

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 83rd General Assembly  
3 Regular Session, 2001  
4

As Engrossed: H3/23/01

# A Bill

HOUSE BILL 1128

5 By: Representative Trammell  
6  
7

## For An Act To Be Entitled

9 AN ACT TO BE KNOWN AS THE "DRUG KINGPIN  
10 REGISTRATION ACT"; AND FOR OTHER PURPOSES.  
11

### Subtitle

12 THE "DRUG KINGPIN REGISTRATION ACT".  
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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
17

18 *SECTION 1. Arkansas Code Title 12, Chapter 12 is amended by adding the*  
19 *following new subchapter:*

20 12-12-1401. Title.

21 This subchapter shall be known and may be cited as the "Drug Kingpin  
22 Registration Act".  
23

24 12-12-1402. Legislative findings.

25 The General Assembly finds that protecting the public from drug  
26 offenders who commit the offense of engaging in a criminal enterprise, § 5-64-  
27 414, which is commonly known as the drug kingpin law, is a primary  
28 governmental interest, that the privacy interest of persons adjudicated guilty  
29 of engaging in a criminal enterprise is less important than the government's  
30 interest in public safety, and that the release of certain information about  
31 the offenders to criminal justice agencies and the general public will assist  
32 in protecting the public safety.  
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34 12-12-1403. Definitions.

35 For the purposes of this subchapter:

36 (1) "Adjudication of guilt" or other words of similar import means a

1 plea of guilty, a plea of nolo contendere, a negotiated plea, a finding of  
2 guilt by a judge, or a finding of guilt by a jury;

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

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

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

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

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

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

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

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31 12-12-1404. Failure to register - Failure to comply with reporting  
32 requirements.

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

35 (2) It is an affirmative defense to prosecution if the delay in  
36 reporting a change in address is caused by eviction, natural disaster or any

1 other unforeseen circumstance and if the person provides the new address to  
2 the Arkansas Crime Information Center in writing no later than five (5)  
3 business days after the offender establishes residency.

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

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8 12-12-1405. Applicability.

9 The registration requirements of this subchapter apply to:

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

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

16 (3) A person who is committed following an acquittal on the  
17 grounds of mental disease or defect for engaging in a criminal enterprise, §  
18 5-64-414, on or after the effective date of this subchapter; and

19 (4) A person who is serving a commitment as a result of an  
20 acquittal on the grounds of mental disease or defect for engaging in a  
21 criminal enterprise, § 5-64-414, on or after the effective date of this  
22 subchapter.

23  
24 12-12-1406. Duty to register generally - Review of requirements with  
25 offenders.

26 (a)(1) After the effective date of this subchapter, the sentencing  
27 court shall require an offender at the time of the offender's adjudication of  
28 guilt to complete the drug offender registration form in the format prepared  
29 by the director of the Arkansas Crime Information Center pursuant to § 12-12-  
30 1408.

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

36 (3) No later than thirty (30) days after the effective date of

1 this subchapter, the Department of Correction or the Department of Community  
2 Punishment, whichever is responsible for supervision, shall register an  
3 offender who, on the effective date of this subchapter, is under supervision  
4 in the community on parole, furlough, work release, or a similar program.

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

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

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

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

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

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

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

35 (B) Inform the offender that if the offender changes address, the  
36 offender shall give the new address to the Arkansas Crime Information Center

1 in writing no later than ten (10) days before the offender establishes  
2 residency or is temporarily domiciled at the new address;

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

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

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

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

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

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

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

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

34 (C) Review with the offender the requirement that if the offender  
35 changes address to another state, the offender shall register the new address  
36 with the Arkansas Crime Information Center and with a designated law

1 enforcement agency in the new state not later than ten (10) days before the  
2 offender establishes residence or is temporarily domiciled in the new state,  
3 if the new state has a registration requirement;

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

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

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

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

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

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34 12-12-1408. Registration format - Requirements.

35 (a) Within sixty (60) days after the effective date of this subchapter,  
36 the Director of the Arkansas Crime Information Center shall prepare the format

1 for registration as required in subsection (b) of this section and shall  
2 provide instructions for registration to each organized full-time municipal  
3 police department, county sheriff's office, the Department of Correction, the  
4 Department of Community Punishment, the Department of Human Services, and the  
5 Administrative Office of the Courts.

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

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

9 (2) Date of birth;

10 (3) Sex;

11 (4) Race;

12 (5) Height;

13 (6) Weight;

14 (7) Hair and eye color;

15 (8) Address of any temporary residence;

16 (9) Anticipated address of legal residence;

17 (10) Driver's license number or state identification number, if  
18 available;

19 (11) Social Security Number;

20 (12) Place of employment;

21 (13) Photograph, if not already obtained;

22 (14) Fingerprints, if not already obtained;

23 (15) Date of arrest, arresting agency, offense for which  
24 convicted or acquitted, and arrest tracking number for each adjudication of  
25 guilt or acquittal on the grounds of mental disease or defect;

26 (16) A brief description of the crime for which registration is  
27 required;

28 (17) A statement in writing signed by the offender acknowledging  
29 that the offender has been advised of the duty to register imposed by this  
30 subchapter; and

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

33  
34 12-12-1409. Verification form - Change of address.

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

1 the person is required to register, the following applies:

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

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

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

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

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

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

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

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

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



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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

1 authorized by law to conduct confidential background checks.

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

4  
5 12-12-1414. Notice of release.

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

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

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

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

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

24 (2) Such other state and local law enforcement agencies as  
25 appropriate for public safety.

26  
27 12-12-1415. Regulations.

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

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

35  
36 12-12-1416. Publication and notice of obligation to register.

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

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 subchapter in connection with each driver's license issued pursuant to §  
8 27-16-801 and each identification card issued pursuant to § 27-16-805.

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10       12-12-1417. Termination of obligation to register.

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

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

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

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

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

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

31  
32       12-12-1418. Immunity from civil liability.

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

35       (b) This section shall also apply to persons or organizations assisting  
36 public officials, public employees, and public agencies in performing their

1 official duties upon a written request to assist them by the public official,  
2 public employee or public agency.

3 /s/ Trammel

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