

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 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/5/09
A Bill

HOUSE BILL 1578

5 By: Representative D. Creekmore
6
7

8 **For An Act To Be Entitled**

9 *AN ACT TO AMEND THE PROCEDURES AND REQUIREMENTS*
10 *REGARDING THE REGISTRATION AND MONITORING OF SEX*
11 *OFFENDERS; AND FOR OTHER PURPOSES.*
12

13 **Subtitle**

14 *TO AMEND THE PROCEDURES AND REQUIREMENTS*
15 *REGARDING THE REGISTRATION AND*
16 *MONITORING OF SEX OFFENDERS.*
17
18

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

21 *SECTION 1. Arkansas Code § 5-4-104 is amended to read as follows:*

22 *5-4-104. Authorized sentences generally.*

23 *(a) ~~No defendant convicted of an offense shall be sentenced otherwise~~*
24 *~~than in accordance with this chapter~~ A defendant convicted of an offense*
25 *shall be sentenced in accordance with this chapter.*

26 *(b) A defendant convicted of capital murder, § 5-10-101, or treason, §*
27 *5-51-201, shall be sentenced to death or life imprisonment without parole in*
28 *accordance with §§ 5-4-601 – 5-4-605, 5-4-607, and 5-4-608.*

29 *(c)(1) A defendant convicted of a Class Y felony or murder in the*
30 *second degree, § 5-10-103, shall be sentenced to a term of imprisonment in*
31 *accordance with §§ 5-4-401 – 5-4-404.*

32 *(2) In addition to imposing a term of imprisonment, the trial*
33 *court may sentence a defendant convicted of a Class Y felony or murder in the*
34 *second degree, § 5-10-103, to any one (1) or more of the following:*

35 *(A) Pay a fine as authorized by §§ 5-4-201 – 5-4-203;*

36 *(B) Make restitution as authorized by § 5-4-205; or*



1 (C) Suspend imposition of an additional term of
2 imprisonment, as authorized by subdivision (e)(3) of this section.

3 (d) A defendant convicted of an offense other than a Class Y felony,
4 capital murder, § 5-10-101, treason, § 5-51-201, or murder in the second
5 degree, § 5-10-103, may be sentenced to any one (1) or more of the following,
6 except as precluded by subsection (e) of this section:

7 (1) Imprisonment as authorized by §§ 5-4-401 – 5-4-404;

8 (2) Probation as authorized by §§ 5-4-301 – 5-4-311;

9 (3) Payment of a fine as authorized by §§ 5-4-201 – 5-4-203;

10 (4) Restitution as authorized by a provision of § 5-4-205; or

11 (5) Imprisonment and payment of a fine.

12 (e)(1)(A) The court shall not suspend imposition of sentence as to a
13 term of imprisonment nor place the defendant on probation for the following
14 offenses:

15 (i) Capital murder, § 5-10-101;

16 (ii) Treason, § 5-51-201;

17 (iii) A Class Y felony, except to the extent
18 suspension of an additional term of imprisonment is permitted in subsection
19 (c) of this section;

20 (iv) Driving while intoxicated, § 5-65-103;

21 (v) Murder in the second degree, § 5-10-103, except
22 to the extent suspension of an additional term of imprisonment is permitted
23 in subsection (c) of this section; or

24 (vi) Engaging in a continuing criminal enterprise,
25 ~~former § 5-64-414~~ § 5-64-405.

26 (B)(i) In any other case, the court may suspend imposition
27 of sentence or place the defendant on probation, in accordance with §§ 5-4-
28 301 – 5-4-311, except as otherwise specifically prohibited by statute.

29 (ii) The court may not suspend execution of
30 sentence.

31 (2) If the offense is punishable by fine and imprisonment, the
32 court may sentence the defendant to pay a fine and suspend imposition of the
33 sentence as to imprisonment or place the defendant on probation.

34 (3)(A) The court may sentence the defendant to a term of
35 imprisonment and suspend imposition of sentence as to an additional term of
36 imprisonment.

1 (B) However, the court shall not sentence a defendant to
2 imprisonment and place him or her on probation, except as authorized by § 5-
3 4-304.

4 (f)(1) If the court determines that an offender under eighteen (18)
5 years of age would be more amenable to a rehabilitation program of the
6 Division of Youth Services of the ~~Department of Health and Human Services~~
7 Department of Human Services and that he or she previously has not been
8 committed to the division on more than one (1) occasion, the court may
9 sentence the offender under eighteen (18) years of age to the Department of
10 Correction for a term of years, suspend the sentence, and commit him or her
11 to the custody of the division.

12 (2) In a case under subdivision (f)(1) of this section, if the
13 offender under eighteen (18) years of age completes the rehabilitation
14 program of the division satisfactorily, the division shall return him or her
15 to the sentencing court and provide the sentencing court with a written
16 report of his or her progress and a recommendation that the offender under
17 eighteen (18) years of age be placed on probation.

18 (3)(A) In the event that the offender under eighteen (18) years
19 of age ~~violate~~ violates a rule of the division's rehabilitation program or a
20 rule of the facility or is otherwise not amenable to the division's
21 rehabilitative effort, the division may return him or her to the sentencing
22 court with a written report of his or her conduct and a recommendation that
23 the offender under eighteen (18) years of age be transferred to the
24 Department of Correction.

25 (B) If the court finds that the offender under eighteen
26 (18) years of age has violated a rule of the division's rehabilitation
27 program or a rule of the facility or is otherwise not amenable to the
28 division's rehabilitative effort, the court shall then revoke the suspension
29 of the sentence originally imposed and commit the offender under eighteen
30 (18) years of age to the Department of Correction.

31 (g) This chapter does not deprive the court of any authority conferred
32 by law to:

- 33 (1) Order a forfeiture of property;
- 34 (2) Suspend or cancel a license;
- 35 (3) Dissolve a corporation;
- 36 (4) Remove a person from office;

1 (5) Cite for contempt;

2 (6) Impose any civil penalty; or

3 (7) Assess costs as set forth in subsection (h) of this section.

4 (h) A defendant convicted of violating § 5-11-106, in which a minor
5 was unlawfully detained, restrained, taken, enticed, or kept, may be assessed
6 and ordered to pay expenses incurred by a law enforcement agency, the
7 ~~Department of Health and Human Services~~ Department of Human Services, or the
8 lawful custodian in searching for or returning the minor to the lawful
9 custodian.

10
11 SECTION 2. Arkansas Code § 5-4-303(c), concerning conditions of
12 suspension or probation, is amended to read as follows:

13 (c) If the court suspends imposition of sentence on a defendant or
14 places him or her on probation, as a condition of its order the court may
15 require that the defendant:

16 (1) Support his or her dependents and meet his or her family
17 responsibilities;

18 (2) Work faithfully at suitable employment;

19 (3) Pursue a prescribed secular course of study or vocational
20 training designed to equip him or her for suitable employment;

21 (4) Undergo available medical treatment or psychiatric treatment
22 and enter and remain in a specified institution when required for medical
23 treatment or psychiatric treatment;

24 (5) Participate in a community-based rehabilitative program or
25 work-release program that meets the minimum state standards for certification
26 and for which the court may impose a reasonable fee or a reasonable
27 assessment on the defendant to be used in support of the community-based
28 rehabilitative program or work-release program;

29 (6) Refrain from frequenting an unlawful or designated place or
30 consorting with a designated person;

31 (7) Have no firearm in his or her possession;

32 (8) Make restitution to an aggrieved party in an amount the
33 defendant can afford to pay for the actual loss or damage caused by his or
34 her offense;

35 (9) Post a bond, with or without surety, conditioned on the
36 performance of a prescribed condition; and

1 (10)(A) Satisfy any other condition reasonably related to the
2 rehabilitation of the defendant and not unduly restrictive of his or her
3 liberty or incompatible with his or her freedom of conscience.

4 (B) Conditions reasonably related to the rehabilitation of
5 a defendant who has pleaded guilty or nolo contendere to or has been found
6 guilty of a sex offense as defined by § 12-12-903, if the trier of fact made
7 a finding that a computer or any device with Internet capability was used by
8 a defendant to facilitate the commission of the sex offense, may include the
9 following Internet access conditions for a period of time not to exceed the
10 maximum term of imprisonment authorized for the underlying sex offense:

11 (i)(a) Except as provided in subdivision
12 (c)(10)(B)(i)(b) of this section, prohibiting the defendant from accessing or
13 using a computer or any other device with Internet capability without the
14 prior written approval of the court.

15 (b) If a defendant subject to subdivision
16 (c)(10)(B)(i)(a) of this section is on probation, the defendant may use a
17 computer or any other device with Internet capability in connection with the
18 defendant's employment or search for employment with the prior approval of
19 the defendant's probation officer;

20 (ii)(a) Requiring the defendant to submit to
21 unannounced examinations of the defendant's computer or any other device with
22 Internet capability by a probation officer, parole officer, law enforcement
23 officer, or assigned computer specialist or information technology
24 specialist, including the retrieval and copying of all data from the computer
25 or device and any internal peripherals or external peripherals and removal of
26 any information, equipment, or device to conduct a more thorough inspection.

27 (b)(1) A defendant who knowingly uses any form
28 of encryption, cryptography, steganography, compression, password-protected
29 files, or other method to impede or hinder an unannounced examination
30 described in subdivision (c)(10)(B)(ii)(a) of this section upon conviction is
31 guilty of a Class C felony.

32 (2) A defendant who knowingly directs
33 another person to install any device or alter the defendant's computer in any
34 manner in order to allow the defendant to use any form of encryption,
35 cryptography, steganography, compression, password-protected files, or other
36 method to impede or hinder an examination described in subdivision

1 (c)(10)(B)(ii)(a) of this section upon conviction is guilty of a Class C
2 felony;

3 (iii)(a) Requiring the defendant to submit to the
4 installation on the defendant's computer or device with Internet capability,
5 at the defendant's expense, one (1) or more hardware systems or software
6 systems to monitor Internet use.

7 (b)(1) A defendant who knowingly alters,
8 tampers with, damages, or destroys a hardware system or software system
9 described in subdivision (c)(10)(B)(iii)(a) of this section upon conviction
10 is guilty of a Class C felony.

11 (2) A defendant who knowingly directs
12 another person to alter, tamper with, damage, or destroy a hardware system or
13 software system described in subdivision (c)(10)(B)(iii)(a) of this section
14 upon conviction is guilty of a Class C felony; and

15 (iv) Requiring the defendant to submit to any other
16 appropriate restrictions concerning the defendant's use or access of a
17 computer or any other device with Internet capability.

18
19 SECTION 3. Arkansas Code Title 5, Chapter 14, Subchapter 1 is amended
20 to add an additional section to read as follows:

21 5-14-133. Registered sex offender prohibited from using more than one
22 email address or one screen name.

23 (a) As used in this section, "screen name" means any name or
24 identification used for accessing online computer service, Internet service,
25 or Internet bulletin board service.

26 (b) It is unlawful for a person who is required to register under the
27 Sex Offender Registration Act of 1997, § 12-12-901 et seq., to knowingly:

28 (1) Send electronic mail from more than one (1) email address;

29 (2) Receive electronic mail at more than one (1) email address;

30 or

31 (3) Use more than one (1) screen name to access online computer
32 service, Internet service, or Internet bulletin board service.

33 (c)(1) It is not a violation of subdivision (b)(1) or (2) of this
34 section if the actor is sending work-related electronic mail from or
35 receiving work-related electronic mail at an additional email address
36 provided by an employer of the sex offender to perform work-related duties.

1 (2) It is a defense to a prosecution under subdivision (b)(3) of
 2 this section if the actor is using an additional screen name provided by an
 3 employer of the sex offender to perform work-related duties on a computer
 4 provided by the employer.

5 (d) A violation of subdivision (b)(1), (2), or (3) of this section is
 6 a Class C felony.

7
 8 SECTION 4. Arkansas Code § 9-27-356 is amended to read as follows:

9 9-27-356. Juvenile sex offender assessment and registration.

10 (a) If a juvenile is an adjudicated delinquent for any of the
 11 following offenses, the court shall order a sex offender screening and risk
 12 assessment:

13 (1) Rape, § 5-14-103;

14 (2) Sexual assault in the ~~first~~ second degree, ~~§ 5-14-124~~ § 5-
 15 14-125;

16 (3) Sexual assault in the ~~second~~ third degree, ~~§ 5-14-125~~ § 5-
 17 14-126(a)(2)(A);

18 (4) Incest, § 5-26-202 if the victim is less than twelve (12)
 19 years of age; ~~or~~

20 (5) Engaging children in sexually explicit conduct for use in
 21 visual or print medium, § 5-27-303 if the victim is less than twelve (12)
 22 years of age.

23 (b)(1) The court may order a sex offender screening and risk
 24 assessment ~~if a~~ by the Sex Offender Assessment Committee of any juvenile is
 25 adjudicated delinquent for a sex offense or any offense with an underlying
 26 sexually motivated component.

27 (2) The court may require ~~that~~ a juvenile to register as a sex
 28 offender ~~upon recommendation of the Sex Offender Assessment Committee and~~
 29 ~~following a hearing as set forth in~~ under subsection (e) of this section.

30 (c)(1) ~~The juvenile division of circuit court judge court~~ may order
 31 reassessment ~~of the sex offender screening and risk assessment by the~~
 32 ~~committee of a juvenile adjudicated delinquent for a sex offense or any~~
 33 offense with an underlying sexually motivated component by the Sex Offender
 34 Assessment Committee at any time while the court has jurisdiction over the
 35 juvenile.

36 (2) When the court orders a juvenile to be assessed or

1 reassessed as a sex offender, the court shall order either the Division of
2 Youth Services of the Department of Human Services or a juvenile probation
3 officer to:

4 (A) Provide a copy of the Juvenile Sex Offender Rights and
5 Responsibilities Form to the juvenile and the juvenile's parent, guardian, or
6 custodian; and

7 (B) Explain the information on the Juvenile Sex Offender
8 Rights and Responsibilities Form to the juvenile and the juvenile's parent,
9 guardian, or custodian.

10 (3) Upon completion, a sex offender screening and risk
11 assessment or a reassessment of a sex offender screening and risk assessment
12 under this section shall be sent to the court and notification shall be sent
13 to the juvenile and the juvenile's parent, guardian, or custodian that the
14 assessment or reassessment has been sent to the court.

15 (d) Following a sex offender screening and risk assessment, the
16 prosecutor may file a motion to request that a juvenile register as a sex
17 offender at any time while the court has jurisdiction of the delinquency case
18 if a juvenile is found delinquent for any of the offenses listed in
19 subsection (a) of this section.

20 (e)(1) The court shall conduct a hearing within ninety (90) days of
21 the registration motion.

22 (2)(A) The juvenile defendant shall be represented by counsel,
23 and the court shall consider the following factors in making its decision to
24 require the juvenile to register as a delinquent sex offender:

25 (i) The seriousness of the offense;

26 (ii) The protection of society;

27 (iii) The level of planning and participation in the
28 alleged offense;

29 (iv) The previous sex offender history of the
30 juvenile, including whether the juvenile has been adjudicated delinquent for
31 prior sex offenses;

32 (v) Whether there are facilities or programs
33 available to the court that are likely to rehabilitate the juvenile prior to
34 the expiration of the court's jurisdiction;

35 (vi) The sex offender assessment and any other
36 relevant written reports and other materials relating to the juvenile's

1 mental, physical, educational, and social history; and

2 (vii) Any other factors deemed relevant by the
3 court.

4 (B) However, under no circumstances shall the exercise by
5 the juvenile of the right against self-incrimination, the right to an
6 adjudication hearing or appeal, the refusal to admit to an offense for which
7 he or she was adjudicated delinquent, or the refusal to admit to other
8 offenses in the assessment process be considered in the decision whether to
9 require registration as a sex offender.

10 (f)(1) The court shall make written findings on all the factors in
11 subsection (e) of this section.

12 (2) Upon a finding by clear and convincing evidence that a
13 juvenile should or should not be required to register as a sex offender, the
14 court shall enter its order.

15 (g) When ~~the juvenile division of circuit court judge orders a~~
16 juvenile is required to register as a sex offender, the judge shall order
17 either the Division of Youth Services of the Department of Human Services or
18 a juvenile probation officer to complete the registration process by:

19 (1) Completing the sex offender registration form;

20 (2) Providing a copy of the sex offender registration order,
21 fact sheet, registration form, and the Juvenile Sex Offender Rights and
22 Responsibilities Form to the juvenile and the juvenile's parent, guardian, or
23 custodian and explaining this information to the juvenile and the juvenile's
24 parent, guardian, or custodian;

25 (3) Mailing a copy of the registration court order, fact sheets,
26 and registration form to the Arkansas Crime Information Center, Sex Offender
27 Registry Manager, One Capitol Mall 4D-200, ~~LR~~ Little Rock, AR 72201;

28 (4) Providing local law enforcement agencies where the juvenile
29 resides a copy of the sex offender registration form; and

30 (5) Ensuring that copies of all documents are forwarded to the
31 court for placement in the court file.

32 (h)(1) The juvenile may petition the court to have his or her name
33 removed from the sex offender ~~register~~ registry at any time while the court
34 has jurisdiction over the juvenile ~~or when the juvenile turns twenty-one (21)~~
35 ~~years of age, whichever is later, but no later than ninety (90) days before~~
36 the juvenile reaches twenty-one (21) years of age.

1 (2) An order granting the petition for the removal of a
2 juvenile's requirement to register as a sex offender must be entered before
3 the juvenile reaches twenty-one (21) years of age.

4 (i) ~~The juvenile division of circuit court judge~~ court shall order the
5 juvenile's name removed from the sex offender ~~register~~ registry before the
6 juvenile reaches twenty-one (21) years of age upon proof by a preponderance
7 of the evidence that the juvenile does not pose a threat to the safety of
8 others.

9 (j) If the court does not order the juvenile's name removed from the
10 sex offender ~~register~~ registry, the juvenile shall remain on the sex offender
11 register for ten (10) years from the last date on which the juvenile was
12 adjudicated a delinquent or found guilty as an adult for a sex offense or
13 until the juvenile turns twenty-one (21) years of age, whichever is longer.

14 (k) Once a juvenile is ordered to register as a sex offender, he or
15 she shall be subject to the registration requirements set forth in §§ 12-12-
16 904, 12-12-906, 12-12-908, 12-12-909, and 12-12-912.

17 (1)(1) A public official, a public employee, or a public agency is
18 immune from civil liability for good faith conduct under this section.

19 (2) This section does not impose any liability upon or give rise
20 to a cause of action against any public official, public employee, or public
21 agency for any discretionary decision to release relevant and necessary
22 information, unless it is shown that the public official, public employee, or
23 public agency acted with actual malice.

24 (3) The immunity under subdivisions (1)(1) and (2) of this
25 section applies to a person or an organization assisting a public official, a
26 public employee, or a public agency in performing official duties upon a
27 written request to assist them by the public official, the public employee,
28 or the public agency.

29
30 SECTION 5. Arkansas Code § 12-12-903(3), concerning the definition of
31 "aggravated sex offense", is amended to read as follows:

32 (3) "Aggravated sex offense" means an offense in the Arkansas
33 Code substantially equivalent to "aggravated sexual abuse" as defined in 18
34 U.S.C. § 2241 as it existed on ~~March 1, 2003~~ January 1, 2009, which
35 principally encompasses:

36 (A) Causing another person to engage in a sexual act:

- 1 (i) By using force against that other person; or
- 2 (ii) By threatening or placing, or attempting to
- 3 threaten or place, that other person in fear that any person will be
- 4 subjected to death, serious bodily injury, or kidnapping;

5 (B) Knowingly:

6 (i) Rendering another person unconscious and then

7 engaging in a sexual act with that other person; or

8 (ii) Administering to another person by force or

9 threat of force, or without the knowledge or permission of that person, a

10 drug, intoxicant, or similar substance and thereby:

11 (a) Substantially impairing the ability of

12 that other person to appraise or control conduct; and

13 (b) Engaging or attempting to engage in a

14 sexual act with that other person; or

15 (C) Crossing a state line with intent to:

16 (i) Engage or attempt to engage in a sexual act with

17 a person who has not attained twelve (12) years of age;

18 (ii) Knowingly engage or attempt to engage in a

19 sexual act with another person who has not attained twelve (12) years of age;

20 or

21 (iii) Knowingly engage or attempt to engage in a

22 sexual act under the circumstances described in subdivisions (3)(A) and (B)

23 of this section with another person who has attained twelve (12) years of age

24 but has not attained sixteen (16) years of age and is at least four (4) years

25 younger than the alleged offender;

26

27 SECTION 6. Arkansas Code § 12-12-903(6), pertaining to the definition

28 of "local law enforcement agency having jurisdiction", is amended to read as

29 follows:

30 (6) "Local law enforcement agency having jurisdiction" means

31 the:

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

33 which ~~an~~ a sex offender:

34 (i) Resides or expects to reside;

35 (ii) Is employed; or

36 (iii) Is attending an institution of training or

1 education; or

2 (B) County sheriff, if:

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

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

8 (iii) A sex offender or sexually violent predator
9 was homeless and was physically present in a county for an aggregate of three
10 (3) days or more in any month preceding registration or registration
11 verification under this subchapter;

12

13 SECTION 7. Arkansas Code § 12-12-903(12), pertaining to the definition
14 of "sex offense", as amended by Acts 2009, No. 165, is amended to read as
15 follows:

16 (12)(A) "Sex offense" includes, but is not limited to:

17 (i) The following offenses:

18 (a) Rape, § 5-14-103;

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

20 (c) Sexual assault in the first degree, § 5-
21 14-124;

22 (d) Sexual assault in the second degree, § 5-
23 14-125;

24 (e) Sexual assault in the third degree, § 5-
25 14-126;

26 (f) Sexual assault in the fourth degree, § 5-
27 14-127;

28 (g) Incest, § 5-26-202;

29 (h) Engaging children in sexually explicit
30 conduct for use in visual or print medium, § 5-27-303;

31 (i) Transportation of minors for prohibited
32 sexual conduct, § 5-27-305;

33 (j) Employing or consenting to the use of a
34 child in a sexual performance, § 5-27-402;

35 (k) Pandering or possessing visual or print
36 medium depicting sexually explicit conduct involving a child, § 5-27-304;

- 1 (l) Producing, directing, or promoting a
2 sexual performance by a child, § 5-27-403;
- 3 (m) Promoting prostitution in the first
4 degree, § 5-70-104;
- 5 (n) Stalking when ordered by the sentencing
6 court to register as a sex offender, § 5-71-229;
- 7 (o) Indecent exposure, § 5-14-112, if a felony
8 level offense;
- 9 (p) Exposing another person to human
10 immunodeficiency virus (HIV) when ordered by the sentencing court to register
11 as a sex offender, § 5-14-123;
- 12 (q) Kidnapping ~~pursuant to~~ under § 5-11-102(a)
13 when the victim is a minor and the offender is not the parent of the victim;
- 14 (r) False imprisonment in the first degree, §
15 5-11-103, and false imprisonment in the second degree, ~~§§ 5-11-103 and~~ 5-11-
16 104, when the victim is a minor and the offender is not the parent of the
17 victim;
- 18 (s) Permitting abuse of a minor ~~pursuant to~~
19 under § 5-27-221;
- 20 (t) Computer child pornography, § 5-27-603;
- 21 (u) Computer exploitation of a child, § 5-27-
22 605;
- 23 (v) Permanent detention or restraint when the
24 offender is not the parent of the victim, § 5-11-106;
- 25 (w) Distributing, possessing, or viewing of
26 matter depicting sexually explicit conduct involving a child, § 5-27-602;
- 27 (x) Internet stalking of a child, § 5-27-306;
- 28 (y) Crime of video voyeurism, § 5-16-101, if a
29 felony level offense;
- 30 (z) Voyeurism, § 5-16-102, if a felony level
31 offense; ~~and~~
- 32 (aa) Failure to register or verify
33 registration as required under this subchapter; and
- 34 ~~(aa)~~(bb) Any felony-homicide offense under §
35 5-10-101, § 5-10-102, or § 5-10-104 if the underlying felony is an offense
36 listed in this subdivision (12)(A)(i);

1 (ii) An attempt, solicitation, or conspiracy to
 2 commit any of the offenses enumerated in subdivision (12)(A)(i) of this
 3 section; ~~and~~

4 (iii) An adjudication of guilt for an offense of the
 5 law of ~~another state~~ any state, the District of Columbia, and any territory
 6 of the United States, for a federal offense, for a tribal court offense, or
 7 for a military offense:

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

10 (b) When that adjudication of guilt requires
 11 registration under another ~~state's~~ jurisdiction's sex offender registration
 12 laws; ~~or~~ and

13 ~~(c)~~ (iv) A violation of any former law of this state
 14 that is substantially equivalent to any of the offenses enumerated in this
 15 subdivision (12)(A).

16 (B)(i) The sentencing court ~~has the authority to~~ may order
 17 the registration of any offender shown in court to have attempted to commit
 18 or to have committed a sex offense even though the offense is not enumerated
 19 in subdivision (12)(A)(i) of this section.

20 (ii) ~~This authority~~ The authority in subdivision
 21 (12)(B)(i) of this section applies to sex offenses enacted, renamed, or
 22 amended at a later date by the General Assembly unless the General Assembly
 23 expresses its intent not to consider the offense to be a true sex offense for
 24 the purposes of this subchapter;

25
 26 SECTION 8. Arkansas Code § 12-12-903(14), pertaining to the definition
 27 of "sexually violent offense", is amended to read as follows:

28 (14) "Sexually violent offense" means any state, federal,
 29 tribal, or military offense which includes a sexual act as defined in 18
 30 U.S.C. §§ 2241 and 2242 as they existed on ~~March 1, 2003~~ January 1, 2009,
 31 with another person if the offense is nonconsensual regardless of the age of
 32 the victim; ~~and~~

33
 34 SECTION 9. Arkansas Code § 12-12-903(15), pertaining to the definition
 35 of "sexually violent predator", is amended to read as follows:

36 (15) "Sexually violent predator" means a person who has been

1 adjudicated guilty or acquitted of a sex offense on the grounds of mental
2 disease or defect ~~of a sexually violent offense~~ and who:

3 (A) suffers ~~Suffers~~ from a mental abnormality or
4 personality disorder that makes the person likely to engage in acts of
5 predatory ~~sexually violent offenses~~ sexual violence; or

6 (B) Has exhibited patterns of behavior, harbors
7 predisposing attitudes, or possesses other characteristics associated with an
8 increased risk for engaging in sexually violent acts of a predatory nature or
9 sexually violent acts that may result in severe injury;

10
11 SECTION 10. Arkansas Code § 12-12-903 is amended to add additional
12 subdivisions to read as follows:

13 (16) "Homeless" means a sex offender or sexually violent
14 predator who is unable to disclose:

15 (A) An address of any permanent residence or an address of
16 any current temporary residence within this state or out of this state as
17 required in § 12-12-906; or

18 (B) An address of any temporary residence or an
19 anticipated address of legal residence as required in § 12-12-908; and

20 (17) "Screen name" means any name or identification used for
21 accessing online computer service, Internet service, or Internet bulletin
22 board service.

23
24 SECTION 11. Arkansas Code § 12-12-904 is amended to read as follows:

25 12-12-904. Failure to comply with registration and reporting
26 requirements – Refusal to cooperate with assessment process.

27 (a)(1)(A) A Upon adjudication of guilt, a person is guilty of a Class
28 C felony who:

29 (i) Fails to register or verify registration as
30 required under this subchapter;

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

33 (iii) Refuses to cooperate with the assessment
34 process as required under this subchapter; or

35 (iv) Knowingly provides false or incorrect
36 information required when verifying registration under § 12-12-906 or when

1 registering under § 12-12-908.

2 (B)(i) ~~Upon conviction, a~~ A sex offender who has pleaded
 3 guilty or nolo contendere to or has been found guilty of a sex offense as
 4 defined by § 12-12-903 and who fails or refuses to provide any information
 5 necessary to update his or her registration file as required by § 12-12-
 6 906(b)(2) is strictly liable and is guilty of a Class C felony.

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

14 (2) It is an affirmative defense to prosecution under
 15 subdivision (a)(1) of this section if the person:

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

17 (i) An eviction;

18 (ii) A natural disaster; or

19 (iii) Any other unforeseen circumstance; and

20 (B) Provided the new address to the Arkansas Crime
 21 Information Center in writing no later than ~~five (5)~~ three (3) business days
 22 after the person establishes residency.

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

26
 27 SECTION 12. Arkansas Code § 12-12-905 is amended to read as follows:
 28 12-12-905. Applicability.

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

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

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

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

4 (4)(A) Relocates to this state and:

5 (i) Is required to register as a sex offender in any
6 jurisdiction; or

7 (ii) Has been adjudicated guilty or acquitted on the
8 grounds of mental disease or defect on or after August 1, 1997, in any
9 jurisdiction for a sex offense comparable to a sex offense subject to
10 registration in this state; or

11 (iii) Was serving a commitment or a sentence of
12 incarceration, probation, parole, or other form of community supervision on
13 or after August 1, 1997, as a result of an adjudication of guilt or an
14 acquittal on the grounds of mental disease or defect for a sex offense
15 subject to registration in this state.

16 (B) Subdivision (a)(4)(A) of this section applies if the
17 person is living, working, or attending school or other training in this
18 state;

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

22 (6) Is a nonresident worker or student who entered this state
23 and who is required to register in compliance with Pub. L. No. 109-248, as it
24 existed on January 1, 2009;

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

27 (8)(A) Was adjudicated guilty of a sex offense:

28 (i) Under the law of Canada, the United Kingdom,
29 Australia, or New Zealand, if it is determined that an independent judiciary
30 generally enforced the right to a fair trial in that country during the year
31 in which the conviction occurred; or

32 (ii) Was adjudicated guilty of a sex offense in a
33 foreign country if the United States Department of State in its Country
34 Report on Human Rights Practices concluded that an independent judiciary
35 generally enforced the rights to a fair trial in the foreign country during
36 the year in which the adjudication of guilt occurred.

1 (B) Subdivision (a)(8)(A) of this section applies if the
2 person is living, working, or attending school or other training in this
3 state.

4 (b)(1) A juvenile required to register as a sex offender in any
5 jurisdiction who moves to or lives in this state, if establishing residency,
6 working, or attending school or other training, is required to register as a
7 sex offender in this state and is subject to all requirements for
8 registration, assessment, and community notification set forth in this
9 subchapter.

10 (2) A juvenile required to register as a sex offender under
11 subdivision (b)(1) of this section shall register with the local law
12 enforcement agency having jurisdiction within three (3) business days of the
13 juvenile's establishing residency, working, or attending school or other
14 training in a municipality or county of this state.

15 (c) A sentencing court may waive the registration requirement of this
16 subchapter if the offense was consensual sexual conduct and the victim was at
17 least thirteen (13) years of age and the offender was not more than four (4)
18 years older than the victim.

19 (d) A person who has been adjudicated guilty of a sex offense and
20 whose record of conviction ~~will be~~ is expunged under ~~the provisions of~~ §§ 16-
21 93-301 – 16-93-303 is not relieved of the duty to register or verify
22 registration.

23 (e)(1) If the underlying conviction of ~~the registrant~~ a person
24 required to register under this subchapter is reversed, vacated, or set aside
25 or if the ~~registrant~~ person is pardoned, the ~~registrant~~ person is relieved
26 from the duty to register or verify registration.

27 (2) Registration or registration verification shall cease under
28 subdivision (e)(1) of this section upon the receipt and verification by the
29 Arkansas Crime Information Center of documentation from the:

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

32 (B) Governor's office that the Governor has pardoned the
33 ~~registrant~~ person.

34 (f) A sex offender required to register under this subchapter shall:

35 (1) Submit to assessment as established by the Sex Offender
36 Assessment Committee;

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

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

5
6 SECTION 13. Arkansas Code § 12-12-906(a), concerning the duty of a sex
7 offender to register and verify registration, is amended to read as follows:

8 (a)(1)(A)(i) At the time of adjudication of guilt or acquittal on the
9 grounds of mental disease or defect for a sex offense, the sentencing court
10 shall enter on the judgment and commitment or judgment and disposition form,
11 if applicable, ~~that the offender is required to register as a sex offender~~
12 ~~and shall indicate whether the:~~

13 (a) ~~Offense~~ Whether the sex offense is an
14 aggravated sex offense;

15 (b) ~~Sex~~ Whether the sex offender has been
16 adjudicated guilty of a prior sex offense under a separate case number; or

17 (c) ~~Sex~~ Whether the sex offender has been
18 classified as a sexually violent predator.

19 (ii) ~~If the sentencing court finds the offender is~~
20 ~~required to register as a sex offender, then at~~ At the time of adjudication
21 of guilt, the sentencing court shall require the sex offender to complete the
22 sex offender registration form prepared by the Director of the Arkansas Crime
23 Information Center ~~pursuant to~~ under § 12-12-908 and shall forward the
24 completed sex offender registration form to the Arkansas Crime Information
25 Center within three (3) business days.

26 (B)(i) The Department of Correction shall ensure that a
27 sex offender received for incarceration has completed the sex offender
28 registration form.

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

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

36 (ii) If the Department of Community Correction

1 cannot confirm that the sex offender has completed the sex offender
 2 registration form, the Department of Community Correction shall require the
 3 sex offender to complete the sex offender registration form upon intake,
 4 release, or discharge.

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

9 (ii) If the Arkansas State Hospital cannot confirm
 10 that the sex offender has completed the sex offender registration form, the
 11 Arkansas State Hospital shall ensure that the sex offender registration form
 12 is completed for the sex offender upon intake, release, or discharge.

13 (2)(A) A sex offender moving to or returning to this state from
 14 another jurisdiction shall register with the local law enforcement agency
 15 having jurisdiction within three (3) business days after the sex offender
 16 establishes residency in a municipality or county of this state.

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

22 ~~(ii) A nonresident worker or student who enters the~~
 23 ~~state shall register in compliance with Pub. L. No. 109-248, as it existed on~~
 24 ~~January 1, 2007.~~

25 ~~(C) A sex offender sentenced and required to register~~
 26 ~~outside of Arkansas shall:~~

27 ~~(i) Submit to assessment by Sex Offender Screening~~
 28 ~~and Risk Assessment;~~

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

31 ~~(iii) Pay the mandatory fee of two hundred fifty~~
 32 ~~dollars (\$250) to be deposited into the DNA Detection Fund established by §~~
 33 ~~12-12-1119.~~

34

35 SECTION 14. Arkansas Code § 12-12-906(c), concerning information
 36 provided to sex offenders during assessment, registration, and registration

1 verification, is amended to read as follows:

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

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

10 (ii) Inform the sex offender that if the sex
11 offender changes residency within the state, the sex offender shall give the
12 new address and place of employment, education, higher education, or training
13 to the Arkansas Crime Information Center in writing ~~no later than ten (10)~~
14 ~~days before the sex offender establishes~~ within three (3) business days of
15 the sex offender's establishing residency or ~~is~~ being temporarily domiciled
16 at the new address;

17 (iii)(a) Inform the sex offender that if the sex
18 offender changes residency to another state or enters another state to work
19 or attend school, the sex offender must also register in that state
20 regardless of permanent residency.

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

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

29 (v) Obtain a deoxyribonucleic acid (DNA) sample if
30 ~~one~~ a DNA sample has not already been provided;

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

35 (vii) Inform the sex offender that if the sex
36 offender's address changes within the state or to another state due to an

1 eviction, natural disaster, or any other unforeseen circumstance, the sex
2 offender shall give the new address to the center in writing no later than
3 three (3) business days after the sex offender establishes residency;

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

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

9 (a) Verify registration and obtain the
10 information required for registration verification as described in
11 ~~subsections (g) and (h)~~ subsection (g) of this section; and

12 (b) Ensure that the information required for
13 ~~reregistration~~ registration verification under ~~subsections (g) and (h)~~
14 subsection (g) of this section is provided to the local law enforcement
15 agency having jurisdiction; and

16 (x) Inform a sex offender who is homeless of the
17 duty to verify registration and obtain the information required for
18 registration verification as described in subsection (h) of this section.

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

23 (ii) Any offender required to register as a sex
24 offender who is entering the State of Arkansas must provide a
25 deoxyribonucleic acid (DNA) sample, that is, a blood sample or saliva sample,
26 upon registration and must pay the mandatory fee of two hundred fifty dollars
27 (\$250) to be deposited into the DNA Detection Fund established by § 12-12-
28 1119.

29 (2) When updating the registration file of a sex offender, the
30 Department of Correction, the Department of Community Correction, the
31 Arkansas State Hospital, or the Department of Human Services 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~~ within three (3) business days of the sex
3 offender's establishing residency or ~~is~~ being temporarily domiciled at the
4 new address;

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

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

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

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

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

32 (H) Review with a sex offender subject to lifetime
33 registration ~~under § 12-12-919~~ the consequences of failure to verify
34 registration under § 12-12-904;

35 (I) Inform a sex offender who is homeless of the duty to:

36 (i) Verify registration and report the information

1 required for registration verification as described in subsection (h) of this
2 section; and

3 (ii) Ensure that the information required for
4 registration verification under subsection (h) of this section is provided to
5 the local law enforcement agency having jurisdiction; and

6 (J) Review with a sex offender who is homeless the
7 consequences of failure to verify registration under § 12-12-904.

8
9 SECTION 15. Arkansas Code § 12-12-906(e), concerning registration
10 verification by a sex offender working, enrolled, or volunteering in a public
11 school or training institution, is amended to read as follows:

12 (e)(1) Any sex offender working, enrolled, or volunteering in a public
13 or private elementary school, secondary or postsecondary school, or
14 institution of training shall notify the center of that status and shall
15 register with the local law enforcement agency having jurisdiction over that
16 campus.

17 (2)(A) The local law enforcement agency having jurisdiction
18 shall promptly notify the institutional law enforcement office of an
19 institution of higher education, as set forth in § 25-17-304, of the
20 registration of a sex offender under subdivision (e)(1) of this section.

21 (B) If the institution of higher education does not have
22 an institutional law enforcement office, the local law enforcement agency
23 having jurisdiction shall promptly provide the notice described in
24 subdivision (e)(2)(A) of this section to the president or chancellor of the
25 institution of higher education.

26
27 SECTION 16. Arkansas Code § 12-12-906(g), concerning registration
28 verification by a sex offender subject to lifetime registration under § 12-
29 12-919, is amended to read as follows:

30 (g)(1) Except as provided in subsection (h) of this section, beginning
31 ~~April 7, 2006~~ on the effective date of this act, a sex offender or sexually
32 violent predator subject to lifetime registration ~~under § 12-12-919~~ shall
33 report in person every ~~six (6)~~ three (3) months after registration to the
34 local law enforcement agency having jurisdiction to verify registration.

35 (2) The local law enforcement agency having jurisdiction may
36 determine the appropriate times and days for reporting by the sex offender or

1 sexually violent predator, and the determination shall be consistent with the
2 reporting requirements of subdivision (g)(1) of this section.

3 (3)(A) The local law enforcement agency having jurisdiction
4 shall promptly notify the institutional law enforcement office of an
5 institution of higher education, as set forth in § 25-17-304, that a sex
6 offender or sexually violent predator subject to lifetime registration is
7 residing or temporarily domiciled in the local law enforcement agency's
8 jurisdiction and has verified his or her registration as required by
9 subdivision (g)(1) of this section.

10 (B) If the institution of higher education does not have
11 an institutional law enforcement office, the local law enforcement agency
12 having jurisdiction shall promptly provide the notice described in
13 subdivision (g)(3)(A) of this section to the president or chancellor of the
14 institution of higher education.

15 ~~(3)(4)~~ Registration verification shall include reporting any
16 change to the following information concerning the sex offender or sexually
17 violent predator:

18 (A) Name;

19 (B) Social security number;

20 (C) Age;

21 (D) Race;

22 (E) Gender;

23 (F) Date of birth;

24 (G) Height;

25 (H) Weight;

26 (I) Hair and eye color;

27 (J)(i)(a) Address of any permanent residence and address
28 of any current temporary residence within this state or out of this state,
29 including a rural route address and a post office box.

30 (b) If a sex offender or sexually violent
31 predator is homeless, the information reported under subdivision
32 (g)(4)(J)(i)(a) of this section shall include the county or counties where
33 the sex offender or sexually violent predator was physically present for an
34 aggregate of three (3) days or more in any month preceding registration
35 verification.

36 (ii) A post office box shall not be provided in lieu

1 of a physical residential address;

2 (K) Date and place of any employment;

3 (L) Vehicle make, model, color, and license tag number
4 that the sex offender owns, operates, or to which he or she has access;

5 (M)(i) Fingerprints.

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

11 (a) Take the sex offender's or sexually
12 violent predator's fingerprints; and

13 (b) Submit the fingerprints to the center and
14 to the Department of Arkansas State Police; ~~and~~

15 (N)(i) Photograph.

16 (ii) The local law enforcement agency having
17 jurisdiction shall take a photograph of the sex offender or sexually violent
18 predator at each registration verification and submit the photograph to the
19 center;

20 (O) All computers or other devices with Internet
21 capability to which the sex offender or sexually violent predator has access;

22 (P) All email addresses; and

23 (Q) All screen names.

24 ~~(4)~~(5) If the sex offender or sexually violent predator is
25 enrolled or employed at an institution of higher education in this state, the
26 sex offender or sexually violent predator shall also report to the local law
27 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)~~(6) If the place of residence of the sex offender or sexually
33 violent predator is a motor vehicle, trailer, mobile home, modular home, or
34 manufactured home, the sex offender or sexually violent predator shall report
35 the following information concerning the motor vehicle, trailer, mobile home,
36 modular home, or manufactured home:

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

5 ~~(6)~~(7) If the place of residence of the sex offender or sexually
 6 violent predator is a vessel, live-aboard vessel, or houseboat, the sex
 7 offender or sexually violent predator shall report the following information
 8 concerning the vessel, live-aboard vessel, or houseboat:

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

14
 15 SECTION 17. Arkansas Code § 12-12-906(h), concerning registration
 16 verification by a sexually violent predator subject to lifetime registration
 17 under § 12-12-919, is amended to read as follows:

18 ~~(h)(1) Beginning on March 21, 2007, a sexually violent predator~~
 19 ~~subject to lifetime registration under § 12-12-919 shall report in person~~
 20 ~~every three (3) months after registration to the local law enforcement agency~~
 21 ~~having jurisdiction to verify registration.~~

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

26 ~~(3) Registration verification shall include reporting any change~~
 27 ~~to the following information concerning the sexually violent predator:~~

- 28 ~~(A) Name;~~
- 29 ~~(B) Social security number;~~
- 30 ~~(C) Age;~~
- 31 ~~(D) Race;~~
- 32 ~~(E) Gender;~~
- 33 ~~(F) Date of birth;~~
- 34 ~~(G) Height;~~
- 35 ~~(H) Weight;~~
- 36 ~~(I) Hair and eye color;~~

1 ~~(J)(i) Address of any permanent residence and address of~~
2 ~~any current temporary residence within this state or out of this state,~~
3 ~~including a rural route address and a post office box.~~

4 ~~(ii) A post office box shall not be provided in lieu~~
5 ~~of a physical residential address;~~

6 ~~(K) Date and place of any employment;~~

7 ~~(L) Vehicle make, model, color, and license tag number~~
8 ~~that the sexually violent predator owns, operates, or to which he or she has~~
9 ~~access;~~

10 ~~(M)(i) Fingerprints.~~

11 ~~(ii) If the local law enforcement agency having~~
12 ~~jurisdiction cannot confirm that the sexually violent predator's fingerprints~~
13 ~~are contained in the automated fingerprint identification system, the local~~
14 ~~law enforcement agency having jurisdiction shall:~~

15 ~~(a) Take the sexually violent predator's~~
16 ~~fingerprints; and~~

17 ~~(b) Submit the fingerprints to the center and~~
18 ~~to the Department of Arkansas State Police; and~~

19 ~~(N)(i) Photograph.~~

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

23 ~~(4) If the sexually violent predator is enrolled or employed at~~
24 ~~an institution of higher education in this state, the sexually violent~~
25 ~~predator shall also report to the local law enforcement agency having~~
26 ~~jurisdiction:~~

27 ~~(A) The name and address of each institution, including~~
28 ~~each campus attended;~~

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

30 ~~(C) His or her enrollment or employment status.~~

31 ~~(5) If the place of residence of the sexually violent predator~~
32 ~~is a motor vehicle, trailer, mobile home, modular home, or manufactured home,~~
33 ~~the sexually violent predator shall report the following information~~
34 ~~concerning the motor vehicle, trailer, mobile home, modular home, or~~
35 ~~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 sexually violent predator~~
 5 ~~is a vessel, live aboard vessel, or houseboat, the sexually violent predator~~
 6 ~~shall report the following information concerning the vessel, live aboard~~
 7 ~~vessel, or houseboat:~~

8 ~~(A) Hull identification number;~~

9 ~~(B) Manufacturer's serial number;~~

10 ~~(C) Name;~~

11 ~~(D) Registration number; and~~

12 ~~(E) A description, including color scheme.~~

13 (h)(1) Beginning on the effective date of this act, a sex offender or
 14 sexually violent predator who is homeless shall report in person every month
 15 after registration to any local law enforcement agency having jurisdiction to
 16 verify registration.

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

22 (3)(A) The local law enforcement agency having jurisdiction
 23 shall promptly notify the institutional law enforcement office of an
 24 institution of higher education, as set forth in § 25-17-304, that a homeless
 25 sex offender or sexually violent predator subject to lifetime registration
 26 residing or temporarily domiciled in the local law enforcement agency's
 27 jurisdiction has verified his or her registration.

28 (B) If the institution of higher education does not have
 29 an institutional law enforcement office, the local law enforcement agency
 30 having jurisdiction shall promptly provide the notice described in
 31 subdivision (h)(3)(A) of this section to the president or chancellor of the
 32 institution of higher education.

33 (4) Registration verification shall include reporting any change
 34 to the following information concerning the homeless sex offender or sexually
 35 violent predator:

36 (A) Name;

- 1 (B) Social security number;
2 (C) Age;
3 (D) Race;
4 (E) Gender;
5 (F) Date of birth;
6 (G) Height;
7 (H) Weight;
8 (I) Hair and eye color;
9 (J) The county or counties where the homeless sex offender
10 or sexually violent predator was physically present for an aggregate of three
11 (3) days or more in any month preceding registration verification;
12 (K) Date and place of any employment;
13 (L) Vehicle make, model, color, and license tag number
14 that the homeless sex offender or sexually violent predator owns, operates,
15 or to which he or she has access;
16 (M)(i) Fingerprints.
17 (ii) If a local law enforcement agency having
18 jurisdiction cannot confirm that the fingerprints of the homeless sex
19 offender or sexually violent predator are contained in the automated
20 fingerprint identification system, the local law enforcement agency having
21 jurisdiction shall:
22 (a) Take the fingerprints of the homeless sex
23 offender or sexually violent predator; and
24 (b) Submit the fingerprints of the homeless
25 sex offender or sexually violent predator to the center and to the Department
26 of Arkansas State Police;
27 (N)(i) Photograph.
28 (ii) A local law enforcement agency having
29 jurisdiction shall take a photograph of the homeless sex offender or sexually
30 violent predator at each registration verification and submit the photograph
31 to the center;
32 (O) All computers or other devices with Internet
33 capability to which the homeless sex offender or sexually violent predator
34 has access;
35 (P) All email addresses; and
36 (Q) All screen names.

1 (5) If the homeless sex offender or sexually violent predator is
 2 enrolled or employed at an institution of higher education in this state, the
 3 homeless sex offender or sexually violent predator shall also report to the
 4 local law enforcement agency having jurisdiction:

5 (A) The name and address of each institution, including
 6 each campus attended;

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

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

9 (6) If the homeless sex offender or sexually violent predator
 10 owns a motor vehicle, the homeless sex offender or sexually violent predator
 11 shall report the following information concerning the motor vehicle:

12 (A) Vehicle identification number;

13 (B) License tag number;

14 (C) Registration number; and

15 (D) A description, including color scheme.

16 (7) If the homeless sex offender or sexually violent predator
 17 owns a vessel, live-aboard vessel, or houseboat, the homeless sex offender or
 18 sexually violent predator shall report the following information concerning
 19 the vessel, live-aboard vessel, or houseboat:

20 (A) Hull identification number;

21 (B) Manufacturer's serial number;

22 (C) Name;

23 (D) Registration number; and

24 (E) A description, including color scheme.

25
 26 SECTION 18. Arkansas Code § 12-12-906(i), concerning the reporting of
 27 information obtained when verifying the registration of a sex offender or
 28 sexually violent predator, is amended to read as follows:

29 (i) Within three (3) days after verifying the registration of a sex
 30 offender or sexually violent predator under subsection (g) subsection (g) or
 31 (h) of this section or a sexually violent predator under subsection (h) of
 32 this section, the local law enforcement agency having jurisdiction shall
 33 report by written or electronic means all information obtained from or
 34 provided by the sex offender or sexually violent predator to the center.
 35

36 SECTION 19. Arkansas Code § 12-12-908 is amended to read as follows:

1 12-12-908. Registration format – Requirements.

2 (a) The Director of the Arkansas Crime Information Center shall
3 prepare the format for registration as required in subsection (b) of this
4 section and shall provide instructions for registration to each organized
5 full-time municipal police department, county sheriff's office, the
6 Department of Correction, the Department of Community Correction, the
7 Department of Human Services, and the Administrative Office of the Courts.

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

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

11 (2) Date of birth;

12 (3) ~~Sex~~ Gender;

13 (4) Race;

14 (5) Height;

15 (6) Weight;

16 (7) Hair and eye color;

17 (8)(A) Address of any temporary residence~~;~~.

18 (B) If a sex offender or a sexually violent predator is
19 homeless, the registration file required by this subchapter shall include the
20 county or counties where the sex offender or sexually violent predator was
21 physically present for an aggregate of three (3) days or more in the month
22 preceding registration;

23 (9) ~~Anticipated~~ Address of ~~legal~~ primary residence;

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

26 (11) Social security number;

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

28 (13) Current photograph, ~~if not already obtained~~;

29 (14) Fingerprints, if not already obtained;

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

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

35 (17) The registration status of the offender as a sexually
36 violent predator, aggravated sex offender, or sex offender;

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

4 (19) All computers or other devices with Internet capability to
5 which the offender has access;

6 (20) All email addresses;

7 (21) All screen names;

8 (22) Telephone numbers, including fixed location phones and
9 cellular or mobile phones;

10 (23) Travel and immigration documents, including passports or
11 other documents establishing immigration status;

12 (24) Professional licenses or other licenses necessary for the
13 sex offender to carry out a trade or business;

14 (25) Confirmation that a deoxyribonucleic (DNA) sample of the
15 sex offender has been taken and analyzed and that the resulting profile is
16 entered into the Combined DNA Index System (CODIS);

17 (26) The criminal history of the sex offender, including:

18 (A) The date of all arrests and convictions;

19 (B) The status of parole, probation, or supervised
20 release;

21 (C) The sex offender's registration status; and

22 (D) The existence of any outstanding arrest warrants for
23 the sex offender;

24 (27) The license plate number or identification number and
25 description of any vehicle owned or operated by the sex offender for personal
26 use or for work, including watercraft and aircraft; and

27 (28) Any other information that the ~~center~~ Arkansas Crime
28 Information Center deems necessary, including, but not limited to without
29 limitation:

30 (A) Criminal and corrections records;

31 (B) Nonprivileged personnel records;

32 (C) Treatment and abuse registry records; and

33 (D) Evidentiary genetic markers.

34 ~~(c)(1) Certain information such as~~ A sex offender's social security
35 number, driver's license number, information concerning arrests not resulting
36 in conviction, travel and immigration document numbers, employer, information

1 ~~that may lead to identification of the victim,~~ and the identity of a victim
 2 of a sex offense committed by a sex offender the like may shall be excluded
 3 from the information that is released during the course of notification.

4 (2) The name of a sex offender's employer or the name of the
 5 educational institution he or she is currently attending may be excluded from
 6 the information that is released during the course of notification.

7
 8 SECTION 20. Arkansas Code § 12-12-909 is amended to read as follows:
 9 12-12-909. Verification form – Change of address.

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

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

16 (ii)(a) The person shall return the verification
 17 form in person to the local law enforcement agency having jurisdiction within
 18 ~~ten (10)~~ three (3) business days after receipt of the form.

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

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

25 (iv) If the person fails to return the verification
 26 form to the local law enforcement agency having jurisdiction within ~~ten (10)~~
 27 three (3) business days after receipt of the form, the person shall be in
 28 violation of this subchapter.

29 (B) ~~Should~~ If the sex offender or sexually violent
 30 predator ~~change~~ changes address without notice or ~~fail~~ fails to return the
 31 verification of residence, notification will be sent to law enforcement and
 32 supervising parole or probation authority, and notice may be posted on the
 33 Internet until proper reporting is again established or the person is
 34 incarcerated.

35 (2) The provisions of subdivision (a)(1) of this section shall
 36 be applied to a person assessed as a Level 4 offender by the Sex Offender

1 Assessment Committee or a person required to register as a sexually violent
2 predator, except that the person must verify the registration every ~~ninety~~
3 ~~(90) days~~ three (3) months after the date of the initial release or
4 commencement of parole.

5 (b)(1) Before a change of address within the state, a sex offender
6 shall report the change of address to the center no later than ~~ten (10) days~~
7 ~~before~~ three (3) business days after the offender establishes residency or is
8 temporarily domiciled at the new address.

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

13 (c)(1) Before a change of address to another state, ~~an~~ a sex offender
14 shall register the new address with the center and with a designated law
15 enforcement agency in the state to which the ~~person~~ sex offender moves not
16 later than ~~ten (10) days before~~ three (3) business days after ~~such person~~ the
17 sex offender establishes residence or is temporarily domiciled in the new
18 state if the new state has a registration requirement.

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

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

25
26 SECTION 21. Arkansas Code § 12-12-911 is repealed:

27 ~~12-12-911. Sex and Child Offenders Registration Fund.~~

28 ~~(a) There is established on the books of the Treasurer of State, the~~
29 ~~Auditor of State, and the Chief Fiscal Officer of the State a fund to be~~
30 ~~known as the "Sex and Child Offenders Registration Fund".~~

31 ~~(b)(1) This fund shall consist of special revenues collected pursuant~~
32 ~~to § 12-12-910, there to be used equally by the Arkansas Crime Information~~
33 ~~Center and the Department of Correction for the administration of this~~
34 ~~subchapter.~~

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

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 22. Arkansas Code § 12-12-913 is amended to read as follows:
12-12-913. Disclosure.

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

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

(b) In accordance with guidelines promulgated by the Sex Offender Assessment Committee, local law enforcement agencies having jurisdiction shall disclose relevant and necessary information regarding sex offenders to the public when the disclosure of such information is necessary for public protection.

(c)(1)(A) The Sex Offender Assessment Committee shall promulgate guidelines and procedures for the disclosure of relevant and necessary information regarding sex offenders to the public by a local law enforcement agency having jurisdiction when the release of the information is necessary for public protection.

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

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

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

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

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

and

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

(3) The Sex Offender Assessment Committee shall submit the proposed guidelines and procedures to the House Committee on Public Health,

1 Welfare, and Labor and the Senate Committee on Public Health, Welfare, and
2 Labor for their review and shall report to the House Committee on Public
3 Health, Welfare, and Labor and the Senate Committee on Public Health,
4 Welfare, and Labor every six (6) months on the implementation of this
5 section.

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

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

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

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

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

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

27 (g)(1) The State Board of Education and the State Board of Workforce
28 Education and Career Opportunities shall promulgate guidelines for the
29 disclosure to students and parents of information regarding a sex offender
30 when such information is released to a local school district or institution
31 of vocational training by a local law enforcement agency having jurisdiction.

32 (2) The Arkansas Higher Education Coordinating Board shall
33 promulgate guidelines for the disclosure to students of information regarding
34 a sex offender when information regarding a sex offender is released to an
35 institution of higher education by a local law enforcement agency having
36 jurisdiction.

1 (3) In accordance with guidelines promulgated by the State Board
2 of Education, the board of directors of a local school district or
3 institution of vocational training shall adopt a written policy regarding the
4 distribution to students and parents of information regarding a sex offender.

5 (4) In accordance with guidelines promulgated by the Arkansas
6 Higher Education Coordinating Board, the board of directors of an institution
7 of higher education shall adopt a written policy regarding the distribution
8 to students of information regarding a sex offender.

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

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

18 (i) The sex offender's complete name, as well as any
19 alias;

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

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

24 (iv) ~~The street name and block number, county, city,~~
25 ~~and zip code~~ address of each residence where the sex offender resides or will
26 reside, including specific information about where the sex offender
27 habitually lives;

28 (v) The sex offender's race, and gender, and a
29 physical description of the sex offender;

30 (vi) The date of the last address verification of
31 the sex offender provided to the Arkansas Crime Information Center;

32 (vii) The most recent photograph of the sex offender
33 that has been submitted to the center; ~~and~~

34 (viii) The sex offender's parole or probation
35 office;

36 (ix) The address of any place where the sex offender

1 is a student; and

2 (x) The license plate number and a description of
3 any vehicle owned or operated by the sex offender.

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

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

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

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

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

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

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

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

24 (viii) The registered sex offender's parole or
25 probation office.

26 (C)(i) The center shall prepare and place the information
27 described in subdivisions (j)(1)(A) and (B) of this section on the Internet
28 home page of the State of Arkansas, specifically the sex offender registry
29 maintained by the Arkansas Crime Information Center.

30 (ii) The center may establish within the public
31 website the ability of the public to enter a telephone number or address to
32 determine if either has been registered by a sex offender. shall begin
33 ~~placing the information described in subdivision (j)(1)(B) of this section on~~
34 ~~the Internet home page of the State of Arkansas on or before January 1, 2008,~~
35 ~~if administratively feasible, but under no circumstance later than March 1,~~
36 ~~2008.~~

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

3 (k) 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 sex offenders who are determined to be:

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

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

10 (1)(1) A local law enforcement agency having jurisdiction may post an
11 informational flyer or a sex offender fact sheet on a public display board at
12 any public library within its jurisdiction regarding a sex offender who:

13 (A) Was eighteen (18) years of age or older at the time of
14 the commission of the sex offense that required registration under this
15 subchapter and the victim of the sex offense was a minor; and

16 (B) Is restricted from using a computer, email, a chat
17 room, or the Internet as a condition of his or her parole or probation.

18 (2) A public library without a public display board large enough
19 to post all informational flyers or sex offender fact sheets described in
20 subdivision (1)(1) of this section may request that a local law enforcement
21 agency having jurisdiction post a notice on the public library's public
22 display board advising the public that the informational flyers or sex
23 offender fact sheets described in subdivision (1)(1) of this section are
24 available to the public upon request to any member of the staff of the public
25 library.

26 (3) As used in subdivisions (1)(1) and (2) of this section,
27 "public library" means the same as defined in § 14-1-302.

28
29 SECTION 23. Arkansas Code § 12-12-917(b), pertaining to procedures for
30 assessments of sex offenders or sexually violent predators, is amended to
31 read as follows:

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

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

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

4 (2)(A)(i) An adult offender convicted of an offense described in
 5 42 U.S.C. § 14071 et seq., as it existed on March 1, 2003, Pub. L. No. 109-
 6 248, as it existed on January 1, 2007, or § 12-12-903(12) shall be assessed.

7 (ii)(a) Subject to subdivision (c)(1) of this
 8 section, the prosecuting attorney and any law enforcement agency shall
 9 furnish the file relating to the sex offender to Sex Offender Screening and
 10 Risk Assessment at the Department of Correction within thirty (30) days of ~~an~~
 11 a offender's adjudication of guilt.

12 (b)(1) The prosecuting attorney shall make a
 13 copy of any relevant records concerning the sex offender and shall forward
 14 the copied relevant records to Sex Offender Screening and Risk Assessment
 15 within thirty (30) days of the adjudication.

16 (2) The relevant records include, ~~but~~
 17 ~~are not limited to~~ without limitation:

- 18 (A) Arrest reports;
- 19 (B) Incident reports;
- 20 (C) Offender statements;
- 21 (D) Judgment and disposition
- 22 forms;
- 23 (E) Medical records;
- 24 (F) Witness statements; ~~and~~
- 25 (G) Any record considered relevant
- 26 by the prosecuting attorney; and
- 27 (H) Sealed or expunged records.

28 (B) A sex offender sentenced to life, life without parole,
 29 or death shall be assessed only if the sex offender is being considered for
 30 release.

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

33 (4)(A) If a sex offender fails to appear for assessment, is
 34 aggressive, threatening, or disruptive to the point that Sex Offender
 35 Screening and Risk Assessment staff cannot proceed with the assessment
 36 process, or voluntarily terminates the assessment process after having been

1 advised of the potential consequences:

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

5 (ii) The parole or probation officer, if applicable,
6 shall be notified.

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

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

13
14 SECTION 24. Arkansas Code § 12-12-917(c), pertaining to procedures for
15 assessments of sex offenders or sexually violent predators, is amended to
16 read as follows:

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

22 (2) The records and information include, ~~but are not limited to~~
23 without limitation:

- 24 (A) Police reports;
- 25 (B) Statements of probable cause;
- 26 (C) Presentence investigations and reports;
- 27 (D) Complete judgments and sentences;
- 28 (E) Current classification referrals;
- 29 (F) Criminal history summaries;
- 30 (G) Violation and disciplinary reports;
- 31 (H) All psychological evaluations and psychiatric hospital
32 reports;
- 33 (I) Sex offender or sexually violent predator treatment
34 program reports;
- 35 (J) Juvenile court records;
- 36 (K) Victim impact statements;

1 (L) Investigation reports to the child abuse hotline, the
 2 Division of Children and Family Services of the Department of Human Services,
 3 and any entity contracting with the Department of Human Services for
 4 investigation or treatment of sexual or physical abuse or domestic violence;
 5 ~~and~~

6 (M) Statements of medical providers treating victims of
 7 sex offenses indicating the extent of injury to the victim; and

8 (N) Sealed or expunged records.

9
 10 SECTION 25. Arkansas Code § 12-12-918(a)(1), concerning the
 11 classification of a sex offender as a sexually violent predator, is amended
 12 to read as follows:

13 (a)(1) ~~In order to classify a person~~ As an alternative to the
 14 classification of a person as a sexually violent predator by the Sex Offender
 15 Assessment Committee under § 12-12-922, a prosecutor may allege on the face
 16 of an information or an indictment that the prosecutor is seeking a
 17 determination that the defendant is a sexually violent predator.

18
 19 SECTION 26. Arkansas Code § 12-12-919 is amended to read as follows:
 20 12-12-919. Termination of obligation to register.

21 (a) Lifetime registration is required for a sex offender:

22 (1) Found to have committed an aggravated sex offense;

23 (2) Determined by the court or by assessment of the Sex Offender
 24 Assessment Committee to be a sexually violent predator; ~~or~~

25 (3) Found to have been adjudicated guilty of a second or
 26 subsequent sex offense under a separate case number, not multiple counts on
 27 the same charge.

28 (b)(1)(A)(i) ~~Any other A sex offender, required to register~~ registered
 29 under this subchapter and may make application who has not been determined to
 30 be a sexually violent predator by a court or assessed as a Level 4 offender
 31 by the Sex Offender Assessment Committee may file a petition in the
 32 sentencing court for an order terminating the obligation to register ~~to the~~
 33 ~~sentencing court~~ fifteen (15) years after ~~release from incarceration or other~~
 34 ~~institution~~ the date the sex offender first registers as required under this
 35 subchapter or fifteen (15) years after having been placed on probation or any
 36 other form of community supervision by the court.

1 (ii) A sex offender sentenced in another state but
2 permanently residing in Arkansas may make an application for an order
3 terminating the obligation to register to the circuit court of the county in
4 which the sex offender resides.

5 (B)(i) The circuit court shall hold a hearing on the
6 application at which the applicant and any interested persons may present
7 witnesses and other evidence.

8 (ii) No ~~fewer~~ less than twenty (20) days prior to
9 the date of the hearing on the application, a copy of the application for
10 termination of the obligation to register shall be served on the ~~prosecutor~~
11 prosecuting attorney of the county in which the adjudication of guilt
12 triggering registration was obtained, as well as the prosecuting attorney of
13 the county where the petition to terminate the requirement to register is
14 filed, if different from the original adjudicating county.

15 (2) Time spent incarcerated is excluded in the computation of
16 the fifteen (15) years under subdivision (b)(1)(A)(i) of this section.

17 ~~(2)(3)~~ The circuit court ~~shall~~ may grant an order terminating
18 the obligation to register upon proof by a preponderance of the evidence
19 that:

20 (A) ~~The applicant placed on parole, supervised release, or~~
21 ~~probation has not been adjudicated guilty of a sex offense for a period of~~
22 ~~fifteen (15) years after the applicant was released from prison or other~~
23 ~~institution; and~~ The petitioner:

24 (i) Has not been adjudicated guilty of a sex offense
25 for a period of fifteen (15) years after:

26 (a) The petitioner was released from prison or
27 other institution; or

28 (b) The date of sentencing if the petitioner
29 was not sentenced to a period of incarceration; and

30 (ii) Meets the following conditions for the
31 reduction of the registration period:

32 (a) Has not been convicted for any offense for
33 which imprisonment of more than one (1) year may be imposed since the
34 adjudication of delinquency;

35 (b) Has not been convicted for any sex offense
36 since the adjudication of delinquency;

1 (c) Successfully completed any periods of
2 supervised release, probation, or parole without any revocations; and

3 (d) Successfully completed a sex offender
4 treatment program;

5 (B) ~~The applicant~~ petitioner is not likely to pose a
6 threat to the safety of others;

7 (C) The petitioner has not been determined by a court to
8 be a sexually violent predator or has not been assessed by the Sex Offender
9 Assessment Committee as a Level 4 offender; and

10 (D) If originally convicted in another state for a sex
11 offense, the petitioner is no longer required to register as a sex offender
12 in the other state.

13
14 SECTION 27. Arkansas Code Title 12, Chapter 12, Subchapter 9 is
15 amended to add an additional section to read as follows:

16 12-12-924. Fees.

17 (a)(1) Except as provided in subsection (b) of this section, a sex
18 offender required to register under this subchapter at the time of his or her
19 initial registration shall pay a registration fee of two hundred fifty
20 dollars (\$250) to the entity that performs the initial registration for
21 deposit into the Sex and Child Offenders Registration Fund.

22 (2) The registration fee described in subdivision (a)(1) of this
23 section may be collected from the sex offender:

24 (A) In addition to any other fine or fee collected from or
25 to be collected from the sex offender; and

26 (B) Whether the sex offender is a resident, nonresident,
27 or moving to or returning to this state from another jurisdiction.

28 (3) The registration fee collected under subdivision (a)(1) of
29 this section shall be remitted by the tenth day of each month to the
30 Administration of Justice Fund Section of the Office of Administrative
31 Services of the Department of Finance and Administration along with a form
32 provided by that office for deposit into the Sex and Child Offenders
33 Registration Fund.

34 (b)(1) If the initial registration of a sex offender is being
35 performed by the sentencing court, the registration fee described in
36 subdivision (a)(1) of this section may be waived upon a finding that undue

1 hardship would result.

2 (2)(A) If the initial registration of a sex offender is being
 3 performed by the Department of Correction, the Department of Community
 4 Correction, the Arkansas State Hospital, the Department of Human Services, or
 5 the local law enforcement agency having jurisdiction, the registration fee
 6 described in subdivision (a)(1) of this section may be waived if a sex
 7 offender claims that he or she is indigent.

8 (B)(i) A sex offender who claims to be indigent shall
 9 provide a completed certificate of indigency to the registering entity.

10 (ii) The certificate of indigency shall:

11 (a) Be in a form approved by the registering
 12 entity;

13 (b) Be executed under oath by the sex
 14 offender; and

15 (c) State in bold print that a false statement
 16 is punishable as a Class D felony.

17 (c)(1)(A) A city or a county with any registered sex offenders
 18 residing within its jurisdiction by ordinance may establish a sex offender
 19 management fee for the purpose of reducing the financial burden caused by sex
 20 offender registration and management.

21 (B) The sex offender management fee described in
 22 subdivision (c)(1)(A) of this section:

23 (i) May be collected from a sex offender in addition
 24 to any other fine or fee collected from or to be collected from the sex
 25 offender; and

26 (ii) Shall not exceed the amount of fifty dollars
 27 (\$50.00) per year.

28 (2) A city ordinance or a county ordinance authorized by
 29 subdivision (c)(1) of this section shall include an exemption in a
 30 substantially similar form to subdivision (b)(2)(B) of this section for an
 31 indigent sex offender.

32
 33 SECTION 28. Arkansas Code § 16-93-206 is amended to read as follows:
 34 16-93-206. Board procedures.

35 (a)(1) For those persons eligible for parole, the Parole Board shall
 36 retain the power to determine which persons shall be placed on parole and to

1 fix the time and conditions of the parole.

2 (2) The Parole Board shall conduct open meetings and shall make
3 public its findings for each eligible candidate for parole.

4 (3) Inmate interviews may be closed to the public.

5 (4) The Parole Board retains the right to formulate all
6 policies, rules, and regulations regarding parole, including amendments to
7 those previously formulated by the former State Board of Parole and Community
8 Rehabilitation.

9 (b)(1)(A) For persons who on or after January 1, 1994, commit felonies
10 under the provisions of a transfer date, except those enumerated in
11 subdivision (c)(1) of this section, the Department of Correction will
12 transfer inmates to the Department of Community Correction subject to rules
13 and regulations promulgated by the Board of Corrections and conditions set by
14 the Parole Board.

15 (B) The conditions under which transfer shall occur
16 include, but are not limited to:

17 (i) Level of supervision;

18 (ii) Economic fee sanction;

19 (iii) Treatment program; and

20 (iv) Other conditions relevant to the individual
21 under review.

22 (C) This review may be conducted without a hearing when:

23 (i) The inmate has not received a major disciplinary
24 report against him or her that resulted in the loss of good time;

25 (ii) There has not been a request by a victim to
26 have input on transfer conditions; and

27 (iii) There is no indication in the risk needs
28 assessment review that special conditions need to be placed on the inmate.

29 (2)(A) When one (1) or more of the circumstances in subdivision
30 (b)(1) of this section are present, the Parole Board shall conduct a hearing
31 to determine the appropriateness of the inmate for transfer.

32 (B) The Parole Board has two (2) options:

33 (i) To transfer the individual to the Department of
34 Community Correction accompanied by conditions of the transfer, ~~including,~~
35 ~~but not limited to~~ including without limitation, supervision levels,
36 programming requirements, and facility placement when appropriate; or

1 (ii)(a) To deny the transfer based on a set of
 2 established criteria and to accompany the denial with a course of action to
 3 be undertaken by the inmate to rectify the ~~board's~~ Parole Board's concerns.

4 (b) Upon completion of the course of action
 5 determined by the Parole Board, after final review of the inmate's file to
 6 ensure successful completion, the Parole Board shall authorize the inmate's
 7 transfer to the Department of Community Correction in accordance with
 8 administrative policies and procedures governing a transfer and subject to
 9 conditions attached to the transfer.

10 (3) Should an inmate fail to fulfill the course of action
 11 outlined by the Parole Board to facilitate transfer to the Department of
 12 Community Correction, it shall be the responsibility of the inmate to
 13 petition the Parole Board for rehearing.

14 (4)(A) The course of action required by the Parole Board shall
 15 not be outside the current resources of the Department of Correction, nor
 16 shall conditions set be outside the current resources of the Department of
 17 Community Correction.

18 (B) However, the Department of Correction and the
 19 Department of Community Correction shall strive to accommodate the actions
 20 required by the Parole Board to the best of ~~their ability~~ the respective
 21 departments' abilities.

22 (c)(1) A person who commits the following felonies on or after January
 23 1, 1994, shall be eligible to be considered for discretionary transfer to the
 24 Department of Community Correction by the Parole Board after having served
 25 one-third (1/3) or one-half (1/2) of his or her sentence, with credit for
 26 meritorious good time, depending on the seriousness determination made by the
 27 Arkansas Sentencing Commission, or one-half (1/2) of the time to which his or
 28 her sentence is commuted by executive clemency, with credit for meritorious
 29 good time:

30 (A) Any homicide, §§ 5-10-101 – 5-10-105;

31 (B) Sexual assault in the first degree, § 5-14-124;

32 (C) Sexual assault in the second degree, § 5-14-125;

33 (D) Battery in the first degree, § 5-13-201;

34 (E) Domestic battering in the first degree, § 5-26-303; ~~or~~

35 (F) The following Class Y felonies:

36 (i) Kidnapping, § 5-11-102;

- 1 (ii) Rape, § 5-14-103;
2 (iii) Aggravated robbery, § 5-12-103; or
3 (iv) Causing a catastrophe, § 5-38-202(a);
4 (G) Engaging in a continuing criminal enterprise, § 5-64-
5 405; or
6 (H) Simultaneous possession of drugs and firearms, § 5-74-
7 106.

8 (2)(A) The transfer of an offender convicted of an ~~above-listed~~
9 offense listed in subdivision (c)(1) of this section is not automatic.

10 (B) The Parole Board ~~will have the authority to~~ may
11 transfer such an inmate at a time when, based on a combination of its opinion
12 and appropriate assessment by a risk needs assessment tool, there is
13 reasonable probability that the inmate can be released without detriment to
14 the community or the inmate.

15 (C) After the Parole Board has fully considered and denied
16 the transfer of an offender sentenced for committing an offense listed in
17 subdivision (c)(1) of this section, the Parole Board may delay any
18 reconsideration of the transfer for a maximum period of two (2) years.

19 (3) Notification of the court, prosecutor, sheriff, and the
20 victim or the victim's next of kin shall follow the procedures set forth
21 below:

22 (A)(i) Before the Parole Board shall grant any transfer,
23 the Parole Board shall solicit the written or oral recommendations of the
24 committing court, the prosecuting attorney, and the sheriff of the county
25 from which the inmate was committed.

26 (ii) If the person whose transfer is being
27 considered by the Parole Board was convicted of one (1) of the Class Y
28 felonies enumerated in subdivision (c)(1) of this section, the Parole Board
29 shall also notify the victim of the crime or ~~the victim's~~ his or her next of
30 kin of the transfer hearing and shall solicit written or oral recommendations
31 of the victim or his or her next of kin regarding the granting of the
32 transfer unless the prosecuting attorney has notified the Parole Board at the
33 time of commitment of the prisoner that the victim or his or her next of kin
34 does not want to be notified of future transfer hearings.

35 (iii) The recommendations shall not be binding upon
36 the Parole Board in the granting of any transfer but shall be maintained in

1 the inmate's file.

2 (iv) When soliciting recommendations from a victim
3 of a crime, the Parole Board shall notify the victim or his or her next of
4 kin of the date, time, and place of the transfer hearing;

5 (B)(i) The Parole Board shall not schedule transfer
6 hearings at which victims or relatives of victims of crimes are invited to
7 appear at a facility ~~wherein~~ where inmates are housed ~~other than the central~~
8 ~~administration building of the Department of Correction at Pine Bluff.~~

9 (ii) Nothing ~~herein~~ in this section shall be
10 construed as prohibiting the Parole Board from conducting transfer hearings
11 in two (2) sessions, one (1) at the place of the inmate's incarceration for
12 interviews with the inmate, the inmate's witnesses, and correctional
13 personnel, and the second session for victims and relatives of victims as set
14 out in subdivision (c)(3)(B)(i) of this section;

15 (C)(i) At the time that any person eligible under
16 subdivision (c)(1) of this section is transferred by the Parole Board, the
17 Department of Community Correction shall give written notice of the granting
18 of the transfer to the sheriff, the committing court, and the chief of police
19 of each city of the first class of the county from which the person was
20 sentenced.

21 (ii) If the person is transferred to a county other
22 than that from which he or she was committed, the Parole Board shall give
23 notice to the chief of police or marshal of the city to which he or she is
24 transferred, to the chief of police of each city of the first class and the
25 sheriff of the county to which he or she is transferred, and to the sheriff
26 of the county from which the person was committed; and

27 (D)(i) It shall be the responsibility of the prosecuting
28 attorney of the county from which the inmate was committed to notify the
29 Parole Board at the time of commitment of the desire of the victim or his or
30 her next of kin to be notified of any future transfer hearings and to forward
31 to the Parole Board the last known address and telephone number of the victim
32 or his or her next of kin.

33 (ii) It shall be the responsibility of the victim or
34 his or her next of kin to notify the Parole Board of any change in address or
35 telephone number.

36 (iii) It shall be the responsibility of the victim

1 or his or her next of kin to notify the Parole Board after the date of
2 commitment of any change in regard to the desire to be notified of any future
3 transfer hearings.

4 (d)(1) In all other felonies, before the Parole Board sets conditions
5 for transfer of an inmate to community ~~punishment~~ correction, a victim or his
6 or her next of kin in cases in which the victim is unable to express his or
7 her wishes, who have expressed the wish to be consulted by the Parole Board
8 shall be notified of the date, time, and place of the transfer hearing.

9 (2)(A) A victim or his or her next of kin who wishes to be
10 consulted by the Parole Board shall inform the Parole Board in writing at the
11 time of sentencing.

12 (B) A victim or his or her next of kin who does not so
13 inform the Parole Board shall not be notified by the Parole Board.

14 (3)(A) Victim input to the Parole Board shall be limited to oral
15 or written recommendations on conditions relevant to the offender under
16 review for transfer.

17 (B) The recommendations shall not be binding on the Parole
18 Board, but shall be given due consideration within the resources available
19 for transfer.

20 (e)(1)(A) The Parole Board shall approve a set of conditions that
21 shall be applicable to all inmates transferred from the Department of
22 Correction to the Department of Community Correction.

23 (B) Conditions reasonably related to the rehabilitation of
24 an inmate who has pleaded guilty or nolo contendere to or has been found
25 guilty of a sex offense as defined by § 12-12-903, if the trier of fact made
26 a finding that a computer or any device with Internet capability was used by
27 the inmate to facilitate the commission of the sex offense, may include the
28 following Internet access conditions for a period of time not to exceed the
29 maximum term of imprisonment authorized for the underlying sex offense:

30 (i) Prohibiting the inmate from accessing or using a
31 computer or any other device with Internet capability without the prior
32 written approval of the inmate's parole officer;

33 (ii)(a) Requiring the inmate to submit to
34 unannounced examinations of the inmate's computer or any other device with
35 Internet capability by a probation officer, parole officer, law enforcement
36 officer, or assigned computer specialist or information technology

1 specialist, including the retrieval and copying of all data from the computer
2 or device and any internal peripherals or external peripherals and removal of
3 any information, equipment, or device to conduct a more thorough inspection.

4 (b)(1) An inmate who knowingly uses any form
5 of encryption, cryptography, steganography, compression, password-protected
6 files, or other method to impede or hinder an unannounced examination
7 described in subdivision (e)(1)(B)(ii)(a) of this section upon conviction is
8 guilty of a Class C felony.

9 (2) An inmate who knowingly directs
10 another person to install any device or alter the inmate's computer in any
11 manner in order to allow the inmate to use any form of encryption,
12 cryptography, steganography, compression, password-protected files, or other
13 method to impede or hinder an examination described in subdivision
14 (e)(1)(B)(ii)(a) of this section upon conviction is guilty of a Class C
15 felony;

16 (iii)(a) Requiring the inmate to submit to the
17 installation on the inmate's computer or device with Internet capability, at
18 the inmate's expense, one (1) or more hardware systems or software systems to
19 monitor Internet use.

20 (b)(1) An inmate who knowingly alters, tampers
21 with, damages, or destroys a hardware system or software system described in
22 subdivision (e)(1)(B)(iii)(a) of this section upon conviction is guilty of a
23 Class C felony.

24 (2) An inmate who knowingly directs
25 another person to alter, tamper with, damage, or destroy a hardware system or
26 software system described in subdivision (e)(1)(B)(iii)(a) of this section is
27 upon conviction guilty of a Class C felony; and

28 (iv) Requiring the inmate to submit to any other
29 appropriate restrictions concerning the inmate's use or access of a computer
30 or any other device with Internet capability.

31 (2) The set of conditions is subject to periodic review and
32 revision as the Parole Board deems necessary.

33 (f) The Parole Board shall set such conditions as necessary within the
34 range of correctional resources available at the time of transfer.

35 (g)(1) The Parole Board shall serve as the revocation review board for
36 any ~~person~~ inmate subject to either parole or transfer from prison.

1 (2) Revocation proceedings for either parole or transfer shall
2 follow all legal requirements applicable to parole and shall be subject to
3 any additional policies, rules, and regulations set by the Parole Board.

4 (h) Decisions on parole release, courses of action applicable prior to
5 transfer, and transfer conditions to be set by the Parole Board shall be
6 based on a reasoned and rational plan developed in conjunction with an
7 accepted risk needs assessment tool such that each decision is defensible
8 based on preestablished criteria.

9
10 SECTION 29. Arkansas Code § 19-6-455 is amended to read as follows:

11 19-6-455. Sex and Child Offender Registration Fund.

12 ~~The Sex and Child Offender Registration Fund shall consist of those~~
13 ~~special revenues as specified in § 19-6-301(198), there to be used for the~~
14 ~~administration of the Sex and Child Offender Registration Act of 1997, § 12-~~
15 ~~12-901 et seq. (a) There is established on the books of the Treasurer of~~
16 State, the Auditor of State, and the Chief Fiscal Officer of the State a fund
17 to be known as the "Sex and Child Offender Registration Fund".

18 (b)(1) The fund shall consist of special revenues collected under §
19 12-12-910, § 12-12-924, and § 19-6-301(198), and shall be used for the
20 administration of the Sex and Child Offender Registration Act of 1997, § 12-
21 12-901 et seq., equally by the Arkansas Crime Information Center and the
22 Department of Correction.

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

25
26 /s/ D. Creekmore
27
28
29
30
31
32
33
34
35
36