

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.

Act 394 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S3/8/07

A Bill

HOUSE BILL 1564

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

9 By: Senators Salmon, Altes, Baker, Broadway, J. Jeffress, Madison, T. Smith, Trusty, Wilkins
10
11

For An Act To Be Entitled

12
13 AN ACT TO CREATE A CRIMINAL OFFENSE PROHIBITING
14 SEX OFFENDERS FROM LIVING NEAR VICTIMS OR
15 CONTACTING VICTIMS; TO AMEND VARIOUS SECTIONS OF
16 THE ARKANSAS CODE CONCERNING THE SEX OFFENDER
17 REGISTRATION ACT OF 1997; AND FOR OTHER PURPOSES.
18

Subtitle

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

28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
29

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

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

34 (a) As used in this section, "victim" means a victim of a sex offense
35 for which a person is required to register as a sex offender under the Sex



1 Offender Registration Act of 1997, § 12-12-901 et seq.

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

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

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

9 (c)(1) It is an affirmative defense to a prosecution for a violation
10 of subdivision (b)(1) of this section if the property where the sex offender
11 resides is owned and occupied by the sex offender and was purchased prior to
12 the date on which his or her victim began residing within two thousand feet
13 (2,000') of the residence of the sex offender.

14 (2) The affirmative defense in subdivision (c)(1) of this
15 section is not available to a sex offender who pleads guilty or nolo
16 contendere to or is found guilty of another sex offense involving his or her
17 victim after his or her victim began residing within two thousand feet
18 (2,000') of the residence of the sex offender.

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

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

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

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

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

33 (i) The following offenses:

34 (a) Rape, § 5-14-103;

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

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

- 1 14-124;
- 2 (d) Sexual assault in the second degree, § 5-
- 3 14-125;
- 4 (e) Sexual assault in the third degree, § 5-
- 5 14-126;
- 6 (f) Sexual assault in the fourth degree, § 5-
- 7 14-127;
- 8 (g) Incest, § 5-26-202;
- 9 (h) Engaging children in sexually explicit
- 10 conduct for use in visual or print medium, § 5-27-303;
- 11 (i) Transportation of minors for prohibited
- 12 sexual conduct, § 5-27-305;
- 13 (j) Employing or consenting to use of a child
- 14 in sexual performance, § 5-27-402;
- 15 (k) Pandering or possessing visual or print
- 16 medium depicting sexually explicit conduct involving a child, § 5-27-304;
- 17 (l) Producing, directing, or promoting sexual
- 18 performance, § 5-27-403;
- 19 (m) Promoting prostitution in the first
- 20 degree, § 5-70-104;
- 21 (n) Stalking when ordered by the sentencing
- 22 court to register as a sex offender, § 5-71-229;
- 23 (o) Indecent exposure, § 5-14-112, if a felony
- 24 level offense;
- 25 (p) Exposing another person to human
- 26 immunodeficiency virus when ordered by the sentencing court to register as a
- 27 sex offender, § 5-14-123;
- 28 (q) Kidnapping pursuant to § 5-11-102(a) when
- 29 the victim is a minor and the offender is not the parent of the victim;
- 30 (r) False imprisonment in the first degree and
- 31 false imprisonment in the second degree, §§ 5-11-103 and 5-11-104, when the
- 32 victim is a minor and the offender is not the parent of the victim;
- 33 (s) Permitting abuse of a child pursuant to §
- 34 5-27-221;
- 35 (t) Computer child pornography, § 5-27-603;
- 36 (u) Computer exploitation of a child in the

1 first degree, § 5-27-605(a);
2 (v) Permanent detention or restraint when the
3 offender is not the parent of the victim, § 5-11-106;
4 (w) Distributing, possessing, or viewing
5 matter depicting sexually explicit conduct involving a child, § 5-27-602;
6 (x) Computer child pornography, § 5-27-603;
7 ~~and~~
8 (y) Computer exploitation of a child, § 5-27-
9 605;
10 (z) Internet stalking of a child, § 5-27-306;
11 (aa) Crime of video voyeurism, § 5-16-101, if
12 a felony level offense; and
13 (bb) Voyeurism, § 5-16-102, if a felony level
14 offense;
15 (ii) An attempt, solicitation, or conspiracy to
16 commit any of the offenses enumerated in subdivision (12)(A)(i) of this
17 section; and
18 (iii) An adjudication of guilt for an offense of the
19 law of another state, for a federal offense, for a tribal court offense, or
20 for a military offense:
21 (a) Which is similar to any of the offenses
22 enumerated in subdivision (12)(A)(i) of this section;
23 (b) When that adjudication of guilt requires
24 registration under another state's sex offender registration laws; or
25 (c) A violation of any former law of this
26 state that is substantially equivalent to any of the offenses enumerated in
27 this subdivision (12)(A).
28 (B)(i) The sentencing court has the authority to order the
29 registration of any offender shown in court to have attempted to commit or to
30 have committed a sex offense even though the offense is not enumerated in
31 subdivision (12)(A)(i) of this section.
32 (ii) This authority applies to sex offenses enacted,
33 renamed, or amended at a later date by the General Assembly unless the
34 General Assembly expresses its intent not to consider the offense to be a
35 true sex offense for the purposes of this subchapter;
36

1 SECTION 3. Arkansas Code § 12-12-904 is amended to read as follows:
 2 12-12-904. Failure to comply with registration and reporting
 3 requirements - Refusal to cooperate with assessment process.

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

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

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

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

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

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

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

23 ~~(A) The person:~~

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

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

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

28 ~~(c)(iii)~~ (iii) Any other unforeseen circumstance;

29 and

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

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

35 (b) Any agency or official subject to reporting requirements under
 36 this subchapter that knowingly fails to comply with the reporting

1 requirements under this subchapter is guilty of a Class B misdemeanor.

2
3 SECTION 4. Arkansas Code § 12-12-905 is amended to read as follows:
4 12-12-905. Applicability.

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

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

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

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

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

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

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

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

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

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

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

35
36 SECTION 5. Arkansas Code § 12-12-906 is amended to read as follows:

1 12-12-906. Duty to register or ~~reregister~~ verify registration
2 generally - Review of requirements with offenders.

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

7 (a) Offense is an aggravated sex offense;

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

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

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

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

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

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

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

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

1 (ii) If the Arkansas State Hospital cannot confirm
2 that the sex offender has completed the sex offender registration form, the
3 Arkansas State Hospital shall ensure that the sex registration form is
4 completed for the sex offender upon intake, release, or discharge.

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

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

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

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

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

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

26 (iii) Pay the mandatory fee of two hundred fifty
27 dollars (\$250) to be deposited into the DNA Detection Fund established by §
28 12-12-1119.

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

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

1 Community Correction, the Arkansas State Hospital, or the Department of
2 Health and Human Services shall update the registration file of the sex
3 offender who is to be released or discharged or who has escaped or has
4 absconded supervision.

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

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

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

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

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

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

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

34 (vi) Require the sex offender to complete the entire
35 registration process, including, but not limited to, requiring the sex
36 offender to read and sign a form stating that the duty of the sex offender to

1 register under this subchapter has been explained;

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

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

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

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

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

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 Health and Human Services
32 shall:

33 (A) Review with the sex offender the duty to register and
34 obtain current information required for registration as described in § 12-12-
35 908;

36 (B) Review with the sex offender the requirement that if

1 the sex offender changes address within the state, the sex offender shall
2 give the new address to the center in writing no later than ten (10) days
3 before the sex offender establishes residency or is temporarily domiciled at
4 the 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 ~~ten (10) days before~~ three
9 (3) business days after the sex offender establishes residence or is
10 temporarily domiciled in the new state if the new state has a registration
11 requirement;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (A) Name;

34 (B) Social security number;

35 (C) Age;

36 (D) Race;

1 (E) Gender;
2 (F) Date of birth;
3 (G) Height;
4 (H) Weight;
5 (I) Hair and eye color;
6 (J)(i) Address of any permanent residence and address of
7 any current temporary residence within this state or out of this state,
8 including a rural route address and a post office box.

9 (ii) A post office box shall not be provided in lieu
10 of a physical residential address;

11 (K) Date and place of any employment;

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

14 (M)(i) Fingerprints+.

15 (ii) If the local law enforcement agency having
16 jurisdiction cannot confirm that the sex offender's fingerprints are
17 contained in the automated fingerprint identification system, the local law
18 enforcement agency having jurisdiction shall:

19 (a) Take the sex offender's fingerprints; and

20 (b) Submit the fingerprints to the center and
21 to the Department of Arkansas State Police; and

22 (N)(i) Photograph.

23 (ii) The local law enforcement agency having
24 jurisdiction shall take a photograph of the sex offender at each registration
25 verification and submit the photograph to the center.

26 (4) If the sex offender is enrolled or employed at an
27 institution of higher education in this state, the sex offender shall also
28 report to the local law enforcement agency having jurisdiction:

29 (A) The name and address of each institution, including
30 each campus attended;

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

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

33 (5) If the place of residence of the sex offender is a motor
34 vehicle, trailer, mobile home, modular home, or manufactured home, the sex
35 offender shall report the following information concerning the motor vehicle,
36 trailer, mobile home, 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) If the place of residence of the sex offender is a vessel,
6 live-aboard vessel, or houseboat, the sex offender shall report the following
7 information concerning the vessel, live-aboard 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 subdivision (h)(1), a
14 sexually violent predator subject to lifetime registration under § 12-12-919
15 shall report in person every three (3) months after registration to the local
16 law enforcement agency having jurisdiction to verify registration.

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

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

- 23 (A) Name;
24 (B) Social security number;
25 (C) Age;
26 (D) Race;
27 (E) Gender;
28 (F) Date of birth;
29 (G) Height;
30 (H) Weight;
31 (I) Hair and eye color;
32 (J)(i) Address of any permanent residence and address of
33 any current temporary residence within this state or out of this state,
34 including a rural route address and a post office box.

35 (ii) A post office box shall not be provided in lieu
36 of a physical residential address;

1 (K) Date and place of any employment;

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

5 (M)(i) Fingerprints.

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

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

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

14 (N)(i) Photograph.

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

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

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

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

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

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

31 (A) Vehicle identification number;

32 (B) License tag number;

33 (C) Registration number; and

34 (D) A description, including color scheme.

35 (6) If the place of residence of the sexually violent predator
36 is a vessel, live-aboard vessel, or houseboat, the sexually violent predator

1 shall report the following information concerning the vessel, live-aboard
2 vessel, or houseboat:

3 (A) Hull identification number;

4 (B) Manufacturer's serial number;

5 (C) Name;

6 (D) Registration number; and

7 (E) A description, including color scheme.

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

14
15 SECTION 6. Arkansas Code § 12-12-909 is amended to read as follows:
16 12-12-909. Verification form - Change of address.

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

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

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

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

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

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

36 (B) Should the sex offender or sexually violent predator

1 change address without notice or fail to return the verification of
2 residence, notification will be sent to law enforcement and supervising
3 parole or probation authority, and notice may be posted on the Internet until
4 proper reporting is again established or the person is incarcerated.

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

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

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

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

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

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

28
29 SECTION 7. Arkansas Code § 12-12-913 is amended to read as follows:
30 12-12-913. Disclosure.

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

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

36 (b) In accordance with guidelines promulgated by the Sex Offenders

1 Offender Assessment Committee, local law enforcement agencies having
2 jurisdiction shall disclose relevant and necessary information regarding sex
3 offenders to the public when the disclosure of such information is necessary
4 for public protection.

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

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

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

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

20 (i) Level of the sex offender's dangerousness;
21 (ii) Sex offender's pattern of offending behavior;
22 and

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

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

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

36 (2) If a change occurs in a sex offender's release plan, this

1 notification provision shall not require an extension of the release date.

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

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

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

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

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

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

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

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

35 (j)(1)(A) The following information concerning a registered sex
36 offender who is classified as a level 3 or level 4 offender by the Sex

1 Offender Screening and Risk Assessment shall be made public:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (viii) The registered sex offender's parole or
2 probation office.

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

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

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

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

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

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

19
20 SECTION 8. Arkansas Code § 12-12-915 is amended to read as follows:
21 12-12-915. Authority - Rules.

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

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

28 (2) Registering the offender.

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

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

36 (c)(1) The Department of Community Correction shall promulgate rules

1 to establish procedures for monitoring a an adult sex offender under its
2 supervisory authority who is subject to electronic monitoring under § 12-12-
3 923.

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

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

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

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

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

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

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

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

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

34 (2)(A)(i) An adult offender convicted of an offense described in
35 42 U.S.C. § 14071 et seq., as it existed on March 1, 2003, Pub. L. No. 109-
36 248, as it existed on January 1, 2007, or § 12-12-903(12) shall be assessed.

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

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

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

12 (A) Arrest reports;

13 (B) Incident reports;

14 (C) Offender statements;

15 (D) Judgment and disposition forms;

16 (E) Medical records;

17 (F) Witness statements; and

18 (G) Any record considered relevant

19 by the prosecuting attorney.

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

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

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

30 (i) The sex offender shall be classified as a risk
31 level 3 or referred to the Sex Offender Assessment Committee as a risk level
32 4; and

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

35 (B) A sex offender has immunity for a statement made by
36 him or her in the course of assessment with respect to prior conduct under

1 the immunity provisions of § 16-43-601 et seq.

2 (C) Assessment personnel shall report ongoing child
3 maltreatment as required under the Arkansas Child Maltreatment Act, § 12-12-
4 501 et seq.

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

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

11 (A) Police reports;

12 (B) Statements of probable cause;

13 (C) Presentence investigations and reports;

14 (D) Complete judgments and sentences;

15 (E) Current classification referrals;

16 (F) Criminal history summaries;

17 (G) Violation and disciplinary reports;

18 (H) All psychological evaluations and psychiatric hospital
19 reports;

20 (I) Sex offender or sexually violent predator treatment
21 program reports;

22 (J) Juvenile court records;

23 (K) Victim impact statements;

24 (L) Investigation reports to the child abuse hotline, the
25 Division of Children and Family Services of the Department of Health and
26 Human Services, and any entity contracting with the Department of Health and
27 Human Services for investigation or treatment of sexual or physical abuse or
28 domestic violence; and

29 (M) Statements of medical providers treating victims
30 of sex offenses indicating the extent of injury to the victim.

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

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

1 (ii) These records shall include any reports of the
2 assessment and the tape of the interview but do not include restricted source
3 documents of commercial psychological tests or working notes of staff.

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

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

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

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

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

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

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

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

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

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

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

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

1 (4)(A)(i) The offender fact sheet shall be prepared on a
2 standard form for ease of transmission and communication.

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

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

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

13 (i) Registration information as required in § 12-12-
14 908;

15 (ii) Risk level;

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

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

19 (v) Victim age and gender preference;

20 (vi) Treatment history and recommendations; and

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

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

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

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

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

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

35 (2)(A) The sex offender or sexually violent predator may request
36 an administrative review of the assigned risk level under the conditions

1 stated and following the procedures indicated under § 12-12-922.

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

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

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

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

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

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

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

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

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

36 (B) If a mental abnormality or personality disorder is

1 suspected, a licensed psychologist or psychiatrist qualified by the committee
2 ~~shall~~ may conduct further assessment to determine the presence or absence of
3 a mental abnormality or personality disorder.

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

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

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

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

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

23 (B) The basis for administrative review is:

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

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

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

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

1 presumed within five (5) days of postmark of the advisement of risk level
2 notification by both certified mail and first-class mail.

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

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

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

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

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

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

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

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

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

36 (9) A ruling by the circuit court on the petition for judicial

1 review is considered a final judgment.

2
3 SECTION 11. EMERGENCY CLAUSE. It is found and determined by the
4 General Assembly of the State of Arkansas that the need to register and
5 verify registration of sex offenders and sexually violent predators is
6 necessary to ensure the safety of the citizens of the State of Arkansas; that
7 the provisions of this act will improve the process of registering and
8 verifying the registration of sex offenders and sexually violent predators;
9 and that this act is necessary because of the public risk posed by sex
10 offenders and sexually violent predators. Therefore, an emergency is
11 declared to exist and this act being necessary for the preservation of the
12 public peace, health, and safety shall become effective on:

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

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

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

19
20 /s/ D. Creekmore

21
22 APPROVED: 3/21/2007
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