performance  
6 - 5-27-402;

7                   (O) Producing, directing or promoting sexual performance -  
8 5-27-403;

9                   (P) Promoting prostitution in the first degree - 5-70-104;

10                  (Q) Stalking - 5-71-229;

11                  (R) An attempt, solicitation, or conspiracy to commit any of the  
12 offenses enumerated in this subsection (11);

13                  (S) An adjudication of guilt for an offense of the law of another  
14 state, for a federal offense, or for military offense, which is substantially  
15 equivalent to any of the offenses enumerated in this subsection (11); or

16                  (T) A violation of any former law of this state which is  
17 substantially equivalent to any of the offenses enumerated in this subsection  
18 (11);

19                  (13) "Sex or Child Offender" means a person who is adjudicated guilty  
20 of or acquitted on the grounds of mental disease or defect of a sex offense or  
21 an offense against a victim who is a minor;

22                  (14) "Sexually violent offense" means any state, federal, or military  
23 offense which includes a sexual act as defined in 18 U.S.C. 2246(2) with  
24 another person if the offense is non-consensual or the person is under the age  
25 of twelve;

26                  (15) "Sexually violent predator" means a person who has been  
27 adjudicated guilty or acquitted on the grounds of mental disease or defect of  
28 a sexually violent offense and who suffers from a mental abnormality or  
29 personality disorder that makes the person likely to engage in predatory  
30 sexually violent offenses.

31  
32                  SECTION 4. The registration requirements of this act apply to:

33                  (1) a person who is adjudicated guilty of a sexually violent offense, a  
34 sex offense, or an offense against a victim who is a minor, on or after the  
35 effective date of this act;

36                  (2) a person who is serving a sentence of incarceration, probation,

1 parole, or other form of community supervision as a result of an adjudication  
2 of guilt for a sexually violent offense, a sex offense, or an offense against  
3 a victim who is a minor, on the effective date of this act;

4 (3) a person who is committed following an acquittal on the grounds of  
5 mental disease or defect for a sexually violent offense, a sex offense, or an  
6 offense against a victim who is a minor, on or after the effective date of  
7 this act;

8 (4) a person who is serving a commitment as a result of an acquittal on  
9 the grounds of mental disease or defect for a sexually violent offense, a sex  
10 offense, or an offense against a victim who is a minor, on the effective date  
11 of this act; and

12 (5) a person who is required to be registered under the "Habitual Child  
13 Sex Offender Registration Act", A.C.A. 12-12-901, et seq.

14  
15 SECTION 5. (a)(1) An offender who is adjudicated guilty after the  
16 effective date of this act shall be registered by the clerk of the sentencing  
17 court at the time of the offender's sentencing.

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

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

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

33 (5) An offender required to register on the basis of an  
34 adjudication of guilt prior to the effective date of this act who is not  
35 confined or under supervision on the effective date of this act shall register  
36 with the local law enforcement agency having jurisdiction no later than thirty

1 (30) days after the effective date of this act.

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

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

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

15 (A) inform the offender of the duty to register and obtain  
16 the information required for registration as described in section 7;

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

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

27 (D) obtain fingerprints and a photograph of the offender if  
28 these have not already been obtained in connection with the offense that  
29 triggered registration; and

30 (E) require the offender to read and sign a form stating  
31 that the duty of the person to register under this act has been explained.

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

34 (A) review with the offender the duty to register and obtain  
35 current information required for registration as described in section 7;

36 (B) review with the offender the requirement that if the

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

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

11 (D) require the offender to read and sign a form stating  
12 that the duty of the person to register under this act has been reviewed.

13 (d) When registering or updating the registration file of a sexually  
14 violent predator, the Department of Correction, the Department of Community  
15 Punishment, the Department of Human Services, the clerk of the sentencing  
16 court, or the local law enforcement agency having jurisdiction shall, in  
17 addition to the requirements of subdivision (c)(1) or (c)(2), obtain  
18 documentation of any treatment received for the mental abnormality or  
19 personality disorder of the sexually violent predator.

20  
21 SECTION 6. (a) Within three (3) days after registering or updating the  
22 registration file of an offender, the Department of Correction, the Department  
23 of Community Punishment, the Department of Human Services, the clerk of the  
24 sentencing court, or the local law enforcement agency having jurisdiction  
25 shall report, by written or electronic means, all information obtained from  
26 the offender and regarding the offender to the Arkansas Crime Information  
27 Center. The Arkansas Crime Information Center shall immediately enter the  
28 information into their record system for maintenance in a central registry and  
29 notify the local law enforcement agency having jurisdiction.

30 (b) No later than ten (10) days after release from incarceration or  
31 after the date of sentencing, an offender shall report to the local law  
32 enforcement agency having jurisdiction and update the information in the  
33 registration file. If the offender is not already registered, the local law  
34 enforcement agency having jurisdiction shall register the offender in  
35 accordance with this act. Within three (3) days after registering an offender  
36 or receiving updated registry information on an offender, the local law

1 enforcement agency having jurisdiction shall report, by written or electronic  
2 means, all information obtained from the offender to the Arkansas Crime  
3 Information Center.

4  
5 SECTION 7. (a) Within sixty (60) days after the effective date of this  
6 act, the Director of the Arkansas Crime Information Center shall prepare the  
7 format for registration as required in subsection (b) of this section and  
8 shall provide instructions for registration to each organized full-time  
9 municipal police department, county sheriff's office, the Department of  
10 Correction, the Department of Community Punishment, the Department of Human  
11 Services, and the Administrative Office of the Courts.

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

13 (1) The offender's full name and all aliases which the offender  
14 has used or under which the offender has been known;

15 (2) Age;

16 (3) Date of birth;

17 (4) Sex;

18 (5) Race;

19 (6) Height;

20 (7) Weight;

21 (8) Hair and eye color;

22 (9) Address of any temporary residence;

23 (10) Anticipated address of legal residence;

24 (11) Driver's license number or state identification number, if  
25 available;

26 (12) Social security number;

27 (13) Place of employment;

28 (14) Photograph, if not already obtained;

29 (15) Fingerprints, if not already obtained;

30 (16) Date of arrest, arresting agency, offense for which  
31 convicted or acquitted, and arrest tracking number for each adjudication of  
32 guilt or acquittal on the grounds of mental disease or defect;

33 (17) A brief description of the crime or crimes for which  
34 registration is required;

35 (18) The registration status of the offender as a sexually  
36 violent predator or a sex or child offender;



1                   (19) A statement in writing signed by the offender acknowledging  
2 that the offender has been advised of the duty to register imposed by this  
3 act; and

4                   (20) Any other information that the Arkansas Crime Information  
5 Center deems necessary, including, but not limited to, criminal and  
6 corrections records, non-privileged personnel, treatment and abuse registry  
7 records, and evidentiary genetic markers.

8  
9                   SECTION 8. (a)(1) For a person required to register as a sex or child  
10 offender, every six (6) months after the person's initial registration date  
11 during the period in which the person is required to register the following  
12 applies:

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

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

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

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

27                   (2) The provisions of subsection (a)(1) shall be applied to a  
28 person required to register as a sexually violent predator, except that such  
29 person must verify the registration every ninety (90) days after the date of  
30 the initial release or commencement of parole.

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

35                   (2) When a change of address within the State is reported to the  
36 Arkansas Crime Information Center, the Arkansas Crime Information Center shall

1 immediately report the change of address to the local law enforcement agency  
2 having jurisdiction where the offender expects to reside.

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

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

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

16  
17 SECTION 9. Unless finding that undue hardship would result, the  
18 sentencing court shall assess at the time of sentencing a mandatory fine of  
19 two hundred and fifty dollars (\$250) on any person who is required to register  
20 under this act.

21  
22 SECTION 10. (a) There is hereby established on the books of the  
23 Treasurer of State, Auditor or State, and Chief Fiscal Officer of the State a  
24 fund to be know as the Sex and Child Offenders Registration Fund.

25 (b) This fund shall consist of special revenues collected pursuant to  
26 section 7 there to be used by the Arkansas Crime Information Center for the  
27 administration of this act.

28  
29 SECTION 11. (a) A person who fails to register or who fails to report  
30 changes of address as required under this act shall be guilty of a Class D  
31 felony.

32 (b) Any agency or official subject to reporting requirements under this  
33 act that knowingly fails to comply with such reporting requirement shall be  
34 guilty of a Class B misdemeanor.

35  
36 SECTION 12. (a) In order for an offender to be charged with the

1 commission of a violation of this act so that an arrest warrant shall be  
2 issued, it shall be the duty of the local law enforcement agency having  
3 jurisdiction to notify the prosecutor when the local law enforcement agency  
4 having jurisdiction has reasonable grounds for believing that an offender is  
5 not registered or has not reported a change of address in violation of this  
6 act.

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

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

13  
14 SECTION 13. (a) Registration records maintained pursuant to this act  
15 shall be open to any criminal justice agency in this state, the United States,  
16 or any other state. Registration records may also be open to government  
17 agencies authorized by law to conduct confidential background checks.

18 (b)(1) Local law enforcement agencies having jurisdiction shall  
19 disclose, in accordance with guidelines promulgated by the Child  
20 Abuse/Rape/Domestic Violence Commission, relevant and necessary information  
21 regarding offenders to the public when the disclosure of such information is  
22 necessary for public protection.

23 (c)(1) The Child Abuse/Rape/Domestic Violence Commission shall  
24 promulgate guidelines and procedures for the disclosure of relevant and  
25 necessary information regarding offenders to the public when the release of  
26 the information is necessary for public protection. In developing the  
27 guidelines and procedures, the commission shall consult with persons who, by  
28 experience or training, have a personal interest or professional expertise in  
29 law enforcement, crime prevention, victim advocacy, criminology, psychology,  
30 parole, public education, and community relations.

31 (2) The guidelines and procedures shall identify factors relevant  
32 to an offender's future dangerousness and likelihood of reoffense or threat to  
33 the community. The guidelines and procedures shall also address the extent of  
34 the information to be disclosed and the scope of the community to whom  
35 disclosure shall be made as these factors relate to the level of the  
36 offender's dangerousness, the offender's pattern of offending behavior, and to

1 the need of community members for information to enhance their individual and  
2 collective safety.

3 (3) The Child Abuse/Rape/Domestic Violence Commission shall  
4 submit the proposed guidelines and procedures to the House and Senate  
5 Committees on Public Health, Welfare and Labor for their review and shall  
6 report to the Committees every six (6) months on the implementation of this  
7 section.

8 (d)(1) Local law enforcement agencies having jurisdiction that decide  
9 to disclose information pursuant to this section shall make a good faith  
10 effort to notify the public and residents at least fourteen (14) days before  
11 an offender is released or placed into the community.

12 (2) If a change occurs in an offender\_ release plan, this  
13 notification provision shall not require an extension of the release date.

14 (3) The Department of Correction and the Department of Human  
15 Services shall, in conjunction with the notice provided under section 14 of  
16 this act, make available to a local law enforcement agency having jurisdiction  
17 all information that the departments\_ have concerning the offender, including  
18 information on risk factors in the offender\_s history.

19 (e) Local law enforcement agencies having jurisdiction that decide to  
20 disclose information under this section shall make a good faith effort to  
21 conceal the identity of the victim or victims of the offender\_s offense.

22 (f) Local enforcement agencies having jurisdiction may continue to  
23 disclose information on an offender under this section for as long as the  
24 offender is required to be registered under this act.

25 (g) The State Board of Education shall promulgate guidelines for the  
26 disclosure to students and parents of information regarding an offender when  
27 such information is released to a local school district by a local law  
28 enforcement agency having jurisdiction. The board of directors of a local  
29 school district shall adopt a written policy, in accordance with guidelines  
30 promulgated by the State Board, regarding the distribution to students and  
31 parents of information regarding an offender.

32 (h) Nothing in this section shall be construed to prevent law  
33 enforcement officers from notifying members of the public exposed to danger of  
34 any persons that pose a danger under circumstances that are not enumerated in  
35 this act."

36

1  
2 SECTION 14. (a)(1) The Department of Correction shall provide notice,  
3 by written or electronic means, to the Arkansas Crime Information Center of  
4 the anticipated release from incarceration in a county or State penal  
5 institution of a person serving a sentence for a sexually violent offense, a  
6 sex offense, or an offense against a victim who is a minor.

7 (2) The Department of Human Services shall provide notice, by  
8 written or electronic means, to the Arkansas Crime Information Center of the  
9 anticipated release from incarceration of a person committed following an  
10 acquittal on the grounds of mental disease of defect for a sexually violent  
11 offense, a sex offense, or an offense against a victim who is a minor.

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

18 (c) Upon receipt of notice, the Arkansas Crime Information Center shall  
19 provide notice to:

20 (1) the local law enforcement agency having jurisdiction; and

21 (2) such other State and local law enforcement agencies as  
22 appropriate for public safety.

23 (d) The Department of Correction shall notify the victim of the  
24 anticipated release of the offender if the victim of the sexually violent  
25 offense, the sex offense or the offense against a victim who is a minor has  
26 filed a request for such notice with the prosecuting attorney in the county  
27 where the offender was adjudicated guilty.

28  
29 SECTION 15. (a) The Arkansas Crime Information Center shall promulgate  
30 regulations necessary to administer this act.

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

36

1           SECTION 16. (a) The Arkansas Crime Information Center shall cause  
2 notice of the obligation to register to be published in a manner reasonably  
3 calculated to reach the general public within thirty (30) days after the  
4 effective date of this act.

5           (b) The Office of Driver Services of the Department of Finance and  
6 Administration shall provide notice of the obligation to register pursuant to  
7 this act in connection with each driver's license issued pursuant to A.C.A.  
8 27-16-801 and each identification card issued pursuant to A.C.A. 27-16-805.

9  
10          SECTION 17. The Child Abuse/Rape/Domestic Violence Commission shall  
11 develop an evaluation protocol for preparing reports to assist courts in  
12 making determinations whether or not a person adjudicated guilty of a sexually  
13 violent offense should be considered a sexually violent predator for purposes  
14 of this act. The Commission shall also establish qualifications for and  
15 qualify examiners to prepare reports in accordance with the evaluation  
16 protocol.

17  
18          SECTION 18. (a) In order to classify a person as a sexually violent  
19 predator, a prosecutor shall allege on the face of an information that he is  
20 seeking a determination that the defendant is a sexually violent predator. If  
21 the defendant is adjudicated guilty, the court shall enter an order directing  
22 an examiner qualified by the Child Abuse/Rape/Domestic Violence Commission to  
23 issue a report to the sentencing court that recommends whether or not the  
24 defendant should be classified as a sexually violent predator. Copies of the  
25 report shall be forwarded immediately to the prosecutor and defense attorney.  
26 The report shall not be admissible for purposes of sentencing. After  
27 sentencing, the court shall make a determination regarding the defendant's  
28 status as a sexually violent predator.

29          (b) In order for the examiner qualified by the Child  
30 Abuse/Rape/Domestic Violence Commission to prepare the report, the defendant  
31 shall be sent for evaluation to a facility designated by the Child  
32 Abuse/Rape/Domestic Violence Commission. The cost of the evaluation,  
33 including the room and board of the defendant, shall be borne by the state;  
34 however, when the evaluation of the defendant has been completed, the county  
35 in which the defendant is being prosecuted, shall procure the defendant from  
36 the designated facility within three (3) working days. If the county fails to

1 procure the defendant with the three (3) day period, the county shall bear all  
2 room and board costs on the fourth and subsequent days.

3  
4 SECTION 19. (a)(1) A sex or child offender required to register under  
5 this act may make application to the Circuit Court in the county in which the  
6 sex or child offender resides for an order terminating the child or sex  
7 offender's obligation to register. The court shall hold a hearing on the  
8 application at which the applicant and any interested persons may present  
9 witnesses and other evidence. Not less than twenty (20) days prior to the  
10 date of the hearing on the application, a copy of the application for  
11 termination of the obligation to register shall be served on the prosecutor of  
12 the county in which the adjudication of guilt triggering registration was  
13 obtained.

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

16 (A) the applicant has not committed an offense within  
17 fifteen (15) years after the person was released from prison or other  
18 institution, placed on parole, supervised release, or probation; and

19 (B) the applicant is not likely to pose a threat to the  
20 safety of others.

21 (b)(1) A sexually violent predator may make application to the  
22 sentencing court for an order terminating the sexually violent predator's  
23 obligation to register. The court shall hold a hearing on the application at  
24 which the applicant and any interested persons may present witnesses and other  
25 evidence. Not less than sixty (60) days prior to the date of the hearing on  
26 the application, a copy of the application for termination of the obligation  
27 to register shall be served on the prosecutor of the county in which the  
28 adjudication of guilt triggering registration was obtained and on the members  
29 of the Child Abuse/Rape/Domestic Violence Commission. Not less than ten (10)  
30 days prior to the date of the hearing on the application, an examiner  
31 qualified by the Child Abuse/rape/domestic Violence commission shall submit a  
32 report to the court that recommends whether or not the applicant's status as a  
33 sexually violent predator should be terminated.

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

36 (A) the applicant has not committed an offense within

1 twenty (20) years after the person was released from prison or other  
2 institution, placed on parole, supervised release, or probation; and

3 (B) the applicant no longer suffers from a mental  
4 abnormality or personality disorder that would make the person likely to  
5 engage in a predatory sexually violent offense.

6  
7 SECTION 20. (a) Public officials, public employees, and public  
8 agencies are immune from civil liability for good faith conduct under this  
9 act.

10 (b) Nothing in this act shall be deemed to impose any liability upon or  
11 to give rise to a cause of action against any public official, public  
12 employee, or public agency for any discretionary decision to release relevant  
13 and necessary information, unless it is shown that the official, employee, or  
14 agency acted with gross negligence or in bad faith.

15  
16 SECTION 21. All provisions of this act of a general and permanent  
17 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
18 Code Revision Commission shall incorporate the same in the Code.

19  
20 SECTION 22. If any provision of this act or the application thereof to  
21 any person or circumstance is held invalid, such invalidity shall not affect  
22 other provisions or applications of the act which can be given effect without  
23 the invalid provision or application, and to this end the provisions of this  
24 act are declared to be severable.

25  
26 SECTION 23. The "Habitual Child Sex Offender Registration Act", A.C.A.  
27 12-12-901, et seq. is repealed on the effective date of this act.

28 ~~§ 12-12-901. Title.~~

29 ~~This subchapter shall be known and may be cited as the "Habitual Child~~  
30 ~~Sex Offender Registration Act".~~

31 ~~§ 12-12-902. Definitions.~~

32 ~~As used in this subchapter, unless the context otherwise requires:~~

33 ~~(1) "Habitual child sex offender" includes any person who, after August~~  
34 ~~1, 1987, is convicted a second or subsequent time in separate criminal actions~~  
35 ~~for commission of any of the sex offenses set forth in subdivision (2)(A) of~~  
36 ~~this section. Upon such conviction, the court shall certify that the person is~~



1 ~~a habitual child sex offender and shall include this certification in the~~  
2 ~~order of commitment. Convictions which result from or are connected with the~~  
3 ~~same act, or result from offenses committed at the same time, shall be counted~~  
4 ~~for the purpose of this section as one (1) conviction. Any conviction set~~  
5 ~~aside pursuant to law is not a conviction for purposes of this section. A~~  
6 ~~conviction from another state shall constitute a conviction for purposes of~~  
7 ~~this subchapter;~~

8 ~~— (2) "Sex offense" means:~~

9 ~~— (A) A violation of any of the following sections of the Arkansas~~  
10 ~~Criminal Code, when the victim is under eighteen (18) years of age:~~

11 ~~— (i) Rape — § 5-14-103;~~

12 ~~— (ii) Carnal abuse in the first degree — § 5-14-104;~~

13 ~~— (iii) Carnal abuse in the second degree — § 5-14-105;~~

14 ~~— (iv) Sexual abuse in the first degree — § 5-14-108;~~

15 ~~— (v) Violation of a minor in the first degree — § 5-14-120;~~

16 ~~— (vi) Violation of a minor in the second degree — § 5-14-121;~~

17 ~~— (vii) Incest — § 5-26-202;~~

18 ~~— (B) A violation of any former law of this state which is substantially~~  
19 ~~equivalent to any offense listed in subdivision (2)(A) of this section;~~

20 ~~— (C) A conviction for an offense of the law of another state which is~~  
21 ~~substantially equivalent to any offense listed in subdivision (2)(A) of this~~  
22 ~~section; and~~

23 ~~— (3) "Law enforcement agency having jurisdiction" means the chief of~~  
24 ~~police in the municipality in which the offender expects to reside upon his~~  
25 ~~discharge, parole, or release or the sheriff of the county, in the event no~~  
26 ~~police chief exists or if the offender intends to reside in an unincorporated~~  
27 ~~area.~~

28 ~~— § 12-12-903. Penalty.~~

29 ~~— Any person who is required to register under this subchapter who~~  
30 ~~violates any of its provisions is guilty of a Class A misdemeanor.~~

31 ~~— § 12-12-904. Registration required — Change of address.~~

32 ~~— (a) Within thirty (30) days of his coming into any county in which he~~  
33 ~~resides or is temporarily domiciled for more than thirty (30) days, any~~  
34 ~~habitual child sex offender shall register with the chief of police of the~~  
35 ~~municipality in which he resides. In the event no police chief exists or if~~  
36 ~~the habitual sex offender resides in an unincorporated area, he shall register~~

1 with the sheriff of the county.

2 ~~—— (b)(1) If any person required to register under this subchapter changes~~  
3 ~~his residence address, he shall inform the law enforcement agency with whom he~~  
4 ~~last registered of his new address, in writing, within ten (10) days.~~

5 ~~—— (2) The law enforcement agency shall, within three (3) days of receipt of~~  
6 ~~the new address, forward this information to the Department of Arkansas State~~  
7 ~~Police and to the law enforcement agency having jurisdiction of the new place~~  
8 ~~of residence.~~

9 ~~—— § 12-12-905. Explanation of duty to register — Reports.~~

10 ~~—— (a)(1) Any habitual child sex offender, as defined in § 12-12-902(1),~~  
11 ~~who is discharged or paroled from a prison, hospital, or other institution or~~  
12 ~~facility where he was confined pursuant to § 12-12-902(2), prior to discharge,~~  
13 ~~parole, or release, shall be informed by the staff of the facility in which he~~  
14 ~~was confined of his duty to register under this subchapter.~~

15 ~~—— (2)(A) The staff of the facility shall explain the duty to register and~~  
16 ~~the procedure for registration and require the person to sign a form which~~  
17 ~~shall be prepared by the Department of Arkansas State Police stating that the~~  
18 ~~duty and procedure have been explained to the person.~~

19 ~~—— (B) The staff of the facility shall obtain the address where the person~~  
20 ~~expects to reside upon his discharge, parole, or release and shall report the~~  
21 ~~address to the Department of Arkansas State Police.~~

22 ~~—— (C) The staff of the facility shall give one (1) copy of the form to~~  
23 ~~the person and shall send two (2) copies to the Department of Arkansas State~~  
24 ~~Police, which shall then forward one (1) copy to the law enforcement agency~~  
25 ~~having jurisdiction where the person expects to reside upon his discharge,~~  
26 ~~parole, or release.~~

27 ~~—— (b)(1) Any habitual child sex offender who is released on probation,~~  
28 ~~receives a suspended sentence, a suspended imposition of sentence, or is~~  
29 ~~discharged upon payment of a fine because of the commission or the attempt to~~  
30 ~~commit one of the offenses defined in § 12-12-902(2) prior to his release,~~  
31 ~~shall be informed of his duty to register under this subchapter by the court~~  
32 ~~in which he was convicted.~~

33 ~~—— (2)(A) The court shall require the person to read and sign a form~~  
34 ~~prepared by the Department of Arkansas State Police stating that the duty to~~  
35 ~~register and the procedure for registration has been explained to him.~~

36 ~~—— (B) The court shall obtain the address where the person expects to~~

1 ~~reside upon his release and shall report the address to the Department of~~  
2 ~~Arkansas State Police.~~

3 ~~—— (C) The court shall give one (1) copy of the form to the person and~~  
4 ~~shall send two (2) copies to the Department of Arkansas State Police which~~  
5 ~~shall then forward one (1) copy to the law enforcement agency having~~  
6 ~~jurisdiction where the person expects to reside upon his release.~~

7 ~~—— § 12-12-906. Duration of registration requirement.~~

8 ~~—— (a) Any person required to register under this subchapter shall be~~  
9 ~~required to register for a period of ten (10) years after conviction if not~~  
10 ~~confined to a penal institution, psychiatric residential care facility or~~  
11 ~~mental hospital, or any other institution or facility to which the person is~~  
12 ~~confined for treatment related to registrable offenses at the expiration of~~  
13 ~~ten (10) years after paroled, discharged, or released from any such facility.~~

14 ~~—— (b) Liability for registration terminates at the expiration of ten (10)~~  
15 ~~years from the date of conviction if not confined to a penal institution,~~  
16 ~~psychiatric residential care facility or mental hospital, or any other~~  
17 ~~institution or facility to which the person is confined for treatment related~~  
18 ~~to registrable offenses, at the expiration of ten (10) years from the date of~~  
19 ~~parole, discharge, or release from any such facility, if the convicted~~  
20 ~~habitual child sex offender does not again become liable to register under the~~  
21 ~~provisions of this subchapter during that period.~~

22 ~~—— § 12-12-907. Manner of registering.~~

23 ~~—— (a) Registration as required by this subchapter shall consist of a~~  
24 ~~statement in writing signed by the person. The information shall include the~~  
25 ~~following:~~

26 ~~—— (1) Name;~~

27 ~~—— (2) Date of birth;~~

28 ~~—— (3) Offense or offenses committed, date of conviction or convictions~~  
29 ~~obtained;~~

30 ~~—— (4) City or county of conviction or convictions obtained;~~

31 ~~—— (5) A photograph;~~

32 ~~—— (6) Fingerprints; and~~

33 ~~—— (7) Social security number.~~

34 ~~—— (b) Within three (3) days, the registering law enforcement agency shall~~  
35 ~~forward the statement and any other required information to the Department of~~  
36 ~~Arkansas State Police.~~

1 ~~§ 12-12-908. Relief from duty to register.~~

2 ~~Any habitual child sex offender registered under the provisions of~~  
3 ~~§ 12-12-904 may apply to the circuit court in this state having jurisdiction~~  
4 ~~over the county in which the offender resides for an order relieving him of~~  
5 ~~the duty of further registration. The court shall hold a hearing on the~~  
6 ~~application at which the applicant and any interested persons may present~~  
7 ~~witnesses and other evidence. If, after the hearing, the court finds by a~~  
8 ~~preponderance of the evidence that the habitual child sex offender is~~  
9 ~~rehabilitated, the court shall grant an order relieving him of the duty of~~  
10 ~~further registration under this subchapter.~~

11 ~~§ 12-12-909. Access to information.~~

12 ~~The statements or any other information required by this subchapter~~  
13 ~~shall not be open to inspection by the public and specifically are not subject~~  
14 ~~to the provisions of the Arkansas Freedom of Information Act, § 25-19-101 et~~  
15 ~~seq., nor may this data be obtained by any person other than a law enforcement~~  
16 ~~officer or other individual as may be authorized specifically by law.~~

17  
18 SECTION 24. All laws and parts of laws in conflict with this act are  
19 hereby repealed.

20 /s/Rep. Flanagan et al  
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