

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: H3/16/07

A Bill

HOUSE BILL 2309

5 By: Representative Allen
6
7

For An Act To Be Entitled

9 AN ACT TO PROTECT PUBLIC HEALTH; TO CREATE THE
10 METHAMPHETAMINE OFFENDER REGISTRATION ACT OF
11 2007; AND FOR OTHER PURPOSES.
12

Subtitle

14 TO PROTECT PUBLIC HEALTH AND TO CREATE
15 THE METHAMPHETAMINE OFFENDER
16 REGISTRATION ACT OF 2007.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

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

23 *SUBCHAPTER 18 – METHAMPHETAMINE OFFENDER REGISTRATION ACT OF 2007*
24

25 *12-12-1801. Title.*

26 *This subchapter shall be known and may be cited as the "Methamphetamine*
27 *Offender Registration Act of 2007".*
28

29 *12-12-1802. Legislative findings.*

30 *The General Assembly finds that:*

31 *(1) Methamphetamine offenders pose a high risk of exposing the*
32 *citizens of this state to dangerous chemicals, fires, and explosions;*

33 *(2) Protecting the public from methamphetamine offenders is a*
34 *primary governmental interest;*

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



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

4
5
6 12-12-1803. Definitions.

7 As used in this subchapter:

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

9 (A) Plea of guilty;

10 (B) Plea of nolo contendere;

11 (C) Negotiated plea;

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

13 (E) Finding of guilt by a jury;

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

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

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

25 (4) "Criminal justice agency" means a government agency or any
26 subunit of a government agency that is authorized by law to perform the
27 administration of criminal justice and which allocates more than one-half
28 (1/2) of its annual budget to the administration of criminal justice;

29 (5) "Local law enforcement agency having jurisdiction" means
30 the:

31 (A) Chief law enforcement officer of the municipality in
32 which a methamphetamine offender:

33 (i) Resides or expects to reside;

34 (ii) Is employed; or

35 (iii) Is attending an institution of training or
36 education; or

1 (B) County sheriff, if:

2 (i) The municipality does not have a chief law
3 enforcement officer; or

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

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

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

11 (i) The following offenses:

12 (a) Manufacture of methamphetamine, § 5-64-
13 401(a)(1); and

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

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

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

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

24 (b) When that adjudication of guilt requires
25 registration under another state's methamphetamine offender registration
26 laws; and

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

30 (B)(i) The sentencing court has the authority to order the
31 registration of any methamphetamine offender shown in court to have attempted
32 to commit or to have committed a methamphetamine offense even though the
33 offense is not enumerated in subdivision (7)(A)(i) of this section.

34 (ii) The authority in subdivision (7)(A)(i) of this
35 section applies to methamphetamine offenses enacted, renamed, or amended at a
36 later date by the General Assembly unless the General Assembly expresses its

1 intent not to consider the offense to be a true methamphetamine offense for
2 the purposes of this subchapter;

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

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

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

10
11 12-12-1804. Failure to comply with registration and reporting
12 requirements - Refusal to cooperate with assessment process.

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

15 (i) Fails to register or reregister as
16 required under this subchapter; or

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

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

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

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

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

32 (i) An eviction;

33 (ii) A natural disaster; or

34 (iii) Any other unforeseen circumstance; and

35 (B) Provided the new address to the Arkansas Crime
36 Information Center in writing no later than five (5) business days after the

1 person establishes residency.

2 (b) Upon conviction, any agency or official subject to reporting
3 requirements under this subchapter that knowingly fails to comply with the
4 reporting requirements under this subchapter is guilty of a Class B
5 misdemeanor.

6
7 12-12-1805. Applicability.

8 (a) The registration requirements of this subchapter apply to a person
9 who:

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

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

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

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

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

25 (c)(1) If the underlying conviction of a person required to register
26 under this subchapter is reversed, vacated, or set aside, or if the person
27 required to register under this subchapter is pardoned, the person is
28 relieved from the duty to register under this subchapter.

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

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

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

36

1 12-12-1806. Duty to register generally - Review of requirements with
2 offenders.

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

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

14 (B)(i) The Department of Correction shall ensure that a
15 methamphetamine offender received for incarceration has completed the
16 methamphetamine offender registration form.

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

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

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

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

36 (ii) If the Arkansas State Hospital cannot confirm

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

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

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

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

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

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

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

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

31 (2) Immediately prior to the release or discharge of a
32 methamphetamine offender or immediately following a methamphetamine
33 offender's escape or his or her absconding from supervision, the Department
34 of Correction, the Department of Community Correction, the Arkansas State
35 Hospital, or the Department of Health and Human Services shall update the
36 registration file of the methamphetamine offender who is to be released or

1 discharged or who has escaped or has absconded from supervision.

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

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

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

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

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

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

29 (vi) Require the methamphetamine offender to
30 complete the entire registration process, including without limitation,
31 requiring the methamphetamine offender to read and sign a form stating that
32 the duty of the methamphetamine offender to register under this subchapter
33 has been explained;

34 (vii) Inform the methamphetamine offender that if
35 the methamphetamine offender's address changes within the state or to another
36 state due to an eviction, natural disaster, or any other unforeseen

1 circumstance, the methamphetamine offender shall give the new address to the
2 center in writing no later than five (5) business days after the
3 methamphetamine offender establishes residency; and

4 (viii) Inform a methamphetamine offender who has
5 been granted probation that failure to comply with the provisions of this
6 subchapter may be grounds for revocation of the methamphetamine offender's
7 probation.

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

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

18 (2) When updating the registration file of a methamphetamine
19 offender, the Department of Correction, the Department of Community
20 Correction, the Arkansas State Hospital, or the Department of Health and
21 Human Services shall:

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

25 (B) Review with the methamphetamine offender the
26 requirement that if the methamphetamine offender changes address within the
27 state, the methamphetamine offender shall give the new address to the center
28 in writing no later than ten (10) days before the methamphetamine offender
29 establishes residency or is temporarily domiciled at the new address;

30 (C) Review with the methamphetamine offender the
31 requirement that if the methamphetamine offender changes address to another
32 state, the methamphetamine offender shall register the new address with the
33 center not later than five (5) business days after the methamphetamine
34 offender establishes residence or is temporarily domiciled in the new state;

35 (D) Require the methamphetamine offender to read and sign
36 a form stating that the duty of the methamphetamine offender to register

1 under this subchapter has been reviewed;

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

8 (E) Review with the methamphetamine offender the
9 consequences of failure to provide any information required by subdivision
10 (b)(2) of this section.

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

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

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

21 (B) Necessary to effect the exercise of the religion of
22 the methamphetamine offender.

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

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

27
28 12-12-1807. Report to Arkansas Crime Information Center - Report to
29 law enforcement agency.

30 (a)(1) Within three (3) days after registering or updating the
31 registration file of a methamphetamine offender, the Department of
32 Correction, the Department of Community Correction, the Department of Health
33 and Human Services, the sentencing court, or the local law enforcement agency
34 having jurisdiction shall report, by written or electronic means, all
35 information obtained from the methamphetamine offender and regarding the
36 methamphetamine offender to the Arkansas Crime Information Center.

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

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

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

11 (2) Within three (3) days after registering a methamphetamine
12 offender or receiving updated registry information on a methamphetamine
13 offender, the local law enforcement agency having jurisdiction shall report,
14 by written or electronic means, all information obtained from the
15 methamphetamine offender to the center.

16
17 12-12-1808. Registration format - Requirements.

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

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

26 (1) The methamphetamine offender's full name and all aliases
27 that the methamphetamine offender has used or under which the offender has
28 been known;

29 (2) Date of birth;

30 (3) Gender;

31 (4) Race;

32 (5) Height;

33 (6) Weight;

34 (7) Hair and eye color;

35 (8) Address of any temporary residence;

36 (9) Anticipated address of legal residence;

1 (10) Driver's license number or state identification number, if
2 available;

3 (11) Social security number;

4 (12) Place of employment, education, or training;

5 (13) Photograph, if not already obtained;

6 (14) Fingerprints, if not already obtained;

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

10 (16) A brief description of the crime or crimes for which
11 registration is required;

12 (17) The registration status of the person as a methamphetamine
13 offender;

14 (18) A statement in writing signed by the methamphetamine
15 offender acknowledging that the methamphetamine offender has been advised of
16 the duty to register imposed by this subchapter; and

17 (19) Any other information that the center deems necessary,
18 including without limitation:

19 (A) Criminal and corrections records;

20 (B) Nonprivileged personnel records;

21 (C) Treatment and abuse registry records; and

22 (D) Evidentiary genetic markers.

23 (c) Certain information such as a social security number, a driver's
24 license number, an employer, information that may lead to identification of
25 the victim, and other similar information may be excluded from the
26 information that is released during the course of notification.

27
28 12-12-1809. Verification form - Change of address.

29 (a)(1) For a person required to register as a methamphetamine
30 offender, every six (6) months after the methamphetamine offender's initial
31 registration date during the period in which the person is required to
32 register, the following applies:

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

36 (B)(i) The methamphetamine offender shall return the

1 verification form in person to the local law enforcement agency having
2 jurisdiction within ten (10) days after receipt of the form.

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

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

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

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

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

22 (2) When a change of address within the state is reported to the
23 center, the center shall immediately report the change of address to the
24 local law enforcement agency having jurisdiction where the methamphetamine
25 offender expects to reside.

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

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

36 (d) The center may require a methamphetamine offender to report a

1 change of address through the local law enforcement agency having
2 jurisdiction.

3
4
5 12-12-1810. Fine.

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

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

17
18 12-12-1811. Methamphetamine Offenders Registration Fund.

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

22 (b)(1) This fund shall consist of special revenues collected pursuant
23 to § 12-12-1810, there to be used equally by the Arkansas Crime Information
24 Center and the Department of Correction for the administration of this
25 subchapter.

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

28
29 12-12-1812. Arrests for violations.

30 (a) In order for a methamphetamine offender to be charged with the
31 commission of a violation of this subchapter so that an arrest warrant shall
32 be issued, the local law enforcement agency having jurisdiction shall notify
33 the prosecutor when the local law enforcement agency having jurisdiction has
34 reasonable grounds for believing that a methamphetamine offender is not
35 registered, has not reported a change of address, or has not verified the
36 methamphetamine offender's address in violation of this subchapter.

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

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

9
10 12-12-1813. Disclosure.

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

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

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

21 (c)(1)(A) The Methamphetamine Offender Registration Committee shall
22 promulgate rules to establish guidelines and procedures for the disclosure of
23 relevant and necessary information regarding methamphetamine offenders to the
24 public when the release of the information is necessary for public
25 protection.

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

31 (2)(A) The guidelines and procedures shall identify factors
32 relevant to a methamphetamine offender's future dangerousness and likelihood
33 of reoffense or threat to the community.

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

1 (i) Level of the methamphetamine offender's
2 dangerousness;

3 (ii) Methamphetamine offender's pattern of offending
4 behavior; and

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

7 (3) The Methamphetamine Offender Registration Committee shall
8 submit the proposed guidelines and procedures to the House Committee on
9 Public Health, Welfare, and Labor and the Senate Committee on Public Health,
10 Welfare, and Labor for their review and shall report to the House Committee
11 on Public Health, Welfare, and Labor and the Senate Committee on Public
12 Health, Welfare, and Labor every six (6) months on the implementation of this
13 section.

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

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

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

29 (e) A local law enforcement agency having jurisdiction may continue to
30 disclose information on a methamphetamine offender under this section for as
31 long as the methamphetamine offender is required to be registered under this
32 subchapter.

33 (f)(1) The State Board of Education, the Arkansas Higher Education
34 Coordinating Board, and the State Board of Workforce Education and Career
35 Opportunities shall promulgate rules for the disclosure to students and
36 parents of information regarding a methamphetamine offender when such

1 information is released to a local school district or institution of higher
2 education or vocational training by a local law enforcement agency having
3 jurisdiction.

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

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

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

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

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

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

20 (iii) Any methamphetamine offense to which the
21 methamphetamine offender has pleaded guilty or nolo contendere to or of which
22 the methamphetamine offender has been found guilty by a court of competent
23 jurisdiction;

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

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

27 (vi) The date of the last address verification of
28 the methamphetamine offender provided to the Arkansas Crime Information
29 Center;

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

32 (viii) The methamphetamine offender's parole or
33 probation office.

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

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

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

8
9 12-12-1814. Notice of release.

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

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

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

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

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

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

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

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

30
31 12-12-1815. Authority - Rules.

32 The Department of Correction, the Department of Community Correction,
33 the Department of Health and Human Services, the Administrative Office of the
34 Courts, and the Arkansas Crime Information Center shall promulgate rules to
35 establish procedures for:

36 (1) Notifying a methamphetamine offender of the obligation to

1 register pursuant to this subchapter; and

2 (2) Registering a methamphetamine offender.

3
4 12-12-1816. Publication and notice of obligation to register.

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

9
10 12-12-1817. Termination of obligation to register.

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

17 (B) A methamphetamine offender sentenced in another state
18 but desiring to permanently reside in Arkansas may make an application under
19 subdivision (a)(1)(A) of this section for an order terminating the obligation
20 to register to the court of the county in which the methamphetamine offender
21 resides.

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

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

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

31 (1) The applicant released or placed on parole, supervised
32 release, or probation has not been adjudicated guilty of a methamphetamine
33 offense for a period of fifteen (15) years after the applicant was released
34 from prison or other institution; and

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

1
2 12-12-1818. Immunity from civil liability.

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

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

10 (c) This section also applies to a person or organization assisting a
11 public official, public employee, or public agency in performing official
12 duties upon a written request to assist by the public official, public
13 employee, or public agency.

14
15 12-12-1819. Methamphetamine Offender Registration Committee.

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

18 (1) The Governor shall appoint, subject to confirmation by the
19 Senate:

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

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

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

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

26 (E) One (1) member with expertise in juvenile justice or
27 treatment;

28 (2) The Director of the Department of Correction or the
29 director's designee;

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

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

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

36 (2) If a vacancy of one (1) of the members appointed by the

1 Governor occurs for any reason other than expiration of a regular term, the
2 vacancy shall be filled for the unexpired portion of the term by appointment
3 of the Governor.

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

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

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

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

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

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

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

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

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

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

27 (2) The report shall contain:

28 (A) A summary of the proceedings of the committee during
29 the preceding fiscal year;

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

32 (C) Other information deemed necessary or useful; and

33 (D) Any additional information that may be requested by
34 the Governor and the Legislative Council.

35
36 SECTION 2. Effective date. This act is effective on July 1, 2009.

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

/s/ Allen