

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 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S3/8/07

A Bill

HOUSE BILL 1564

5 By: Representatives D. Creekmore, Adcock, T. Baker, T. Bradford, E. Brown, Burris, Cash, Cheatham,
6 Cornwell, Dunn, R. Green, Hardwick, Harris, Hoyt, D. Hutchinson, J. Johnson, Key, Kidd, King, Lowery,
7 M. Martin, Medley, Pennartz, Pierce, S. Prater, Ragland, Reep, Rogers, Rosenbaum, Stewart, Sullivan,
8 Wagner, Walters, Webb, Wyatt
9 By: Senators Salmon, Altes, Baker, Broadway, J. Jeffress, Madison, T. Smith, Trusty, Wilkins

For An Act To Be Entitled

13 AN ACT TO CREATE A CRIMINAL OFFENSE PROHIBITING
14 SEX OFFENDERS FROM LIVING NEAR VICTIMS OR
15 CONTACTING VICTIMS; TO AMEND VARIOUS SECTIONS OF
16 THE ARKANSAS CODE CONCERNING THE SEX OFFENDER
17 REGISTRATION ACT OF 1997; AND FOR OTHER PURPOSES.

Subtitle

19 TO CREATE A CRIMINAL OFFENSE PROHIBITING
20 SEX OFFENDERS FROM LIVING NEAR VICTIMS
21 OR CONTACTING VICTIMS AND TO AMEND
22 VARIOUS SECTIONS OF THE ARKANSAS CODE
23 CONCERNING THE SEX OFFENDER REGISTRATION
24 ACT OF 1997.
25
26
27

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

29
30 SECTION 1. Arkansas Code Title 5, Chapter 14, Subchapter 1 is amended
31 to add an additional section to read as follows:

32 5-14-130. Registered offender living near victim or having contact
33 with victim prohibited.

34 (a) As used in this section, "victim" means a victim of a sex offense
35 for which a person is required to register as a sex offender under the Sex
36 Offender Registration Act of 1997, § 12-12-901 et seq.



1 (b) It is unlawful for a person who is required to register under the
2 Sex Offender Registration Act of 1997, § 12-12-901 et seq., and who has been
3 assessed as a Level 3 or Level 4 offender to knowingly:

4 (1) Reside within two thousand feet (2,000') of the residence of
5 his or her victim; or

6 (2) Have direct or indirect contact with his or her victim for
7 the purpose of harassment under § 5-71-208.

8 (c)(1) It is an affirmative defense to a prosecution for a violation
9 of subdivision (b)(1) of this section if the property where the sex offender
10 resides is owned and occupied by the sex offender and was purchased prior to
11 the date on which his or her victim began residing within two thousand feet
12 (2,000') of the residence of the sex offender.

13 (2) The affirmative defense in subdivision (c)(1) of this
14 section is not available to a sex offender who pleads guilty or nolo
15 contendere to or is found guilty of another sex offense involving his or her
16 victim after his or her victim began residing within two thousand feet
17 (2,000') of the residence of the sex offender.

18 (d)(1) It is an affirmative defense to a prosecution for a violation
19 of subdivision (a)(1) of this section if the sex offender resides on property
20 he or she owned prior to the effective date of this act.

21 (2) The affirmative defense in subdivision (d)(1) of this
22 section does is not available to a sex offender who pleads guilty or nolo
23 contendere to or is found guilty of another sex offense involving his or her
24 victim after the effective date of this act.

25 (e) Upon conviction, a person who violates this section is guilty of a
26 Class D felony.

27
28 SECTION 2. Arkansas Code § 12-12-903(12), pertaining to the definition
29 of "sex offense", is amended to read as follows:

30 (12)(A) "Sex offense" ~~for the purposes of this subchapter~~
31 includes, but is not limited to:

32 (i) The following offenses:

33 (a) Rape, § 5-14-103;

34 (b) Sexual indecency with a child, § 5-14-110;

35 (c) Sexual assault in the first degree, § 5-

36 14-124;

- 1 (d) Sexual assault in the second degree, § 5-
2 14-125;
- 3 (e) Sexual assault in the third degree, § 5-
4 14-126;
- 5 (f) Sexual assault in the fourth degree, § 5-
6 14-127;
- 7 (g) Incest, § 5-26-202;
- 8 (h) Engaging children in sexually explicit
9 conduct for use in visual or print medium, § 5-27-303;
- 10 (i) Transportation of minors for prohibited
11 sexual conduct, § 5-27-305;
- 12 (j) Employing or consenting to use of a child
13 in sexual performance, § 5-27-402;
- 14 (k) Pandering or possessing visual or print
15 medium depicting sexually explicit conduct involving a child, § 5-27-304;
- 16 (l) Producing, directing, or promoting sexual
17 performance, § 5-27-403;
- 18 (m) Promoting prostitution in the first
19 degree, § 5-70-104;
- 20 (n) Stalking when ordered by the sentencing
21 court to register as a sex offender, § 5-71-229;
- 22 (o) Indecent exposure, § 5-14-112, if a felony
23 level offense;
- 24 (p) Exposing another person to human
25 immunodeficiency virus when ordered by the sentencing court to register as a
26 sex offender, § 5-14-123;
- 27 (q) Kidnapping pursuant to § 5-11-102(a) when
28 the victim is a minor and the offender is not the parent of the victim;
- 29 (r) False imprisonment in the first degree and
30 false imprisonment in the second degree, §§ 5-11-103 and 5-11-104, when the
31 victim is a minor and the offender is not the parent of the victim;
- 32 (s) Permitting abuse of a child pursuant to §
33 5-27-221;
- 34 (t) Computer child pornography, § 5-27-603;
- 35 (u) Computer exploitation of a child in the
36 first degree, § 5-27-605(a);

1 (v) Permanent detention or restraint when the
2 offender is not the parent of the victim, § 5-11-106;

3 (w) Distributing, possessing, or viewing
4 matter depicting sexually explicit conduct involving a child, § 5-27-602;

5 (x) Computer child pornography, § 5-27-603;

6 ~~and~~

7 (y) Computer exploitation of a child, § 5-27-
8 605;

9 (z) Internet stalking of a child, § 5-27-306;

10 (aa) Crime of video voyeurism, § 5-16-101, if

11 a felony level offense; and

12 (bb) Voyeurism, § 5-16-102, if a felony level
13 offense;

14 (ii) An attempt, solicitation, or conspiracy to
15 commit any of the offenses enumerated in subdivision (12)(A)(i) of this
16 section; and

17 (iii) An adjudication of guilt for an offense of the
18 law of another state, for a federal offense, for a tribal court offense, or
19 for a military offense:

20 (a) Which is similar to any of the offenses
21 enumerated in subdivision (12)(A)(i) of this section;

22 (b) When that adjudication of guilt requires
23 registration under another state's sex offender registration laws; or

24 (c) A violation of any former law of this
25 state that is substantially equivalent to any of the offenses enumerated in
26 this subdivision (12)(A).

27 (B)(i) The sentencing court has the authority to order the
28 registration of any offender shown in court to have attempted to commit or to
29 have committed a sex offense even though the offense is not enumerated in
30 subdivision (12)(A)(i) of this section.

31 (ii) This authority applies to sex offenses enacted,
32 renamed, or amended at a later date by the General Assembly unless the
33 General Assembly expresses its intent not to consider the offense to be a
34 true sex offense for the purposes of this subchapter;

35
36 SECTION 3. Arkansas Code § 12-12-904 is amended to read as follows:

1 12-12-904. Failure to comply with registration and reporting
2 requirements - Refusal to cooperate with assessment process.

3 (a)(1)(A) A person is guilty of a Class C felony who:

4 (i) Fails to register or ~~reregister~~ verify
5 registration as required under this subchapter;

6 (ii) Fails to report a change of address,
7 employment, education, or training as required under this subchapter; or

8 (iii) Refuses to cooperate with the assessment
9 process as required under this subchapter.

10 (B)(i) Upon conviction, a sex offender who fails or
11 refuses to provide any information necessary to update his or her
12 registration file as required by § 12-12-906(b)(2) is guilty of a Class C
13 felony.

14 (ii) If a sex offender fails or refuses to provide
15 any information necessary to update his or her registration file as required
16 by § 12-12-906(b)(2), as soon as administratively feasible the Department of
17 Correction, the Department of Community Correction, the Arkansas State
18 Hospital, or the Department of Health and Human Services shall contact the
19 local law enforcement agency having jurisdiction to report the violation of
20 subdivision (a)(1)(B)(i) of this section.

21 (2) It is an affirmative defense to prosecution if the person:

22 ~~(A) The person:~~

23 ~~(i)(A)~~ (A) Delayed reporting a change in address because
24 of:

25 ~~(a)(i)~~ (i) An eviction;

26 ~~(b)(ii)~~ (ii) A natural disaster; or

27 ~~(e)(iii)~~ (iii) Any other unforeseen circumstance;

28 and

29 ~~(ii)(B)~~ (B) Provided the new address to the Arkansas
30 Crime Information Center in writing no later than five (5) business days
31 after the person establishes residency; ~~or,~~

32 ~~(B) The person refused to cooperate with the assessment on~~
33 ~~the basis of the right to avoid self-incrimination.~~

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 4. Arkansas Code § 12-12-905 is amended to read as follows:
12-12-905. Applicability.

(a) The registration or ~~reregistration~~ registration verification requirements of this subchapter apply to a person who:

(1) Is adjudicated guilty on or after August 1, 1997, of a sex offense, aggravated sex offense, or sexually violent offense;

(2) Is serving a sentence of incarceration, probation, parole, or other form of community supervision as a result of an adjudication of guilt on or after August 1, 1997, for a sex offense, aggravated sex offense, or sexually violent offense;

(3) Is acquitted on or after August 1, 1997, on the grounds of mental disease or defect for a sex offense, aggravated sex offense, or sexually violent offense;

(4) Is serving a commitment as a result of an acquittal on or after August 1, 1997, on the grounds of mental disease or defect for a sex offense, aggravated sex offense, or sexually violent offense; or

(5) Was required to be registered under the Habitual Child Sex Offender Registration Act, former § 12-12-901 et seq.

(b) A person who has been adjudicated guilty of a sex offense and whose record of conviction will be expunged under the provisions of §§ 16-93-301 - 16-93-303 is not relieved of the duty to register or ~~reregister~~ verify registration.

(c)(1) If the underlying conviction of the registrant is reversed, vacated, or set aside or if the registrant is pardoned, the registrant is relieved from the duty to register or ~~reregister~~ verify registration.

(2) Registration or ~~reregistration~~ registration verification shall cease upon the receipt and verification by the Arkansas Crime Information Center of documentation from the:

(A) Court verifying the fact that the conviction has been reversed, vacated, or set aside; or

(B) Governor's office that the Governor has pardoned the registrant.

SECTION 5. Arkansas Code § 12-12-906 is amended to read as follows:
12-12-906. Duty to register or ~~reregister~~ verify registration

1 generally - Review of requirements with offenders.

2 (a)(1)(A)(i) At the time of adjudication of guilt, the sentencing
3 court shall enter on the judgment and commitment or judgment and disposition
4 form that the offender is required to register as a sex offender and shall
5 indicate whether the:

6 (a) Offense is an aggravated sex offense;

7 (b) Sex offender has been adjudicated guilty
8 of a prior sex offense under a separate case number; or

9 (c) Sex offender has been classified as a
10 sexually violent predator.

11 (ii) If the sentencing court finds the offender is
12 required to register as a sex offender, then at the time of adjudication of
13 guilt the sentencing court shall require the sex offender to complete the sex
14 offender registration form prepared by the Director of the Arkansas Crime
15 Information Center pursuant to § 12-12-908 and shall forward the completed
16 sex offender registration form to the Arkansas Crime Information Center.

17 (B)(i) The Department of Correction shall ensure that a
18 sex offender received for incarceration has completed the sex offender
19 registration form.

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

24 (C)(i) The Department of Community Correction shall ensure
25 that a sex offender placed on probation or another form of community
26 supervision has completed the sex offender registration form.

27 (ii) If the Department of Community Correction
28 cannot confirm that the sex offender has completed the sex offender
29 registration form, the Department of Community Correction shall require the
30 sex offender to complete the sex offender registration form upon intake,
31 release, or discharge.

32 (D)(i) The Arkansas State Hospital shall ensure that the
33 sex offender registration form has been completed for any sex offender found
34 not guilty by reason of insanity and shall arrange an evaluation by Sex
35 Offender Screening and Risk Assessment.

36 (ii) If the Arkansas State Hospital cannot confirm

1 that the sex offender has completed the sex offender registration form, the
2 Arkansas State Hospital shall ensure that the sex registration form is
3 completed for the sex offender upon intake, release, or discharge.

4 (2)(A) A sex offender moving to or returning to this state from
5 another jurisdiction shall register with the local law enforcement agency
6 having jurisdiction within ~~ten (10)~~ three (3) business days after the sex
7 offender establishes residency in a municipality or county of this state.

8 (B)(i) Any person living in this state who would be
9 required to register as a sex offender in the jurisdiction in which he or she
10 was adjudicated guilty of a sex offense shall register as a sex offender in
11 this state whether living, working, or attending school or other training in
12 Arkansas.

13 (ii) A nonresident worker or student who enters the
14 state ~~for fourteen (14) or more consecutive days to work or study or who~~
15 ~~enters the state for an aggregate of thirty (30) days or more a year~~ shall
16 register in compliance with ~~42 U.S.C. § 14071 et seq. and 64 Fed. Reg. 572 et~~
17 ~~seq., as they existed on March 1, 2003~~ Pub. L. No. 109-248, as it existed on
18 January 1, 2007.

19 (C) A sex offender sentenced and required to register
20 outside of Arkansas shall:

21 (i) Submit to assessment by Sex Offender Screening
22 and Risk Assessment;

23 (ii) Provide a deoxyribonucleic acid (DNA) sample if
24 a sample is not already accessible to the State Crime Laboratory; and

25 (iii) Pay the mandatory fee of two hundred fifty
26 dollars (\$250) to be deposited into the DNA Detection Fund established by §
27 12-12-1119.

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

33 (2) Immediately prior to the release or discharge of a sex
34 offender or immediately following a sex offender's escape or his or her
35 absconding supervision, the Department of Correction, the Department of
36 Community Correction, the Arkansas State Hospital, or the Department of

1 Health and Human Services shall update the registration file of the sex
2 offender who is to be released or discharged or who has escaped or has
3 absconded supervision.

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

9 (i) Inform the sex offender of the duty to submit to
10 assessment and to register and obtain the information required for
11 registration as described in § 12-12-908;

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

18 (iii)(a) Inform the sex offender that if the sex
19 offender changes residency to another state or enters another state ~~for~~
20 ~~fourteen (14) consecutive days or more or for an aggregate of thirty (30)~~
21 ~~days or more a year~~ to work or attend school, the sex offender must also
22 register in that state regardless of permanent residency.

23 (b) The sex offender shall register the new
24 address and place of employment, education, higher education, or training
25 with the center and with a designated law enforcement agency in the new state
26 not later than ~~ten (10) days before~~ three (3) business days after the sex
27 offender establishes residence or is temporarily domiciled in the new state;

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

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

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

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

7 (viii) Inform a sex offender who has been granted
8 probation that failure to comply with the provisions of this subchapter may
9 be grounds for revocation of the sex offender's probation; and

10 (ix) Inform a sex offender subject to lifetime
11 registration under § 12-12-919 of the duty to:

12 (a) ~~reregister~~ Verify registration and obtain
13 the information required for ~~reregistration~~ registration verification as
14 described in ~~subsection (g)~~ subsections (g) and (h) of this section; and

15 (b) Ensure that the information required for
16 registration verification under subsections (g) and (h) of this section is
17 provided to the local law enforcement agency having jurisdiction.

18 (B)(i) Any offender required to register as a sex offender
19 must provide a deoxyribonucleic acid (DNA) sample, that is, a blood sample or
20 saliva sample, upon registering if a sample has not already been provided to
21 the State Crime Laboratory.

22 (ii) Any offender required to register as a sex
23 offender who is entering the State of Arkansas must provide a
24 deoxyribonucleic acid (DNA) sample, that is, a blood sample or saliva sample,
25 upon registration and must pay the mandatory fee of two hundred fifty dollars
26 (\$250) to be deposited into the DNA Detection Fund established by § 12-12-
27 1119.

28 (2) When updating the registration file of a sex offender, the
29 Department of Correction, the Department of Community Correction, the
30 Arkansas State Hospital, or the Department of Health and Human Services
31 shall:

32 (A) Review with the sex offender the duty to register and
33 obtain current information required for registration as described in § 12-12-
34 908;

35 (B) Review with the sex offender the requirement that if
36 the sex offender changes address within the state, the sex offender shall

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

4 (C) Review with the sex offender the requirement that if
5 the sex offender changes address to another state, the sex offender shall
6 register the new address with the center and with a designated law
7 enforcement agency in the new state not later than ~~ten (10) days before~~ three
8 (3) business days after the sex offender establishes residence or is
9 temporarily domiciled in the new state if the new state has a registration
10 requirement;

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

14 (E) Inform the sex offender that if the sex offender's
15 address changes within the state or to another state due to an eviction,
16 natural disaster, or any other unforeseen circumstance, the sex offender
17 shall give the new address to the center in writing no later than ~~five (5)~~
18 three (3) business days after the sex offender establishes residency;

19 (F) Review with the sex offender the consequences of
20 failure to provide any information required by subdivision (b)(2) of this
21 section;

22 (G) Inform a sex offender subject to lifetime registration
23 under § 12-12-919 of the duty to:

24 (i) ~~reregister~~ Verify registration and report the
25 information required for ~~reregistration~~ registration verification as
26 described in ~~subsection (g)~~ subsections (g) and (h) of this section; and

27 (ii) Ensure that the information required for
28 registration verification under subsections (g) and (h) of this section is
29 provided to the local law enforcement agency having jurisdiction; and

30 (H) Review with a sex offender subject to lifetime
31 registration under § 12-12-919 the consequences of failure to ~~reregister~~
32 verify registration under § 12-12-904.

33 (d) When registering or updating the registration file of a sexually
34 violent predator, in addition to the requirements of subdivision (c)(1) or
35 (2) of this section, the sentencing court, the Department of Correction, the
36 Department of Community Correction, the Arkansas State Hospital, the

1 Department of Health and Human Services, or the local law enforcement agency
2 having jurisdiction shall obtain documentation of any treatment received for
3 the mental abnormality or personality disorder of the sexually violent
4 predator.

5 (e) Any sex offender working, enrolled, or volunteering in a public or
6 private elementary, secondary or postsecondary school, or institution of
7 training shall notify the center of that status and shall register with the
8 local law enforcement agency having jurisdiction over that campus.

9 (f)(1) An offender required to register pursuant to this subchapter
10 shall not change his or her name unless the change is:

11 (A) Incident to a change in the marital status of the sex
12 offender; or

13 (B) Necessary to effect the exercise of the religion of
14 the sex offender.

15 (2) The change in the sex offender's name shall be reported to
16 the Director of the Arkansas Crime Information Center within ten (10)
17 calendar days after the change in name.

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

19 (g)(1) ~~Beginning~~ Except as provided in subsection (h) of this section,
20 beginning April 7, 2006, a sex offender subject to lifetime registration
21 under § 12-12-919 shall report in person ~~each year during his or her birth~~
22 ~~month and during the sixth month following his or her birth month~~ every six
23 (6) months after registration to the local law enforcement agency having
24 jurisdiction to ~~reregister~~ verify registration.

25 (2) The local law enforcement agency having jurisdiction may
26 determine the appropriate times and days for reporting by the sex offender,
27 and the determination shall be consistent with the reporting requirements of
28 subdivision (g)(1) of this section.

29 (3) ~~Reregistration~~ Registration verification shall include
30 reporting any change to the following information concerning the sex
31 offender:

32 (A) Name;

33 (B) Social security number;

34 (C) Age;

35 (D) Race;

36 (E) Gender;

- 1 (F) Date of birth;
- 2 (G) Height;
- 3 (H) Weight;
- 4 (I) Hair and eye color;
- 5 (J)(i) Address of any permanent residence and address of
- 6 any current temporary residence within this state or out of this state,
- 7 including a rural route address and a post office box.
- 8 (ii) A post office box shall not be provided in lieu
- 9 of a physical residential address;
- 10 (K) Date and place of any employment;
- 11 (L) *Vehicle make, model, color, and license tag number*
- 12 that the sex offender owns, operates, or to which he or she has access;
- 13 (M)(i) Fingerprints+.
- 14 (ii) If the local law enforcement agency having
- 15 jurisdiction cannot confirm that the sex offender's fingerprints are
- 16 contained in the automated fingerprint identification system, the local law
- 17 enforcement agency having jurisdiction shall:
- 18 (a) Take the sex offender's fingerprints; and
- 19 (b) Submit the fingerprints to the center and
- 20 to the Department of Arkansas State Police; and
- 21 (N)(i) Photograph.
- 22 (ii) The local law enforcement agency having
- 23 jurisdiction shall take a photograph of the sex offender at each registration
- 24 verification and submit the photograph to the center.
- 25 (4) If the sex offender is enrolled or employed at an
- 26 institution of higher education in this state, the sex offender shall also
- 27 report to the local law enforcement agency having jurisdiction:
- 28 (A) The name and address of each institution, including
- 29 each campus attended;
- 30 (B) The county where each campus is located; and
- 31 (C) His or her enrollment or employment status.
- 32 (5) If the place of residence of the sex offender is a motor
- 33 vehicle, trailer, mobile home, modular home, or manufactured home, the sex
- 34 offender shall report the following information concerning the motor vehicle,
- 35 trailer, mobile home, modular home, or manufactured home:
- 36 (A) Vehicle identification number;

- 1 (B) License tag number;
2 (C) Registration number; and
3 (D) A description, including color scheme.

4 (6) If the place of residence of the sex offender is a vessel,
5 live-aboard vessel, or houseboat, the sex offender shall report the following
6 information concerning the vessel, live-aboard vessel, or houseboat:

- 7 (A) Hull identification number;
8 (B) Manufacturer's serial number;
9 (C) Name;
10 (D) Registration number; and
11 (E) A description, including color scheme.

12 (h)(1) Beginning on the effective date of this subdivision (h)(1), a
13 sexually violent predator subject to lifetime registration under § 12-12-919
14 shall report in person every three (3) months after registration to the local
15 law enforcement agency having jurisdiction to verify registration.

16 (2) The local law enforcement agency having jurisdiction may
17 determine the appropriate times and days for reporting by the sexually
18 violent predator, and the determination shall be consistent with the
19 reporting requirements of subdivision (h)(1) of this section.

20 (3) Registration verification shall include reporting any change
21 to the following information concerning the sexually violent predator:

- 22 (A) Name;
23 (B) Social security number;
24 (C) Age;
25 (D) Race;
26 (E) Gender;
27 (F) Date of birth;
28 (G) Height;
29 (H) Weight;
30 (I) Hair and eye color;
31 (J)(i) Address of any permanent residence and address of
32 any current temporary residence within this state or out of this state,
33 including a rural route address and a post office box.
34 (ii) A post office box shall not be provided in lieu
35 of a physical residential address;
36 (K) Date and place of any employment;

1 (L) Vehicle make, model, color, and license tag number
2 that the sexually violent predator owns, operates, or to which he or she has
3 access;

4 (M)(i) Fingerprints.

5 (ii) If the local law enforcement agency having
6 jurisdiction cannot confirm that the sexually violent predator's fingerprints
7 are contained in the automated fingerprint identification system, the local
8 law enforcement agency having jurisdiction shall:

9 (a) Take the sexually violent predator's
10 fingerprints; and

11 (b) Submit the fingerprints to the center and
12 to the Department of Arkansas State Police; and

13 (N)(i) Photograph.

14 (ii) The local law enforcement agency having
15 jurisdiction shall take a photograph of the sexually violent predator at each
16 registration verification and submit the photograph to the center.

17 (4) If the sexually violent predator is enrolled or employed at
18 an institution of higher education in this state, the sexually violent
19 predator shall also report to the local law enforcement agency having
20 jurisdiction:

21 (A) The name and address of each institution, including
22 each campus attended;

23 (B) The county where each campus is located; and

24 (C) His or her enrollment or employment status.

25 (5) If the place of residence of the sexually violent predator
26 is a motor vehicle, trailer, mobile home, modular home, or manufactured home,
27 the sexually violent predator shall report the following information
28 concerning the motor vehicle, trailer, mobile home, modular home, or
29 manufactured home:

30 (A) Vehicle identification number;

31 (B) License tag number;

32 (C) Registration number; and

33 (D) A description, including color scheme.

34 (6) If the place of residence of the sexually violent predator
35 is a vessel, live-aboard vessel, or houseboat, the sexually violent predator
36 shall report the following information concerning the vessel, live-aboard

1 vessel, or houseboat:

2 (A) Hull identification number;

3 (B) Manufacturer's serial number;

4 (C) Name;

5 (D) Registration number; and

6 (E) A description, including color scheme.

7 ~~(h)(i)~~ Within three (3) days after ~~reregistering~~ verifying the
 8 registration of a sex offender under subsection (g) of this section or a
 9 sexually violent predator under subsection (h) of this section, the local law
 10 enforcement agency having jurisdiction shall report by written or electronic
 11 means all information obtained from or provided by the sex offender or
 12 sexually violent predator to the center.

13
 14 SECTION 6. Arkansas Code § 12-12-909 is amended to read as follows:

15 12-12-909. Verification form - Change of address.

16 (a)(1)(A) For a person required to register as a sex offender, every
 17 six (6) months after the person's initial registration date during the period
 18 in which the person is required to register, the following applies:

19 (i) The Arkansas Crime Information Center shall mail
 20 a nonforwardable verification form to the last reported address of the person
 21 by certified mail;

22 (ii)(a) The person shall return the verification
 23 form in person to the local law enforcement agency having jurisdiction within
 24 ten (10) days after receipt of the form.

25 (b) Within three (3) days after receipt of the
 26 form, the local law enforcement agency having jurisdiction shall forward the
 27 form to the center;

28 (iii) The verification form shall be signed by the
 29 person and state that the person still resides at the address last reported
 30 to the center; and

31 (iv) If the person fails to return the verification
 32 form to the local law enforcement agency having jurisdiction within ten (10)
 33 days after receipt of the form, the person shall be in violation of this
 34 subchapter.

35 (B) Should the sex offender or sexually violent predator
 36 change address without notice or fail to return the verification of

1 residence, notification will be sent to law enforcement and supervising
2 parole or probation authority, and notice may be posted on the Internet until
3 proper reporting is again established or the person is incarcerated.

4 (2) The provisions of subdivision (a)(1) of this section shall
5 be applied to a person required to register as a sexually violent predator,
6 except that the person must verify the registration every ninety (90) days
7 after the date of the initial release or commencement of parole.

8 (b)(1) Before a change of address within the state, a sex offender
9 shall report the change of address to the center no later than ten (10) days
10 before the offender establishes residency or is temporarily domiciled at the
11 new address.

12 (2) When a change of address within the state is reported to the
13 center, the center shall immediately report the change of address to the
14 local law enforcement agency having jurisdiction where the offender expects
15 to reside.

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

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

25 (d) The center may require an offender to report a change of address
26 through the local law enforcement agency having jurisdiction.

27
28 SECTION 7. Arkansas Code § 12-12-913 is amended to read as follows:
29 12-12-913. Disclosure.

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

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

35 (b) In accordance with guidelines promulgated by the Sex ~~Offenders~~
36 Offender Assessment Committee, local law enforcement agencies having

1 jurisdiction shall disclose relevant and necessary information regarding sex
2 offenders to the public when the disclosure of such information is necessary
3 for public protection.

4 (c)(1)(A) The Sex ~~Offenders~~ Offender Assessment Committee shall
5 promulgate guidelines and procedures for the disclosure of relevant and
6 necessary information regarding sex offenders to the public when the release
7 of the information is necessary for public protection.

8 (B) In developing the guidelines and procedures, the Sex
9 ~~Offenders~~ Offender Assessment Committee shall consult with persons who, by
10 experience or training, have a personal interest or professional expertise in
11 law enforcement, crime prevention, victim advocacy, criminology, psychology,
12 parole, public education, and community relations.

13 (2)(A) The guidelines and procedures shall identify factors
14 relevant to a sex offender's future dangerousness and likelihood of reoffense
15 or threat to the community.

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

19 (i) Level of the sex offender's dangerousness;

20 (ii) Sex offender's pattern of offending behavior;

21 and

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

24 (3) The Sex ~~Offenders~~ Offender Assessment Committee shall submit
25 the proposed guidelines and procedures to the House Committee on Public
26 Health, Welfare, and Labor and the Senate Committee on Public Health,
27 Welfare, and Labor for their review and shall report to the House Committee
28 on Public Health, Welfare, and Labor and the Senate Committee on Public
29 Health, Welfare, and Labor every six (6) months on the implementation of this
30 section.

31 (d)(1) A local law enforcement agency having jurisdiction that decides
32 to disclose information pursuant to this section shall make a good faith
33 effort to notify the public and residents at least fourteen (14) days before
34 a sex offender is released or placed into the community.

35 (2) If a change occurs in a sex offender's release plan, this
36 notification provision shall not require an extension of the release date.

1 (3) In conjunction with the notice provided under § 12-12-914,
2 the Department of Correction and the Department of Health and Human Services
3 shall make available to a local law enforcement agency having jurisdiction
4 all information that the Department of Correction and the Department of
5 Health and Human Services have concerning the sex offender, including
6 information on risk factors in the sex offender's history.

7 (e)(1) A local law enforcement agency having jurisdiction that decides
8 to disclose information under this section shall make a good faith effort to
9 conceal the identity of the victim or victims of the sex offender's offense.

10 (2) Except as provided in subsection (j) of this section,
11 information under this section is not subject to disclosure under the Freedom
12 of Information Act of 1967, § 25-19-101 et seq.

13 (f) A local law enforcement agency having jurisdiction may continue to
14 disclose information on a sex offender under this section for as long as the
15 sex offender is required to be registered under this subchapter.

16 (g)(1) The State Board of Education, the Arkansas Higher Education
17 Coordinating Board of the Department of Higher Education, and the State Board
18 of Workforce Education and Career Opportunities shall promulgate guidelines
19 for the disclosure to students and parents of information regarding a sex
20 offender when such information is released to a local school district or
21 institution of higher education or vocational training by a local law
22 enforcement agency having jurisdiction.

23 (2) In accordance with guidelines promulgated by the State Board
24 of Education, the board of directors of a local school district or
25 institution of higher education or vocational training shall adopt a written
26 policy regarding the distribution to students and parents of information
27 regarding a sex offender.

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

31 (i) The medical records or treatment evaluations of a sex offender or
32 sexually violent predator are not subject to disclosure under the Freedom of
33 Information Act of 1967, § 25-19-101 et seq.

34 (j)(1)(A) The following information concerning a registered sex
35 offender who is classified as a level 3 or level 4 offender by the Sex
36 Offender Screening and Risk Assessment shall be made public:

1 (i) The sex offender's complete name, as well as any
2 ~~aliases~~ alias;

3 (ii) The sex offender's date of birth;

4 (iii) ~~The sexual offense or offenses~~ Any sex offense
5 to which the sex offender has pleaded guilty or nolo contendere or of which
6 the sex offender has been found guilty by a court of competent jurisdiction;

7 (iv) The street name and block number, county, city,
8 and zip code where the sex offender resides;

9 (v) The sex offender's race and gender;

10 (vi) The date of the last address verification of
11 the sex offender provided to the ~~center~~ Arkansas Crime Information Center;

12 (vii) The most recent photograph of the sex offender
13 that has been submitted to the center; and

14 (viii) The sex offender's parole or probation
15 office.

16 (B) If a registered sex offender was eighteen (18) years
17 of age or older at time of the commission of the sex offense that required
18 registration under this subchapter and the victim of the sex offense was
19 fourteen (14) years of age or younger, and the registered sex offender is
20 classified as a level 2 offender by the Sex Offender Screening and Risk
21 Assessment, the following information concerning the registered sex offender
22 shall be made public:

23 (i) The registered sex offender's complete name, as
24 well as any alias;

25 (ii) The registered sex offender's date of birth;

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

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

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

32 (vi) The date of the last address verification of
33 the registered sex offender provided to the center;

34 (vii) The most recent photograph of the registered
35 sex offender that has been submitted to the center; and

36 (viii) The registered sex offender's parole or

1 probation office.

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

5 (ii) The center shall begin placing the information
6 described in subdivision (j)(1)(B) of this section on the Internet home page
7 of the State of Arkansas on or before January 1, 2008, if administratively
8 feasible, but under no circumstance later than March 1, 2008.

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

11 (k) Nothing in this subchapter shall be interpreted to prohibit the
12 posting on the Internet or by other appropriate means of offender fact sheets
13 for those sex offenders who are determined to be:

14 (1) High-risk or sexually violent predators, risk level 3 and
15 level 4; or

16 (2) In noncompliance with the requirements of registration under
17 rules and regulations promulgated by the Sex Offender Assessment Committee.

18
19 SECTION 8. Arkansas Code § 12-12-915 is amended to read as follows:
20 12-12-915. Authority - Rules.

21 (a) The Department of Correction, the Department of Community
22 Correction, the Department of Health and Human Services, the Administrative
23 Office of the Courts, and the Arkansas Crime Information Center shall
24 promulgate rules to establish procedures for:

25 (1) Notifying the offender of the obligation to register
26 pursuant to this subchapter; and

27 (2) Registering the offender.

28 (b)(1) ~~The Department of Correction, the~~ Department of Community
29 ~~Correction, and the Department of Health and Human Services may~~ shall monitor
30 a an adult sex offender under its supervisory authority who is subject to
31 electronic monitoring under § 12-12-923.

32 (2) The Department of Health and Human Services shall monitor an
33 adult or juvenile sex offender under its supervisory authority who is subject
34 to electronic monitoring under § 12-12-923.

35 (c)(1) The Department of Community Correction shall promulgate rules
36 to establish procedures for monitoring a an adult sex offender under its

1 supervisory authority who is subject to electronic monitoring under § 12-12-
2 923.

3 ~~(2)(A) The rules shall specify the agency that will supervise~~
4 ~~the electronic monitoring of a sex offender.~~

5 ~~(B) In the event that the Department of Correction, the~~
6 ~~Department of Community Correction, and the Department of Health and Human~~
7 ~~Services cannot reach an agreement on which agency will supervise the~~
8 ~~electronic monitoring of a sex offender, the Governor shall be notified and~~
9 ~~shall designate the responsible agency. The Department of Health and Human~~
10 Services shall promulgate rules to establish procedures for monitoring an
11 adult or juvenile sex offender under its supervisory authority who is subject
12 to electronic monitoring under § 12-12-923.

13

14 SECTION 9. Arkansas Code § 12-12-917 is amended to read as follows:

15 12-12-917. Evaluation protocol - Sexually violent predators - Juveniles
16 adjudicated delinquent - Examiners.

17 (a)(1) The Sex Offender Assessment Committee shall develop an
18 evaluation protocol for preparing reports to assist courts in making
19 determinations whether or not a person adjudicated guilty of a sex offense
20 should be considered a sexually violent predator for purposes of this
21 subchapter.

22 (2) The committee shall also establish qualifications for
23 examiners and qualify examiners to prepare reports in accordance with the
24 evaluation protocol.

25 (b)(1) The committee shall cause an assessment to be conducted on a
26 case-by-case basis of the public risk posed by a sex offender or sexually
27 violent predator:

28 (A) Who is required to register under § 12-12-905 after
29 August 1, 1997; and

30 (B) For whom the Arkansas Crime Information Center has no
31 record of an assessment's being done and a risk level established subsequent
32 to August 1, 1997.

33 (2)(A)(i) An adult offender convicted of an offense described in
34 42 U.S.C. § 14071 et seq., as it existed on March 1, 2003, Pub. L. No. 109-
35 248, as it existed on January 1, 2007, or § 12-12-903(12) shall be assessed.

36 (ii)(a) Subject to subdivision (c)(1) of this

1 section, the prosecuting attorney and any law enforcement agency shall
2 furnish the file relating to the offender to Sex Offender Screening and Risk
3 Assessment at the Department of Correction within thirty (30) days of an
4 offender's adjudication of guilt.

5 (b)(1) The prosecuting attorney shall make a
6 copy of any relevant records concerning the offender and shall forward the
7 copied relevant records to Sex Offender Screening and Risk Assessment within
8 thirty (30) days of the adjudication.

9 (2) The relevant records include, but are
10 not limited to:

11 (A) Arrest reports;
12 (B) Incident reports;
13 (C) Offender statements;
14 (D) Judgment and disposition forms;
15 (E) Medical records;
16 (F) Witness statements; and
17 (G) Any record considered relevant
18 by the prosecuting attorney.

19 (B) A sex offender sentenced to life, life without parole,
20 or death shall be assessed only if the sex offender is being considered for
21 release ~~through clemency~~.

22 (3) A sex offender currently in the state who has not been
23 assessed and classified shall be identified by the center.

24 (4)(A) If a sex offender fails to appear for assessment, is
25 aggressive, threatening, or disruptive to the point that Sex Offender
26 Screening and Risk Assessment staff cannot proceed with the assessment
27 process, or voluntarily terminates the assessment process after having been
28 advised of the potential consequences:

29 (i) The sex offender shall be classified as a risk
30 level 3 or referred to the Sex Offender Assessment Committee as a risk level
31 4; and

32 (ii) The parole or probation officer, if applicable,
33 shall be notified.

34 (B) A sex offender has immunity for a statement made by
35 him or her in the course of assessment with respect to prior conduct under
36 the immunity provisions of § 16-43-601 et seq.

1 (C) Assessment personnel shall report ongoing child
2 maltreatment as required under the Arkansas Child Maltreatment Act, § 12-12-
3 501 et seq.

4 (c)(1) To the extent permissible and under the procedures established
5 by state and federal regulations, public agencies shall provide the committee
6 access to all relevant records and information in the possession of public
7 agencies or any private entity contracting with a public agency relating to
8 the sex offender or sexually violent predator under review.

9 (2) The records and information include, but are not limited to:

- 10 (A) Police reports;
- 11 (B) Statements of probable cause;
- 12 (C) Presentence investigations and reports;
- 13 (D) Complete judgments and sentences;
- 14 (E) Current classification referrals;
- 15 (F) Criminal history summaries;
- 16 (G) Violation and disciplinary reports;
- 17 (H) All psychological evaluations and psychiatric hospital
18 reports;
- 19 (I) Sex offender or sexually violent predator treatment
20 program reports;
- 21 (J) Juvenile court records;
- 22 (K) Victim impact statements;
- 23 (L) Investigation reports to the child abuse hotline, the
24 Division of Children and Family Services of the Department of Health and
25 Human Services, and any entity contracting with the Department of Health and
26 Human Services for investigation or treatment of sexual or physical abuse or
27 domestic violence; and
- 28 (M) Statements of medical providers treating victims
29 of sex offenses indicating the extent of injury to the victim.

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

33 (2)(A)(i) The sex offender or sexually violent predator shall
34 have access to records and information generated and maintained by the
35 committee.

36 (ii) These records shall include any reports of the

1 assessment and the tape of the interview but do not include restricted source
2 documents of commercial psychological tests or working notes of staff.

3 (B)(i) Unless otherwise ordered by a court of competent
4 jurisdiction, records and information generated by other agencies and
5 obtained under this section shall not be available to the sex offender or
6 sexually violent predator except through the agency or individual having
7 primary custody of the records.

8 (ii) Upon request, the sex offender shall be given a
9 list of the records or information obtained.

10 (C) If the record or information generated contains the
11 address of a victim or a person who has made a statement adverse to the sex
12 offender or sexually violent predator, the address shall be redacted and the
13 sex offender or sexually violent predator shall have access to records and
14 information other than the identity and address.

15 (e) In classifying the sex offender into a risk level for the purposes
16 of public notification under § 12-12-913, the committee, through its staff,
17 shall review each sex offender or sexually violent predator under its
18 authority:

19 (1) Prior to the sex offender's release for confinement in a
20 correctional facility;

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

23 (3) At the start of a sex offender's suspended imposition of
24 sentence; or

25 (4) At the start of a sex offender's probation period.

26 (f)(1)(A) The committee shall issue the offender fact sheet to the
27 local law enforcement agency having jurisdiction.

28 (B) The offender fact sheet is provided to assist the
29 local law enforcement agency having jurisdiction in its task of community
30 notification.

31 (2) The committee shall provide the ~~Parol~~ Parole Board with
32 copies of the offender fact sheet on inmates of the Department of Correction.

33 (3) The committee shall provide the Department of Community
34 Correction with copies of the offender fact sheet on any sex offender under
35 the Department of Community Correction's supervision.

36 (4)(A)(i) The offender fact sheet shall be prepared on a

1 standard form for ease of transmission and communication.

2 (ii) The offender fact sheet shall also be on an
3 Internet-based application accessible to law enforcement, state boards, and
4 licensing agencies.

5 (iii) The offender fact sheet of a sexually violent
6 predator and a sex offender found by the center to be in violation of the
7 registration requirement shall be made available to the general public unless
8 the release of the offender fact sheet, in the opinion of the committee based
9 on a risk assessment, places an innocent individual at risk.

10 (B) The standard form shall include, but not be limited
11 to:

12 (i) Registration information as required in § 12-12-
13 908;

14 (ii) Risk level;

15 (iii) Date of deoxyribonucleic acid (DNA) sample;

16 (iv) Psychological factors likely to affect sexual
17 control;

18 (v) Victim age and gender preference;

19 (vi) Treatment history and recommendations; and

20 (vii) Other relevant information deemed necessary by
21 the committee or by professional staff performing sex offender assessments.

22 (5)(A) The committee shall ensure that the notice is complete in
23 its entirety.

24 (B) A law enforcement officer shall notify the center if a
25 sex offender has moved or is otherwise in violation of a registration
26 requirement.

27 (6)(A) All material used in the assessment shall be kept on file
28 in its original form for one (1) year.

29 (B) After one (1) year the file may be stored
30 electronically.

31 (g)(1) In cooperation with the committee, the Department of Correction
32 shall promulgate rules and regulations to establish the review process for
33 assessment determinations.

34 (2)(A) The sex offender or sexually violent predator may request
35 an administrative review of the assigned risk level under the conditions
36 stated and following the procedures indicated under § 12-12-922.

1 (B) The sex offender shall be notified of these rights and
2 procedures in the documentation sent with the notification of risk level.

3 (h)(1)(A) A sex offender or sexually violent predator may request the
4 committee to reassess the sex offender's assigned risk level after five (5)
5 years have elapsed since initial risk assessment by the committee and may
6 renew that request one (1) time every five (5) years.

7 (B) In the request for reassessment, the sex offender
8 shall list the facts and circumstances that demonstrate that the sex offender
9 no longer poses the same degree of risk to the community.

10 (2)(A) A local law enforcement agency having jurisdiction, the
11 Department of Community Correction, or the Parole Board may request the
12 committee to reassess a sex offender's assigned risk level at any time.

13 (B) In the request for reassessment, the local law
14 enforcement agency having jurisdiction, the Department of Community
15 Correction, or the Parole Board shall list the facts and circumstances that
16 prompted the requested reassessment.

17 (3) The committee shall also take into consideration any
18 subsequent criminal act by the sex offender or sexually violent predator ~~who~~
19 has requested during a reassessment.

20
21 SECTION 10. Arkansas Code § 12-12-922 is amended to read as follows:
22 12-12-922. Alternative procedure for sexually violent predator
23 evaluations.

24 (a)(1) The alternative procedure under this section may be used for
25 sexually violent predator evaluations if information that was not available
26 to the court at the time of trial emerges in the course of a sex offender
27 evaluation.

28 (2)(A) Examiners qualified by the Sex Offender Assessment
29 Committee shall include in the assessment of any sex offender convicted of a
30 sex offense a review as to whether the frequency, repetition over time,
31 severity of trauma to the victim, or established pattern of predatory
32 behaviors suggests that the sex offender ~~suffers from a mental abnormality or~~
33 ~~personality disorder that makes the sex offender~~ is likely to engage in
34 future predatory sexual offenses.

35 (B) If a mental abnormality or personality disorder is
36 suspected, a licensed psychologist or psychiatrist qualified by the committee

1 ~~shall~~ may conduct further assessment to determine the presence or absence of
2 a mental abnormality or personality disorder.

3 (C) ~~The~~ If further assessment under subdivision (a)(2)(B)
4 of this section is conducted by a licensed psychologist or psychiatrist
5 qualified by the committee, the report of the further assessment shall be
6 presented to the committee, ~~which shall make the determination of a mental~~
7 ~~abnormality or personality disorder according to protocols established by the~~
8 ~~committee and published in the committee guidelines.~~

9 (b)(1)(A) A sex offender may challenge an assigned risk level by
10 submitting a written request for an administrative review.

11 (B) As part of the request for an administrative review,
12 the sex offender may request in writing copies of all documents generated by
13 the examiners, a listing by document name and source of all documents that
14 may be available from other agencies having custody of those documents, and a
15 copy of the tape of the interview.

16 (2) The request for an administrative review shall be made in
17 accordance with instructions provided on the risk level notification and
18 within fifteen (15) days of receipt of the advisement of risk level
19 notification to the sex offender by certified mail and first-class mail.

20 (3)(A) The basis of the request for administrative review shall
21 be clearly stated and any documentary evidence attached.

22 (B) The basis for administrative review is:

23 (i) The rules and procedures were not properly
24 followed in reaching a decision on the risk level of the sex offender;

25 (ii) Documents or information not available at the
26 time of assessment have a bearing on the risk that the sex offender poses to
27 the community; or

28 (iii) The assessment is not supported by substantial
29 evidence.

30 (4) Unless a request for an administrative review is received by
31 the committee within twenty (20) days of ~~receipt~~ postmark of the advisement
32 of risk level notification ~~by~~ sent to the sex offender sent by certified mail
33 and first-class mail or delivered by personal service, an offender fact sheet
34 shall be made available to law enforcement so that community notification may
35 commence. Receipt of the advisement of risk level notification will be
36 presumed within five (5) days of postmark of the advisement of risk level

1 notification by both certified mail and first-class mail.

2 (5) If a request for an administrative review is received by the
3 committee, law enforcement may make community notification only at the level
4 immediately below the level upon which review has been requested.

5 (6)(A) A member of the committee shall conduct the review and
6 respond within thirty (30) days of receiving a request for an administrative
7 review.

8 (B) If additional time is needed to obtain facts, the
9 committee shall notify the sex offender requesting the review.

10 (7)(A)(i) The findings of the administrative review shall be
11 sent to the sex offender by certified mail. Community notification at the
12 risk level assigned in the administrative review shall commence five (5)
13 calendar days after the postmark of the advisement of the findings of the
14 administrative review.

15 (ii) Upon receipt of the findings, the sex offender
16 has thirty (30) days to file a petition under the Arkansas Administrative
17 Procedure Act, § 25-15-201 et seq., for judicial review in the Pulaski County
18 Circuit Court or in the circuit court of the county where the sex offender
19 resides or does business.

20 (B) The circuit court shall refuse to hear any appeal of
21 an assigned risk level by a sex offender unless the circuit court finds that
22 the administrative remedies available to the sex offender under this
23 subsection have been exhausted.

24 (8)(A)(i) A copy of the petition for judicial review shall be
25 served on the executive secretary of the committee in accordance with the
26 Arkansas Rules of Civil Procedure.

27 (ii) When the petition for judicial review has been
28 served on the executive secretary of the committee, a record of the
29 committee's findings and copies of all records in its possession shall be
30 furnished by the committee to the circuit court within thirty (30) days of
31 service.

32 (B) The committee may ask the circuit court to seal
33 statements of victims, medical records, and other items that could place
34 third parties at risk of harm.

35 (9) A ruling by the circuit court on the petition for judicial
36 review is considered a final judgment.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 11. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the need to register and verify registration of sex offenders and sexually violent predators is necessary to ensure the safety of the citizens of the State of Arkansas; that the provisions of this act will improve the process of registering and verifying the registration of sex offenders and sexually violent predators; and that this act is necessary because of the public risk posed by sex offenders and sexually violent predators. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/ D. Creekmore