

State of Arkansas
90th General Assembly
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A Bill

SENATE BILL 467

By: Senator D. Sanders
By: Representative Shepherd

For An Act To Be Entitled

AN ACT TO IMPLEMENT MEASURES REGARDING THE SEX
OFFENDER REGISTRY AND THE MONITORING OF REGISTERED
SEX OFFENDERS TO BECOME COMPLIANT WITH THE ADAM WALSH
CHILD PROTECTION AND SAFETY ACT OF 2006; AND FOR
OTHER PURPOSES.

Subtitle

TO IMPLEMENT MEASURES REGARDING THE SEX
OFFENDER REGISTRY AND THE MONITORING OF
REGISTERED SEX OFFENDERS TO BECOME
COMPLIANT WITH THE ADAM WALSH CHILD
PROTECTION AND SAFETY ACT OF 2006.

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

SECTION 1. Arkansas Code § 9-27-356 is amended to read as follows:
9-27-356. Juvenile sex offender assessment and registration.

(a) A juvenile offender is mandated to register as a sex offender if he or she is adjudicated delinquent for any of the following offenses:

- (1) Rape, § 5-14-103;
- (2) Sexual assault in the first degree, § 5-14-124;
- (3) Sexual assault in the second degree, § 5-14-125, if the victim was under thirteen (13) years of age;
- (4) Sexual assault in the third degree, § 5-14-126, if the victim was under sixteen (16) years of age;
- (5) Kidnapping, § 5-11-102(a)(5), if the sex offender was not



the parent of the minor;

(6) Incest, § 5-26-202; or

(7) Engaging children in sexually explicit conduct for use in visual or print medium, § 5-27-303.

(b) If a juvenile is an adjudicated delinquent for any of the following offenses other sex offense as defined under § 12-12-903(12)(A), the court shall order a sex offender screening and risk assessment+.

~~(1) Rape, § 5-14-103;~~

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

~~(3) Sexual assault in the second degree, § 5-14-125;~~

~~(4) Incest, § 5-26-202; or~~

~~(5) Engaging children in sexually explicit conduct for use in visual or print medium, § 5-27-303.~~

~~(b)(1)(c)(1)~~ The court may order a sex offender screening and risk assessment if a juvenile is adjudicated delinquent for any offense with an underlying sexually motivated component.

(2) The Except as provided under subsection (a) of this section, a court may also require that a juvenile register as a sex offender upon recommendation of the Sex Offender Assessment Committee and following a hearing as set forth in subsection ~~(e)(f)~~ of this section.

~~(e)(d)~~ The juvenile division of circuit court judge may order reassessment of the sex offender screening and risk assessment by the committee at any time while the court has jurisdiction over the juvenile.

~~(d)(e)~~ Following a sex offender screening and risk assessment, the prosecutor may file a motion to request that a juvenile register as a sex offender at any time while the court has jurisdiction of the delinquency case if a juvenile is found delinquent for ~~any of the offenses~~ an offense other than those listed in subsection (a) of this section for which registration is required.

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

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

(i) The seriousness of the offense;

(ii) The protection of society;

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

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

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

(vi) The sex offender assessment and ~~any~~ other relevant written reports and other materials relating to the juvenile's mental, physical, educational, and social history; and

(vii) ~~Any other~~ Other factors deemed relevant by the court.

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

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

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

~~(g)~~(h) When the juvenile division of circuit court judge orders a juvenile to register as a sex offender or when a juvenile is mandated to register under subsection (a) of this section, the judge shall order either the Division of Youth Services of the Department of Human Services or a juvenile probation officer to complete the registration process by:

(1) Completing the sex offender registration form;

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

(3) Mailing a copy of the registration court order, fact sheets,

and registration form to the Arkansas Crime Information Center, ~~Sex Offender Registry Manager, One Capitol Mall 4D 200, LR, AR 72201;~~

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

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

~~(h)(i)(1)~~ The Except for those offenses listed under subsection (a) of this section, a juvenile may petition the court to have his or her name removed from the sex offender register at any time while the court has jurisdiction over the juvenile or when the juvenile turns twenty-one (21) years of age, whichever is later.

(2) A juvenile adjudicated of an offense listed under subsection (a) of this section may petition the court to have his or her name removed from the sex offender register under § 12-12-919(b) unless the juvenile:

(A) Meets the requirements of § 12-12-919(a)(1), § 12-12-919(a)(2), or § 12-12-919(a)(3); or

(B) Has been adjudicated delinquent of or convicted of:

(i) An additional offense requiring registration as a sex offender;

(ii) A Class Y felony; or

(iii) A Class A felony.

~~(i)(j)~~ The Except as provided for under subdivision (i)(2) of this section, the juvenile division of circuit court judge shall order the juvenile's name removed from the sex offender register upon proof by a preponderance of the evidence that the juvenile does not pose a threat to the safety of others.

~~(j)(k)~~ If Except as provided for under subdivision (i)(2) of this section, if the court does not order the juvenile's name removed from the sex offender register, the juvenile shall remain on the sex offender register for ten (10) years from the last date on which the juvenile was adjudicated a delinquent or found guilty as an adult for a sex offense or until the juvenile turns twenty-one (21) years of age, whichever is longer.

~~(k)(1)~~ Once a juvenile is ordered to register as a sex offender, he or she shall be subject to the registration requirements set forth in §§ 12-12-904, 12-12-906, 12-12-908, 12-12-909, and 12-12-912.

SECTION 2. Arkansas Code § 12-12-906(a)(1)(A), concerning sentencing of a person and the court's order of a person to register as a sex offender, is amended to add a new subdivision to read as follows:

(iii) A person is not required to register as a sex offender under this subchapter if:

(a) The victim was under eighteen (18) years of age and the offender was no more than three (3) years older than the victim at the time of the offense;

(b) The court determines that there was no evidence of force, compulsion, threat, or intimidation in the commission of the offense; and

(c) The court does not otherwise order registration under § 12-12-903(12)(B)(i).

SECTION 3. Arkansas Code § 12-12-906(h), concerning reporting requirements for a sexually dangerous person, is amended to read as follows:

(h)(1) A sexually dangerous person subject to lifetime registration under § 12-12-919 or a person convicted of one (1) or more of the following offenses after the effective date of this act shall report in person every ninety (90) days after registration to the local law enforcement agency having jurisdiction to verify registration~~;~~:

(A) Rape, § 5-14-103;

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

(C) Sexual assault in the second degree, § 5-14-125, if the victim was under thirteen (13) years of age;

(D) Sexual assault in the third degree, § 5-14-126, if the victim was under sixteen (16) years of age;

(E) Kidnapping, § 5-11-102(a)(5), if the victim was a minor and the sex offender was not the parent of the minor; or

(F) Incest, § 5-26-202.

(2) The local law enforcement agency having jurisdiction may determine the appropriate times and days for reporting by ~~the sexually dangerous person~~ a sex offender required to report under this section, and the determination shall be consistent with the reporting requirements of subdivision (h)(1) of this section.

(3) Registration verification shall include reporting any change

to the following information concerning ~~the sexually dangerous person~~ a sex offender required to report under this section:

- (A) Name;
- (B) Social ~~security~~ Security number;
- (C) Age;
- (D) Race;
- (E) Gender;
- (F) Date of birth;
- (G) Height;
- (H) Weight;
- (I) Hair and eye color;

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

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

(K) Date and place of any employment;

(L) Vehicle make, model, color, and license tag number that the ~~sexually dangerous person~~ sex offender required to report under this section owns, operates, or to which he or she has access;

(M)(i) Fingerprints.

(ii) If the local law enforcement agency having jurisdiction cannot confirm that the ~~sexually dangerous person's~~ sex offender required to report under this section fingerprints are contained in the automated fingerprint identification system, the local law enforcement agency having jurisdiction shall:

(a) Take the ~~sexually dangerous person's~~ sex offender's fingerprints; and

(b) Submit the fingerprints to the center and to the Department of Arkansas State Police.

(iii) If the local law enforcement agency having jurisdiction cannot confirm that the ~~sexually violent predator's~~ sex offender required to report under this section palm prints are contained in the automated palm print identification system, the local law enforcement agency having jurisdiction shall:

(a) Take the ~~sexually violent predator's~~ sex

offender's palm prints; and

(b) Submit the palm prints to the center and to the Department of Arkansas State Police;

(N)(i) Photograph.

(ii) The local law enforcement agency having jurisdiction shall take a photograph of ~~the sexually dangerous person~~ a sex offender required to report under this section at each registration verification and submit the photograph to the center;

(O) All computers or other devices with Internet capability to which the sex offender has access;

(P) All email addresses used by the sex offender;

(Q) All user names, screen names, or instant message names that are used by the sex offender to communicate in real time with another person using the Internet;

(R)(i) Passport.

(ii) The local law enforcement agency having jurisdiction shall obtain a copy of any passport issued by any country to the ~~person by any country~~ sex offender required to report under this section in the ~~sexually violent predator's~~ sex offender's name at each registration verification and submit the copy of any passport to the center;

(S)(i) Immigration documentation.

(ii) The local law enforcement agency having jurisdiction shall obtain a copy of any immigration documents issued by any country to the ~~sexually violent predator by any country~~ sex offender required to report under this section at each registration verification and submit a copy of the documents to the center; and

(T)(i) Professional licenses and permits.

(ii) The local law enforcement agency having jurisdiction shall obtain a copy of any federal, state, or local professional license or permit issued to ~~the sexually violent predator~~ a sex offender required to report under this section at each registration verification and submit a copy of the documents to the center.

(4) If ~~the sexually dangerous person~~ a sex offender required to report under this section is enrolled or employed at an institution of higher education in this state, the ~~sexually dangerous person~~ sex offender shall also report to the local law enforcement agency having jurisdiction:

(A) The name and address of each institution of higher education where he or she is enrolled or employed, including each campus attended;

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

(C) His or her enrollment or employment status.

(5) If the place of residence of ~~the sexually dangerous person~~ a sex offender required to report under this section is a motor vehicle, trailer, mobile home, modular home, or manufactured home, the ~~sexually dangerous person~~ sex offender shall report the following information concerning the motor vehicle, trailer, mobile home, modular home, or manufactured home:

(A) Vehicle identification number;

(B) License tag number;

(C) Registration number; and

(D) A description, including color scheme.

(6) If the place of residence of ~~the sexually dangerous person~~ a sex offender required to report under this section is a vessel, live-aboard vessel, or houseboat, the ~~sexually dangerous person~~ sex offender shall report the following information concerning the vessel, live-aboard vessel, or houseboat:

(A) Hull identification number;

(B) Manufacturer's serial number;

(C) Name;

(D) Registration number; and

(E) A description, including color scheme.

(7) If a ~~sexually violent predator who is required to register as a sexually violent predator~~ sex offender required to report under this section owns an aircraft, the ~~person~~ sex offender shall provide the following information concerning the aircraft:

(A) The aircraft registration number;

(B) The manufacturer and model of the aircraft; and

(C) A description of the color scheme of the aircraft.

SECTION 4. Arkansas Code § 12-12-913(j), concerning public disclosure of information about a Level 3 or Level 4 registered sex offender, is amended to read as follows:

(j)(1)(A) ~~The~~ Except as provided for under subdivision (j)(1)(B) of this section, the following information concerning a registered sex offender ~~who is classified as a level 3 or level 4 offender by the Community Notification Assessment~~ shall be made public:

- (i) The sex offender's complete name, as well as any alias;
- (ii) The sex offender's date of birth;
- (iii) Any sex offense to which the sex offender has pleaded guilty or nolo contendere or of which the sex offender has been found guilty by a court of competent jurisdiction;
- (iv) The street name and block number, county, city, and zip code where the sex offender resides;
- (v) The sex offender's race and gender;
- (vi) The date of the last address verification of the sex offender provided to the Arkansas Crime Information Center;
- (vii) The most recent photograph of the sex offender that has been submitted to the center;
- (viii) The sex offender's parole or probation office;
- (ix) The street name and block number, county, city, and zip code where the sex offender is employed;
- (x) Any institution of higher education in which the sex offender is enrolled; ~~and~~
- (xi) The vehicle identification number and license plate number of any vehicle the sex offender owns or operates; and
- (xii) A physical description of the sex offender.

~~(B) If a registered sex offender was eighteen (18) years of age or older at the time of the commission of the sex offense that required registration under this subchapter and the victim of the sex offense was fourteen (14) years of age or younger and the registered sex offender is classified as a level 2 offender by the Community Notification Assessment, the following information concerning the registered sex offender shall be made public:~~

- ~~(i) The registered sex offender's complete name, as well as any alias;~~
- ~~(ii) The registered sex offender's date of birth;~~

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

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

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

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

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

~~(viii) The registered sex offender's parole or probation office;~~

~~(ix) The street name and block number, county, city, and zip code where the sex offender is employed;~~

~~(x) Any institution of higher education in which the sex offender is enrolled; and~~

~~(xi) The vehicle identification number and license plate number of any vehicle the sex offender owns or operates.~~

(B) Information regarding a sex offender who was adjudicated as a juvenile offender is not required to be posted on the Internet home page unless the juvenile is mandated to register by law or unless the juvenile division of court requires that relevant information to be placed on the Internet home page.

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

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

SECTION 5. Arkansas Code § 12-12-919(a), concerning the termination of a registered sex offender's obligation to register, is amended to read as follows:

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

(1) Was found to have committed an aggravated sex offense;

(2) Was determined by the court to be or assessed as a Level 4 sexually dangerous person; ~~or~~

(3) Has pleaded guilty or nolo contendere to or been found guilty of a second or subsequent sex offense under a separate case number, not multiple counts on the same charge; or

(4) Was convicted of any of the following offenses on or after the effective date of this act:

(A) Rape, § 5-14-103;

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

(C) Sexual assault in the second degree, § 5-14-125, if the victim was under thirteen (13) years of age;

(D) Sexual assault in the third degree, § 5-14-126, if the victim was under sixteen (16) years of age;

(E) Kidnapping, § 5-11-102(a)(5), if the victim was a minor and the sex offender was not the parent of the minor; or

(F) Incest, § 5-26-202.