

Members

Rep. Greg Steuerwald, Chairperson
Rep. Ralph Foley
Rep. Ed DeLaney
Rep. Vernon Smith
Sen. Brent Steele
Sen. R. Michael Young
Sen. James Arnold
Sen. Lindel Hume
Larry Landis
David Powell
Commissioner Bruce Lemmon
Greg Server
Don Travis
Hon. Stephen R. Heimann



CRIMINAL LAW AND SENTENCING POLICY STUDY COMMITTEE

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Authority: IC 2-5-32.5

MEETING MINUTES¹

Meeting Date: August 23, 2012
Meeting Time: 10:00 A.M.
Meeting Place: State House, 200 W. Washington St.,
Room 431
Meeting City: Indianapolis, Indiana
Meeting Number: 1

Members Present: Rep. Greg Steuerwald, Chairperson; Rep. Ralph Foley; Rep. Ed DeLaney; Sen. R. Michael Young; Sen. James Arnold; Larry Landis; David Powell; Tim Brown designee for Commissioner Bruce Lemmon; Greg Server; Don Travis; Hon. Stephen R. Heimann.

Members Absent: Rep. Vernon Smith; Sen. Brent Steele; Sen. Lindel Hume.

Call to Order

The meeting was called to order at 10:08 a.m. by Representative Steuerwald, Chairperson. Chairman Steuerwald declared a quorum was present.

Review of Statutory Charges and Legislative Council Requests

Chairman Steuerwald reviewed IC 2-5-33.4, which establishes the Committee (Exhibit A), HEA 1033 – 2012 (Exhibit B), and HR 20 – 2012 (Exhibit C).

¹ These minutes, exhibits, and other materials referenced in the minutes can be viewed electronically at <http://www.in.gov/legislative>. Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies.

Issues Regarding Criminal History Providers (HEA 1033 – 2012)

The following persons described the difficulties that some clerks were having with complying with HEA 1033.

- Terri J. Rethlake, Clerk of the St. Joseph Circuit Court and Treasurer of the Clerks Association.
- Peggy Mayfield, Clerk of the Morgan Circuit Court and the legislative chair of the Indiana Clerks Association.
- Danielle R. Coulter, Deputy Director of the Government Affairs, Association of Indiana Counties.

(See Exhibit D and Exhibit E for additional details.)

Luke Rollins, Senior Manager, State Government Affairs-Midwest, Reed Elsevier Inc., and Chris Lemons, Executive Vice President and General Counsel of BackGroundChecks.com and General Information Services, testified on behalf of the Coalition for Sensible Public Records Access. Their written statements are included in Exhibits F, G, and H.

Mr. Lemons described the following five broad issues that consumer reporting agencies have with HEA 1033.

1. The term “criminal history provider” is too broad and can be applied to groups ranging from home-owners associations to churches.
2. HEA 1033 conflicts with the federal Fair Credit Reporting Act concerning arrest records.
3. Criminal history providers would not be permitted to tell a client whether the criminal records of the person under investigation include pending criminal cases.
4. This statute could be challenged as an infringement of first amendment rights.
5. The penalties imposed by this bill are excessive and don’t require any finding of negligence or intentional violation of the law.

Mr. Lemons told the committee that his coalition supports the concept of making criminal history records restricted after a period of good behavior and recommended that the committee consider establishing a listing of expunged and sealed records that would be available to companies regulated by the federal Fair Credit Act.

Representative Foley requested that Legislative Service Agency (LSA) research how other states either restrict criminal records from public distribution or expunge these criminal records from databases available to the public. The members specifically requested that procedures used in Texas, Pennsylvania, and Florida be examined. Committee members asked LSA to report their findings to the Committee at the next Criminal Law Sentencing Policy Study Committee.

Next Meeting of the Committee

Chairman Steuerwald announced that the next meeting of the Criminal Law Sentencing Study Committee will be on Thursday, September 27, 2012, at 10:00 a.m.

The Sex and Violent Offender Registry (HR 20-2012)

Steve Luce, Executive Director, Indiana Sheriffs Association, described the efforts of the Indiana

Sheriffs Association to comply with sex offender laws and requirements. He also distributed the written guidelines that sheriffs and their staffs use to register sex offenders. (Exhibit I)

The prepared remarks of Detective Jeff Shimkus, Allen County Sheriff's Department, are included in Exhibit J. During his testimony he identified problems associated with existing sex offender laws and suggested fixes for these problems.

He also made the following points during his presentation:

- The State Attorney General is the most appropriate state agency to administer the sex offender registry.
- The General Assembly should consider placing funding for the sex offender registry in a line item in the state budget.
- The General Assembly needs to examine whether the state's sex offender laws should comply with the federal Sex Offender Registration and Notification Act (SORNA)

Chairman Steuerwald reminded the committee the Legislative Council requested the Committee to study the criteria necessary to require registration on the sex and violent offender registry in HR 20.

Representative Foley suggested that a separate committee be established to examine SORNA compliance and to evaluate whether Indiana statute should comply either substantially or fully with SORNA.

Robin Miller, representing the Indiana Reform of Sex Offender Laws, testified as an advocate for changing sex offender registration laws. She stated that she is a child victim of a sex offender, and as an adult having a family member who is required to register on Indiana's Sex Offender Registry. Her testimony and the testimony of several other persons who have been affected by Indiana's sex offender laws are included in Exhibit K.

Potential Loss of Federal Funds Due to Noncompliance With the Sex Offender Registry and Notification Act (SORNA).

Brent Myers, Director of Registration and Victims Services, Department of Correction (DOC), described the development of the sex offender registry in Indiana between 1994 and 2012. Between 1994 and 2003, the Indiana Criminal Justice Institute (ICJI) administered the registry.

A similar registry was established by Indiana Sheriffs sex offender registry in January 2003.

In 2005 due to technology issues and a vendor going out of business, DOC assumed responsibility in late 2005. In July 2006 the DOC was statutorily required to manage the registry and the registration process that exists today.

In 2010 DOC partnered with the Indiana Sheriff's Association and provided them grant money from the SMART (Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking) Office. The Sheriff's Association is now using the Offender Watch Application from Watch Systems.

Mr. Myers also briefly reviewed the recently issued Cline v. Indiana by the Indiana Court of Appeals, which concerns registration requirements for certain offenders and which is one of the

reasons that the Legislative Council requested the Committee to examine the issues related to HR 20 – 2012.

Additional material included in Mr. Myers' handout includes:

- a portion of SORNA guidelines which was written to bring all states up to a minimum standard for monitoring sex offenders in all states;
- a chart showing the development of sex offender registration laws in Indiana;
- a draft document published by the SMART office that shows which sex and violent offenses specified in Indiana statutes would fit into the federal sex offender tiers;
- a 26-page checklist developed by the SMART office that Indiana officials can use to determine whether Indiana's can comply with SORNA

Mary L. Allen, Executive Director, Indiana Criminal Justice Institute, testified in regards to the potential loss of federal funds due to noncompliance with the Sex Offender Registry and Notification Act.

Executive Director Allen stated that ICJI administers the Justice Assistance Grant (JAG) funding which is now tied to SORNA compliance. It is managed by the U.S. Department of Justice (DOJ), Bureau of Justice Assistance (BJA), and the annual funding is determined by Indiana's population and crime statistics reported to the FBI. About 40% of the funding goes to state-level agencies, and 60% of the funding goes to local-level agencies.

FY 2012 was the first year that withholding was applied to the states; 10% of the portion awarded to the state-level agencies is currently being withheld in the amount of \$165,263.00.

The ICJI was notified by the Bureau of Justice to set aside funding and perhaps write a proposal to assist the state with coming into compliance with SORNA. ICJI has written the proposal to SORNA pending review at the federal level. Executive Director Allen stated the Institute was not sure what the future penalties will be in FY 2013. This determination is pending with the federal government, as well.

Representative DeLaney asked about the cost of fully complying with SORNA.

Brent Myers stated that no definitive studies exist on the cost of compliance, not only in Indiana, but in many other states as well. Mr. Myers indicated that some SORNA requirements have already been addressed. As examples, ICJI has used money from federal stimulus funding to buy palm scanners and Life Scan machines that have been installed all around the state. Mr. Myers stated he did not know the cost to be in compliance with the federal regulations.

Larry Landis asked Mr. Myers if he agreed that if the committee chose to comply with SORNA that the bulk of the financial burden would fall on local law enforcement agencies. Mr. Myers stated that there would be additional costs, but no one is in the position to say exactly what those costs could be at this point.

Rep. Delaney requested LSA to estimate the cost of complying with SORNA.

Charles Goodman described his history involving the resolution. Mr. Goodman spoke of his concerns of the individuals that should or should not be listed in the sex offender registry, Adam Walsh, and being in compliance with the federal law. Mr. Goodman recommends the funding be supported by the State Budget Agency.

Larry Landis requested that the Committee discuss at the next meeting how offenders who have completed their required time of registration can have their records removed from the sex offender registry.

Chairman Steuerwald requested that LSA draft legislation based on the suggestions of the Sheriff's Association's and to list on the agenda for the next meeting discussion of how offenders could be released from appearing on the Sex or Violent Offender Registry after they complete their ten-year registration period.

There being no further business, Representative Steuerwald adjourned the meeting at 1:30 p.m.

Exhibit A

IC 2-5-33.4

IC 2-5-33.4

Criminal Law and Sentencing Policy Study Committee

IC 2-5-33.4-1

Committee established

Sec. 1. The criminal law and sentencing policy study committee is established.
As added by P.L.220-2011, SEC.8.

IC 2-5-33.4-2

Committee membership

Sec. 2. The committee consists of fourteen (14) members appointed as follows:

- (1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, appointed by the president pro tempore.
- (2) Four (4) members of the house, not more than two (2) of whom may be affiliated with the same political party, appointed by the speaker.
- (3) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.
- (4) The executive director of the public defender council of Indiana or the executive director's designee.
- (5) One (1) person who:
 - (A) has experience in administering probation programs; and
 - (B) is a member of the Probation Officers' Professional Association of Indiana; appointed by the members of the association.
- (6) One (1) circuit or superior court judge who exercises criminal or juvenile jurisdiction, appointed by the chief justice of the supreme court.
- (7) The commissioner of the department of correction.
- (8) The chairman of the parole board.

As added by P.L.220-2011, SEC.8.

IC 2-5-33.4-3

Committee chair

Sec. 3. The chairman of the legislative council shall appoint a legislative member of the committee to serve as chair of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chair of the committee and appoint another chair.
As added by P.L.220-2011, SEC.8.

IC 2-5-33.4-4

Legislative member ceases committee membership upon ceasing membership of chamber of appointment

Sec. 4. If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the

member also ceases to be a member of the committee.

As added by P.L.220-2011, SEC.8.

IC 2-5-33.4-5

Removal of legislative member

Sec. 5. A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.

As added by P.L.220-2011, SEC.8.

IC 2-5-33.4-6

Filling vacancies

Sec. 6. If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

As added by P.L.220-2011, SEC.8.

IC 2-5-33.4-7

Committee final reports

Sec. 7. The committee shall submit a final report of the results of its study to the legislative council before November 1 of even-numbered years. The report must be in an electronic format under IC 5-14-6.

As added by P.L.220-2011, SEC.8.

IC 2-5-33.4-8

Indiana criminal justice institute staff support

Sec. 8. The Indiana criminal justice institute shall provide staff support to the committee to prepare:

- (1) minutes of each meeting; and
- (2) the final report.

As added by P.L.220-2011, SEC.8.

IC 2-5-33.4-9

Legislative services agency staff support

Sec. 9. The legislative services agency shall provide staff support to the committee to:

- (1) advise the committee on legal matters, criminal procedures, and legal research; and
- (2) draft potential legislation.

As added by P.L.220-2011, SEC.8.

IC 2-5-33.4-10

Per diem, mileage, and travel allowances

Sec. 10. Each member of the committee is entitled to receive the same per diem, mileage, and

travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

As added by P.L.220-2011, SEC.8.

IC 2-5-33.4-11

Number of votes required to take action

Sec. 11. The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including the final report.

As added by P.L.220-2011, SEC.8.

IC 2-5-33.4-12

Committee to operate under policies and procedures of legislative council, exception; payment of committee expenses from appropriations to legislative council, legislative services agency

Sec. 12. Except as otherwise specifically provided by this chapter, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this chapter shall be paid from appropriations to the legislative council and the legislative services agency.

As added by P.L.220-2011, SEC.8.

IC 2-5-33.4-13

Committee duties; committee meetings

Sec. 13. (a) The committee is established to evaluate criminal laws, sentencing laws, and policies as they relate to:

- (1) the purposes of the criminal justice and corrections systems;
- (2) the availability of sentencing options; and
- (3) the inmate population in department of correction facilities.

If, based on the committee's evaluation under this subsection, the committee determines that changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.

(b) The committee shall do the following:

(1) Conduct a continuing study of the laws relating to:

(A) the investigation of crimes;

(B) the prosecution of crimes;

(C) criminal procedures;

(D) alternative sentencing programs;

(E) the department of correction;

(F) parole;

(G) probation;

(H) community corrections;

(I) home detention programs;

(J) criminal registries;

(K) victim rights;

(L) the classification of criminal offenses into felony and misdemeanor categories;

(M) sex offenders; and

(N) juvenile offenders.

(2) Study federal requirements or incentives for states to pass certain laws or establish specific programs.

(3) Determine the long range needs of the criminal justice and

corrections systems and recommend policy priorities for those systems.

(4) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.

(5) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.

(6) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.

(c) The committee may study other topics assigned by the legislative council or as directed by the committee chair. The committee may meet as often as necessary.

As added by P.L.220-2011, SEC.8.

Exhibit B
HEA 1033 – 2012

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1033

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 24-4-18 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Chapter 18. Criminal History Providers

Sec. 1. (a) As used in this chapter, "criminal history information" means information:

- (1) concerning a criminal conviction in Indiana; and
- (2) available in records kept by a clerk of a court with jurisdiction in Indiana.

(b) The term consists of the following:

- (1) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.
- (2) Information, including a photograph, regarding a sex or violent offender (as defined in IC 11-8-8-5) obtained through sex or violent offender registration under IC 11-8-8.
- (3) Any disposition, including sentencing, and correctional system intake, transfer, and release.
- (4) A photograph of the person who is the subject of the information described in subdivisions (1) through (3).

(c) The term includes fingerprint information described in IC 10-13-3-24(f).

Sec. 2. (a) As used in this section, "criminal history provider"

HEA 1033 — CC 1+



means a person or an organization that assembles criminal history reports and either uses the report or provides the report to a person or an organization other than a criminal justice agency or law enforcement agency.

(b) The term does not include the following:

(1) A criminal justice agency.

(2) A law enforcement agency.

(3) Any:

(A) person connected with or employed by:

(i) a newspaper or other periodical issued at regular intervals and having a general circulation; or

(ii) a recognized press association or wire service;

as a bona fide owner, editorial or reportorial employee, who receives income from legitimate gathering, writing, editing, and interpretation of news;

(B) person connected with a licensed radio or television station as an owner or official, or as an editorial or reportorial employee who receives income from legitimate gathering, writing, editing, interpreting, announcing, or broadcasting of news; or

(C) other person who gathers, records, compiles, or disseminates:

(i) criminal history information; or

(ii) criminal history reports;

solely for journalistic purposes.

Sec. 3. As used in this section, "criminal history report" means criminal history information that has been compiled for the purposes of evaluating a particular person's:

(1) character; or

(2) eligibility for:

(A) employment;

(B) housing; or

(C) participation in any activity or transaction.

Sec. 4. As used in this section, "criminal justice agency" has the meaning set forth in IC 10-13-3-6.

Sec. 5. As used in this section, "law enforcement agency" has the meaning set forth in IC 10-13-3-10.

Sec. 6. (a) A criminal history provider may provide only criminal history information that relates to a conviction.

(b) A criminal history provider may not provide information relating to the following:

(1) An infraction, an arrest, or a charge that did not result in



a conviction.

- (2) A record that has been expunged.
- (3) A record that is restricted by a court or the rules of a court.
- (4) A record indicating a conviction of a Class D felony if the Class D felony conviction:
 - (A) has been entered as a Class A misdemeanor conviction; or
 - (B) has been converted to a Class A misdemeanor conviction.
- (5) A record that the criminal history provider knows is inaccurate.

Sec. 7. A criminal history provider may not include criminal history data in a criminal history report if the criminal history data has not been updated to reflect changes to the official record occurring sixty (60) days or more before the date the criminal history report is delivered.

Sec. 8. (a) The attorney general may bring an action to enforce a violation of section 6 or 7 of this chapter. In addition to any injunctive or other relief, the attorney general may recover a civil penalty of:

- (1) not more than one thousand dollars (\$1,000) for a first violation; and
- (2) not more than five thousand dollars (\$5,000) for a second or subsequent violation.

(b) Any person injured by a violation of section 6 or 7 of this chapter may bring an action to recover:

- (1) the greater of:
 - (A) actual damages, including consequential damages; or
 - (B) liquidated damages of five hundred dollars (\$500); and
- (2) court costs and reasonable attorney's fees.

SECTION 2. IC 34-28-5-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. (a) If a person alleged to have violated a statute defining an infraction:

- (1) is not prosecuted or if the action against the person is dismissed;
- (2) is adjudged not to have committed the infraction; or
- (3) is adjudged to have committed the infraction and the adjudication is subsequently vacated;

the court in which the action was filed shall order the clerk not to disclose or permit disclosure of information related to the



infraction to a noncriminal justice organization or an individual.

(b) If a court fails to order the court to restrict information related to the infraction under subsection (a), the person may petition the court to restrict disclosure of the records related to the infraction to a noncriminal justice organization or an individual.

(c) A petition under subsection (b) must be verified and filed in:

- (1) the court in which the action was filed, for a person described in subsection (a)(1); or
- (2) the court in which the trial was held, for a person described in subsection (a)(2) or (a)(3).

(d) A petition under subsection (b) must be filed not earlier than:

- (1) if the person is adjudged to have not committed the infraction, thirty (30) days after the date of judgment;
- (2) if the person's adjudication is vacated, three hundred sixty-five (365) days after:
 - (A) the order vacating the adjudication is final, if there is no appeal or the appeal is terminated before entry of an opinion or memorandum decision; or
 - (B) the opinion or memorandum decision vacating the adjudication is certified; or
- (3) if the person is not prosecuted or the action is dismissed, thirty (30) days after the action is dismissed, if a new action is not filed.

(e) A petition under subsection (b) must set forth:

- (1) the date of the alleged violation;
- (2) the violation;
- (3) the date the action was dismissed, if applicable;
- (4) the date of judgment, if applicable;
- (5) the date the adjudication was vacated, if applicable;
- (6) the basis on which the adjudication was vacated, if applicable;
- (7) the law enforcement agency employing the officer who issued the complaint, if applicable;
- (8) any other known identifying information, such as the name of the officer, case number, or court cause number;
- (9) the date of the petitioner's birth; and
- (10) the petitioner's Social Security number.

(f) A copy of a petition under subsection (b) shall be served on the prosecuting attorney.

(g) If the prosecuting attorney wishes to oppose a petition under subsection (b), the prosecuting attorney shall, not later than thirty



(30) days after the petition is filed, file a notice of opposition with the court setting forth reasons for opposing the petition. The prosecuting attorney shall attach to the notice of opposition a certified copy of any documentary evidence showing that the petitioner is not entitled to relief. A copy of the notice of opposition and copies of any documentary evidence shall be served on the petitioner in accordance with the Indiana Rules of Trial Procedure.

The court may:

- (1) summarily grant the petition;
- (2) set the matter for hearing; or
- (3) summarily deny the petition, if the court determines that:
 - (A) the petition is insufficient; or
 - (B) based on documentary evidence submitted by the prosecuting attorney, the petitioner is not entitled to have access to the petitioner's records restricted.

(h) If a notice of opposition is filed under subsection (g) and the court does not summarily grant or summarily deny the petition, the court shall set the matter for a hearing.

(i) After a hearing is held under subsection (h), the court shall grant the petition filed under subsection (b) if the person is entitled to relief under subsection (a).

(j) If the court grants a petition filed under subsection (b), the court shall order the clerk not to disclose or permit disclosure of information related to the infraction to a noncriminal justice organization or an individual.

SECTION 3. IC 34-28-5-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 16. (a) This chapter applies only to a person found to have committed an infraction.

(b) Five (5) years after the date a person satisfies a judgment imposed on a person for the violation of an infraction, the clerk of the court shall prohibit the disclosure of information related to the infraction to a noncriminal justice organization or an individual.

(c) If a person whose records are restricted under this section brings a civil action that might be defended with the contents of the records, the defendant is presumed to have a complete defense to the action.

(d) For the plaintiff to recover in an action described in subsection (c), the plaintiff must show that the contents of the restricted records would not exonerate the defendant.

(e) In an action described in subsection (c), the plaintiff may be required to state under oath whether the disclosure of records



relating to an infraction has been restricted.

(f) In an action described in subsection (c), if the plaintiff denies the existence of the records, the defendant may prove the existence of the records in any manner compatible with the law of evidence.

(g) A person whose records have been restricted under this section may legally state on an application for employment or any other document that the person has not been adjudicated to have committed the infraction recorded in the restricted records.

SECTION 4. IC 35-38-8-7, AS ADDED BY P.L.194-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. (a) If a court orders a person's records to be restricted under this chapter, the person may legally state on an application for employment or any other document that the person has not been arrested for or convicted of the felony or misdemeanor recorded in the restricted records.

(b) An employer may not ask an employee, contract employee, or applicant whether the person's criminal records have been sealed or restricted. An employer who violates this subsection commits a Class B infraction.

SECTION 5. IC 35-50-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) As used in this chapter, "Class D felony conviction" means a conviction of a Class D felony in Indiana and a conviction, in any other jurisdiction at any time, with respect to which the convicted person might have been imprisoned for more than one (1) year. However, it does not include a conviction with respect to which the person has been pardoned, or a conviction of a Class A misdemeanor entered under IC 35-38-1-1.5 or section 7(b) or 7(c) of this chapter.

(b) As used in this chapter, "felony conviction" means a conviction, in any jurisdiction at any time, with respect to which the convicted person might have been imprisoned for more than one (1) year. However, it does not include a conviction with respect to which the person has been pardoned, or a conviction of a Class A misdemeanor under section 7(b) of this chapter.

(c) As used in this chapter, "minimum sentence" means:

- (1) for murder, forty-five (45) years;
- (2) for a Class A felony, twenty (20) years;
- (3) for a Class B felony, six (6) years;
- (4) for a Class C felony, two (2) years; and
- (5) for a Class D felony, one-half (1/2) year.

SECTION 6. IC 35-50-2-7, AS AMENDED BY P.L.71-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2012]: Sec. 7. (a) A person who commits a Class D felony shall be imprisoned for a fixed term of between six (6) months and three (3) years, with the advisory sentence being one and one-half (1 1/2) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

(b) Notwithstanding subsection (a), if a person has committed a Class D felony, the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly. However, the court shall enter a judgment of conviction of a Class D felony if:

- (1) the court finds that:
 - (A) the person has committed a prior, unrelated felony for which judgment was entered as a conviction of a Class A misdemeanor; and
 - (B) the prior felony was committed less than three (3) years before the second felony was committed;
- (2) the offense is domestic battery as a Class D felony under IC 35-42-2-1.3; or
- (3) the offense is possession of child pornography (IC 35-42-4-4(c)).

The court shall enter in the record, in detail, the reason for its action whenever it exercises the power to enter judgment of conviction of a Class A misdemeanor granted in this subsection.

(c) Notwithstanding subsection (a), the sentencing court may convert a Class D felony conviction to a Class A misdemeanor conviction if, after receiving a verified petition as described in subsection (d) and after conducting a hearing of which the prosecuting attorney has been notified, the court makes the following findings:

- (1) The person is not a sex or violent offender (as defined in IC 11-8-8-5).**
- (2) The person was not convicted of a Class D felony that resulted in bodily injury to another person.**
- (3) The person has not been convicted of perjury under IC 35-44-2-1 or official misconduct under IC 35-44-1-2.**
- (4) At least three (3) years have passed since the person:**
 - (A) completed the person's sentence; and**
 - (B) satisfied any other obligation imposed on the person as part of the sentence;****for the Class D felony.**
- (5) The person has not been convicted of a felony since the person:**
 - (A) completed the person's sentence; and**



- (B) satisfied any other obligation imposed on the person as part of the sentence;
for the Class D felony.
- (6) No criminal charges are pending against the person.
- (d) A petition filed under subsection (c) must be verified and set forth:
- (1) the crime the person has been convicted of;
 - (2) the date of the conviction;
 - (3) the date the person completed the person's sentence;
 - (4) any obligations imposed on the person as part of the sentence;
 - (5) the date the obligations were satisfied; and
 - (6) a verified statement that there are no criminal charges pending against the person.
- (e) If a person whose Class D felony conviction has been converted to a Class A misdemeanor conviction under subsection (c) is convicted of a felony within five (5) years after the conversion under subsection (c), a prosecuting attorney may petition a court to convert the person's Class A misdemeanor conviction back to a Class D felony conviction.

SECTION 7. [EFFECTIVE JULY 1, 2012] (a) As used in this SECTION, "legislative council" refers to the legislative council established by IC 2-5-1.1-1.

(b) As used in this SECTION, "study committee" means either of the following:

- (1) A statutory committee established under IC 2-5.
- (2) An interim study committee.

(c) The legislative council is urged to assign the following topics to a study committee during the 2012 legislative interim:

- (1) The provisions of IC 24-4-18, as added by this act, concerning criminal history providers.
- (2) The need for any legislation to amend IC 24-4-18, as added by this act, concerning criminal history providers before IC 24-4-18 takes effect on July 1, 2013.

(d) If the topics described in subsection (c) are assigned to a study committee, the study committee shall issue a final report to the legislative council containing the study committee's findings and recommendations, including any recommended legislation concerning the topics, in an electronic format under IC 5-14-6 not later than November 1, 2012.

(e) This SECTION expires December 31, 2012.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____



Exhibit C
HR 20 – 2012



Introduced Version

**HOUSE
RESOLUTION No. ____**

Introduced by: Foley

A HOUSE RESOLUTION urging the Legislative Council to assign to the Criminal Law and Sentencing Policy Study Committee the topic of the sex and violent offender registry.

Whereas, The Criminal Law and Sentencing Policy Study Committee, established by Public Law 187-2011, should study the criteria necessary to require registration on the sex and violent offender registry, how long an individual should remain on the registry, and what constitutes relief when registration requirements have been fulfilled: Therefore,

*Be it resolved by the House of Representatives of the
General Assembly of the State of Indiana:*

1 SECTION 1. That the Indiana House of Representatives urges the
2 Legislative Council to assign to the Criminal Law and Sentencing

20122284

HR 1517/DI 84+

2012



- 1 Policy Study Committee the topic of the sex and violent offender
- 2 registry.



Exhibit D

Testimony of Terri J. Rethlake
Clerk of the St. Joseph Circuit Court
Treasurer of the Indiana Clerks Association

**Testimony before the Criminal Law & Sentencing Policy Study Committee
Regarding HEA 1033 Criminal History & Sentencing Bill
Thursday, August 23, 2012**

Good Morning! My name is Terri Rethlake and I am the Clerk of the Circuit Court of St Joseph County. I am the Treasurer of the Association of the Circuit Court Clerks of Indiana and am here to represent the Association concerning HEA 1033. Thank you for allowing me to speak to you today.

I am here to express the Clerks Association's concerns with being able to comply with the actions of this bill. We appreciate all of the hard work that went into drafting this law and we understand that the intent is to assist those who have paid their debt to society and have remained law-abiding citizens since the original offense in securing employment. These citizens, if granted restricted access, are working under the assumption that their past is masked. We are illustrating that is simply not the case.

There are many records involved when a court case is restricted or expunged. The records listed in Chapter 18 Section 1 subsection b are contained in part or total in the following court records: Chronological Case Summary (hard copy and computer); order book entries in the Record of Judgments & Orders; (hard copy, microfilm and image); flat file which contains all pleadings and the complaint or information (again both hard copy, microfilm and image); images of the above stored on CDs; images & computer file contained in case management system; microfilm which contains CCS, pleadings in flat file; complaint & information filed by prosecutor and computer system or systems. A record is easily expunged from a computer system with the push of a button; however, you cannot expunge or restrict microfilm or CDs.

Clerk's offices have many people accessing their information both in our office and online. Clerks will now have to "police" who gets access to public or not so public records. What kind of ID are we going to require from the probation departments and police departments. We have requests from out of county and out of state departments. How do we determine that the letter of request or the phone call is from a bonafide agency listed in the statute? My office does not perform searches for people. Clerks are not bonded to do them because if something should be missed we would be sued.

What about the independent or small business searchers? They are not listed in this law so therefore we would only be able to give them limited access to our records. Clerk office employees would have to be hired to retrieve copies of records for these people. They might come across an order that they are not supposed to have access to. I have 10-15 searchers everyday come into my office looking up information. Some criminal, some civil. Nevertheless, with these restrictions they will not be able to perform their jobs. The searchers are hired to do criminal searches by licensing agencies. Financial planners, insurance agents, state bar associations are just a few of those types of agencies that require a criminal background check. These agencies are not listed in the law as being able to get this information.

Another example is SEA 24 passed this session and signed into law by the governor. It requires individuals applying for a social worker, marriage & family therapist or counselor license to have a criminal history background check. Who is going to perform this background check? State police? Local law enforcement agencies?

In addition, what about people that want to run for elected office? By statute, they cannot if they have been convicted of a crime. The candidate swears under penalties of perjury on the declaration form that they have not been convicted of a crime. Under this law, you would be able to answer "no" truthfully. A county election board is not a criminal justice agency. How would they deal with a challenge if it were filed against the candidate? Where would the proof come from? News agencies?

What about school bus drivers with bad driving records or OWIs in their past? Employees that have access to millions of dollars in public funds? The requirement that their deputies qualify in the same way as the elected official could not be enforced.

Let us turn to case management systems. Clerk's offices will have to find the funding to have their computer systems re-programmed to conform to this law. Criminal justice agencies, police departments and the press will have to be allowed unlimited access to the records while the public and searchers can only have limited access to records. My system is a DOS based 1990s system that cannot be re-programmed to conform to this statute. I am in the process of converting to JTAC's Odyssey system but even that will not cure all my problems because they are not converting ALL my data to Odyssey. The data that is converted cannot be corrected, and if there is a case in my old system where a new order for restricted access is issued I will have to create a "shell case" in Odyssey and put the restricted access there. I was told JTAC's employees can only expunge information contained in the data warehouse of converted cases.

What happens when multiple charges are filed on a case? A class B felony, Class D felony and an Infraction could all be charged in a single criminal matter. How do you restrict the IF in five (5) years, the FD in eight years and leave the FB as a permanent public record?

Depending on the size of the county, the office of the clerk will probably have to hire a part-time or full-time employee to handle correcting, restricting, expunging information being dictated by this statute. Last year my employees received a 3% raise. The first in 10 years! My county and many others are on a hiring freeze because of declining revenue.

A clerk gave me an example of four (4) cases sitting on her desk waiting for her to take care of the necessary steps to remove these records from RJO's, files, etc. The cases are on film, CD and on multiple servers, at the State Archives and satellite archives warehouses. One thing we can never do is erase it from is our financial records.

Finally, this law allows the attorney general and the person harmed by a criminal history provider (clerk's office) to bring an action against the clerk for failure to update its records or disclosing information prohibited by this law. We are going to be sued for records that have been in our systems for 5, 10, 20, 50 or more years? Cases that we had no control over. Cases that incorrect information has been typed on dockets, inputted into computer systems...etc by employees & elected clerks long gone. How is that fair? Again the county will have to spend money to hire an attorney to represent the clerk in these cases. Where does this money come from ...? cash strapped county general funds.

With all these problems, the Circuit Court Clerks just cannot comply with this statute. Too many places contain these records. Too many people need access to these records. It will cost money for computer programming, lawsuits, and extra employees. What you are hoping to accomplish with this law is not worth losing transparency when it comes to access of county government records. In an age where the citizens of our state are becoming increasingly, distrustful of government and the "secrets" they keep behind closed doors, why are we restricting access to public records.

**Testimony before the Criminal Law & Sentencing Policy Study Committee
Regarding HEA 1033 Criminal History & Sentencing Bill
Thursday, August 23, 2012**

Handout

Clerk records involved:

- Chronological Case Summary aka Docket Sheet (Hard copy, image, microfilm and computer)
- Order book (Hard copy, computer image, microfilm)
- Flat file (Hard copy, computer image, microfilm)
- Stored images or microfilm
- Case management or computer systems

Access to records:

Clerks will have to "police" who gets to look at these records. What kind of ID are we going to require from the press corps, probation depts. (out of county and in county) and police depts. My office does not perform searches for people. We tell them to hire a searcher. Clerks are not bonded for searches because if something should be missed we would be sued.

Independent or small business abstractors and searchers allowed only limited access to criminal cases

Licensing agencies not allowed access (attorneys, insurance agents, financial planners, etc)
Challenged candidates filing for office – no access to County or State Election Board

Computer systems:

Software will have to be tweaked to allow criminal justice agencies, police depts., and press corps unlimited access to computer records and other agencies, the public and or private searchers limited access to records. My system is a DOS based 1980s system that cannot be re-programmed for this. I would have to restrict access to my whole system. There could be costs to county offices involved.

Microfilmed/Imaged records:

You cannot redact records that have been microfilmed or imaged.
Example: multiple charges on one felony case. One is a Class B felony another a Class D felony and the last one an Infraction. How do we restrict the infraction in 5 years the D felony in 8 years and leave the Class B a permanent public record?

Volume Courts:

Depending on the size of the county, a new person would have to be hired to handle expungements, restricted access, and correction of records in computer systems.

SEA 24:

Passed this session and signed by Gov requires individuals applying for a social worker, marriage & family therapist or counselor license to have a criminal history background check. Who is going to perform this background check? State police?

Clerk liability for inaccurate records that have been in the office for years and years. Current clerk had no control over the recording of this information.

Exhibit E
Testimony of Danielle Coulter
Deputy Director of Government Affairs
Association of Indiana Counties

Criminal Law and Sentencing Policy Study Committee
August 23, 2012 Testimony Re: IC 24-4-18 (HEA 1033, 2012 Session)
Danielle Coulter, Association of Indiana Counties

The AIC appreciates and respects the good intentions of this bill, but when you look at the statute in terms of logistics, efficiency, transparency, and liability from a county clerk's perspective, it is simply not feasible to carry out these provisions.

There are numerous records involved when a case is restricted or expunged. While computer records can be more easily restricted or expunged with a few mouse clicks, records that have been on file for many years in hard copy, microfilm, image, or CD form cannot be easily restricted or expunged. Currently, records contained in these forms can be accessed by various individuals and agencies through the clerk's office via a public access terminal or by manually searching through them. With this statute in place, that will no longer be the case. Individuals or agencies will have to make requests for specific records from now on, and many clerks are requiring that such requests be made at least 24 hours in advance in order for them to make the proper adjustments when it comes to the records.

This leads to the concerns about logistics and efficiency. Clerks and their staff will now be responsible for "policing" records, and ensuring that an individual or agency that is requesting a record is authorized to do so. If the individual or agency is not authorized to retrieve the record themselves due to limited access, then the clerk or an employee would be responsible for restricting access to certain parts of the record and then providing that record to the requestor. This will obviously require a great deal of time and manpower, forcing the clerks to hire additional staff to meet this demand, at a time when their budgets are already so tight.

Case management systems will also have to be updated or changed to meet the demands of this statute. Many clerks have old case management systems, so having to digitize old records to allow certain people unlimited access and other people restricted access will be very costly in terms of time and money to the clerk's office. Monroe County Clerk Linda Robbins estimates that this will cost her office roughly \$250,000, between digitizing records and hiring an additional full-time employee to solely process records requests.

With so many different case management systems (CMS) used by the clerks (JTAC – which is the state's CMS, systems offered through private vendors, and systems that are even homegrown in the county), it will be difficult to ensure that each CMS is accurately restricting or expunging these records. And in the case of the JTAC CMS, any records that have been converted from a previous CMS that need to be expunged can only be expunged by employees of JTAC and not the clerk – this could be very inefficient, as more and more clerks are being forced to switch to JTAC.

The last issue is the liability of the clerks. If multiple charges are filed on a single case, or if information was incorrectly inputted on old cases, and the clerk or an employee unknowingly or unintentionally fails to restrict access to a record, is the clerk liable? There are too many variables when it comes to old records contained on various forms of media and what information was included on those records, and it is all too likely that something could slip through the cracks (through no fault of the clerk or his/her staff) and still end up in the public's hands.

Clerks and their staff obviously have a lot of hurdles with this statute in its current form, in terms of complying with the provisions while also maintaining efficiency in their offices; dealing with additional costs and manpower; and still providing transparency and public access to their constituents, all while attempting to follow the statute to the letter so as not to be held liable. The AIC appreciates the committee's consideration of our concerns.

Public Records Requests Will Take Longer In Monroe County

By HANNAH BOLTON

Posted August 20, 2012

New procedures regarding public access to files in Monroe County will slow the way the public obtains some information about criminal cases.

Starting Monday, the public must request a file at least 24 hours in advance before viewing it.

The change arises from two recent pieces of legislation: one which expunges some criminal records after five years and another which restricts access to records of court cases where defendants were charged with a crime but never convicted or had their convictions vacated.

Monroe County Clerk Linda Robbins says her office will now limit public access in an effort to comply with the new privacy regulations.

"The problem with this is we will have a file with just the confidential sticker on it. But that indicates that there was a file," says Robbins, "and the public can't know that there was ever a file."

Robbins says the changes will cost her department around \$250,000 – mostly for digitizing of all the records and hiring a full-time employee to process record requests.

Exhibit F
Testimony of Luke Rollins
Senior Manager State Government Affairs -
Midwest Reed Elsevier Inc.



Elsevier
LexisNexis
Reed Business

To: Representative Greg Steuerwald
40th House District, House of Representatives
Chair, Criminal Law & Sentencing Policy Study Committee
State of Indiana

Members of the Criminal Law & Sentencing Policy Study Committee
State Of Indiana

From: Luke D. Rollins
Sr. Manager, State Government Affairs-Midwest, Reed Elsevier Inc.

Date: Thursday, August 23, 2012

Mr. Chairman and Members of the Committee, on behalf of Reed Elsevier and its division, LexisNexis, thank you for this opportunity to begin the process of working with you to address concerns regarding the new regulations placed upon the background screening businesses by IN HEA 1033-2012.

Reed Elsevier is one of the country's leading publishing and information companies. LexisNexis is a division of Reed Elsevier, and LexisNexis is recognized as a leading provider of authoritative legal, public records, and business information. LexisNexis Screening Solutions, Inc. provides FCRA regulated Consumer Reports to employers, volunteer/non-profit organizations, consumers, and multi-family tenant screening entities. The Consumer Reports may include employment history verifications, education history verifications, criminal history, motor vehicle driving history, along with other public record information that may be required by applicable law or relevant for a particular industry sector.

LexisNexis Risk Solutions provides a variety of useful services for government, law enforcement and business customers including: identity theft prevention and detection through identify authentication and verification; detecting and preventing fraud across many industries and government services; locating suspects; finding missing children; preventing and investigating criminal and terrorist activities. LexisNexis Risk Solutions also services the employment and residential screening markets.

I have brought with me written testimony to submit to the committee from additional
1150 18th Street, NW, Suite 600, Washington, DC 20036 (202) 857-4643 (phone) (202) 857-8294 (fax)

background screening businesses, including CoreLogic and West Thompson Reuters. As well, I respectfully submit the written testimony from two associations, the Coalition for Sensible Public Records Access (CSPRA) and the Consumer Data Industry Association (CDIA).

Our peer in the background screening industry, BackgroundChecks.com, is also represented here today by Chris Lemons, Executive Vice President & General Counsel. Chris will present after me and will provide additional analysis, commentary and will provide specific examples that will provide you a solid picture of questions, concerns and unintended consequences of IN HB 1033.

IN HB 1033 was initially non-germane to the background screening industry. Late in the 2012 Indiana legislature, IN HB 1033 was amended to create a new regulatory framework for background screening businesses. Our government affair counsel, Joe Loftus, was able to work with the conference committee to ensure a study committee on this bill and a delayed effective date of July 1, 2013. We are thankful for the opportunity this study committee provides to have a discussion on IN HB 1033.

Our goal is to work with the chair and the committee to improve the clarity, consistency and workability of the new regulation for background screening businesses. As well, we hope to work with you to help background screening businesses comply with the regulation.

We have identified several themes that we wanted to bring to your attention that we would like to explore possible improvements:

Section 1:

- 1) Ensure this rule is applicable only to Indiana residents.
- 2) Ensure this rule applies to Indiana state courts and not federal courts.
- 3) Preserve the ability to service markets that need non-conviction/pre-conviction information to satisfy applicable law or industry regulations.

Section 2:

- 1) Improve the definition of "criminal history provider".
- 2) Ensure a consistent use of "compile".
- 3) Ensure the ability of a criminal history information provider to provide information to law enforcement agencies.
- 4) Ensure the ability to provide information for fraud detection and prevention of both private sector businesses and government services.
- 5) Ensure the ability for case law, legal research or docket collection to occur without triggering criminal history information provider regulation.

Section 3:

- 1) Improve upon the broad definition of "criminal history report".
- 2) Clarify this regulation pertains to employment and housing screening performed on in Indiana residents.
- 3) Clarify this regulation also pertains to occupational certificates, boards or commissions of the state who are required to have background screening.
- 4) Clarify this regulation also applies to insurance, credit, or other financial services to be provided to a person residing in Indiana.

Section 6:

- 1) Ensure a criminal history information provider can provide information on a pending case.
- 2) Preserve the ability to service markets that need non-conviction/pre-conviction information to satisfy applicable law or industry regulations.
- 3) Clarify the marking of expunge or removal of expunged records from public access.
- 4) Clarify that information restricted by this section, but is required to be provided under federal or state law, can be provided.
- 5) Clarify that businesses that report on docket information is not considered a criminal history data provider.
- 6) Clarify that businesses that are engaging in legal research are not considered a criminal history data provider.

Section 7:

- 1) Provide consistent use of “criminal history information” versus “criminal history data”.
- 2) Address “material” changes to a record as opposed to any changes.

Section 8:

- 1) Reconsider holding a business liable for changes in records when the screening business may not be notified of changes to the record.
- 2) Explore the possibility of allowing a business to correct an unintentional mistake before legal actions commence.

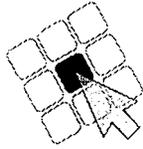
We welcome the opportunity to provide the committee with specific changes that would help industry comply with the new regulation.

Thank you for this opportunity to begin the conversation with the committee on IN HEA 1033-2012. As well, I look forward to working with you over the next few months.

Respectfully submitted,

Luke D. Rollins
Sr. Manager of State Government Affairs-Midwest
Reed Elsevier

Exhibit G
Testimony of Chris Lemons,
Executive Vice President &
General Counsel
of BackGroundChecks.com



backgroundchecks.com[®]

Now you know.

August 23, 2012

The Honorable State Rep. Greg Steuerwald
Chair, Indiana Criminal Law & Sentencing Policy Study Committee
200 West Washington Street
Indianapolis, Indiana 46204

Re: House Bill 1033 concerning Criminal History Providers

Dear Representative Steuerwald:

I write on behalf of backgroundchecks.com to provide our perspective on House Bill 1033 concerning criminal history providers.

We are a leading provider of background check services for screening of employees, volunteers, tenants, and others. Among our diverse clients, we have a large number of companies that are in the same line of business as we are. That is, they use our services to provide background screening for employment, volunteer, tenant, and other purposes. Primarily, we provide them a check of our national database of criminal history records. This gives them a quick way to find jurisdictions in which they need to conduct deeper criminal history searches. While we do not claim to speak for our clients, we are aware of their concerns related to House Bill 1033 and largely share them.

This letter details those concerns, by section within newly created Chapter 18.

1(a): Application to federal courts

It is unclear to us whether the legislative intent of this section was for the term "criminal history information" to include information from the federal courts. This is a problem with each of the two parts of this section. We suggest expressly excluding federal records from both parts.

2(a): Relationship between provider and report

This section is unclear to us on whether the term "criminal history provider" is a relationship that the entity has to a specific report or is a status that the entity has regardless of the report. This is important because it defines the scope of who is responsible for the report. As written, the language could treat an employer who prepares any criminal history reports as a "criminal history provider" for reports that it purchases as an end-user. We therefore suggest limiting the term "criminal history provider," with respect to a criminal history report, to the person or organization that compiled the report.

2(a): Exception for reports to criminal history providers

As I noted above, we provide criminal history information to Indiana companies who use that information to prepare reports to employers. The bill will require us to curtail certain services that we currently provide to Indiana end-users. But it does not serve the purpose of the bill to require us to curtail services to entities that are themselves to be regulated as "criminal history providers." Just as the current definition excludes anyone providing a report to a criminal justice agency, we suggest excluding, from the definition of "criminal history provider," anyone who provides a report

to another criminal history provider. The final criminal history provider in the chain will have responsibility for the report.

3: Breadth of use limitations

This provision is so broad that it could very well be applied in ways that would surprise the Legislature. For example, the term “criminal history provider” is broad enough to include community organizations such as home-owners associations, neighborhood patrol groups, and church organizations. If the use limitation remains as broad as it is, then one of these organizations that itself checks the Indiana sex offender registry will have to comply with this statute for its own internal use of the resulting report. We doubt that this was something the legislature intended. Typically, similar statutes impose duties for reports based on the report being used for employment, housing, credit, insurance, or similar economic benefits.

Further, these use limitations are not connected to the state of Indiana. Much of the statute relates to the use of Indiana information. But we assume that the Legislature is not attempting to regulate transactions outside of the state.

We therefore propose that the committee focus the use limitations on reports compiled for the purpose of determining an individual's eligibility for:

- Employment located in Indiana
- Housing located in Indiana
- A license or certification issued by the state of Indiana
- Insurance, credit, or other financial services for a person residing in Indiana

In particular, we would draw your attention to the implications of retaining “character” and “eligibility for participation in any activity or transaction.” These inclusions would mean that, for example, the law would apply to schools deciding whether to admit an individual into the property and to volunteer organizations screening volunteers. In both of these examples, the law would prevent the organization from obtaining cheap, immediate check for a very limited purpose; both of these kinds of organizations typically have very limited funds and organizational scope, so they would probably have to stop obtaining criminal checks in these circumstances.

6: Legally required use

The general prohibition in this section does not acknowledge that applicable federal or state law may require the user of the criminal history report to obtain information that is otherwise prohibited. In the situation where applicable law requires the user to obtain the information (for example, for banks regulated under the Federal Deposit Insurance Act), these prohibitions will simply require the user to obtain the information directly, which will result in less accurate reports at higher cost. We therefore suggest an exception to all of these prohibitions where applicable federal or state law or regulation requires the user of the report to obtain or act on the prohibited information.

6: Non-conviction records

One restriction in section 6(a) and 6(b)(1) are a set of prohibitions non-conviction information appearing in criminal history reports. This restriction is problematic in two ways. First, this provision appears to govern a subject matter that is preempted by the federal Fair Credit Reporting Act. Specifically, 15 U.S.C. § 1681t(b)(1)(E) prohibits the states from regulating any subject matter that 15 U.S.C. § 1681c regulates. That section, in turn regulates when a consumer reporting agency may report records of arrest and other items of adverse information, including records of

conviction. If the FCRA does pre-empt the new statute, then the statute is invalid. Likewise, the restriction appears to prohibit truthful speech about a matter of public record, which is problematic under the First Amendment. If this restriction is struck down on either ground, then presumably, the remainder of the bill would also fall because it lacks a severability clause. Removing this restriction from these two sections entirely would avoid this problem.

6(a): Pending cases

As written, this provision would prohibit a criminal history provider from telling its client that the subject of the report is a wanted fugitive or has a pending criminal case that could result in a conviction. If it is not deleted entirely, we suggest allowing criminal history providers to report pending criminal cases. We would suggest the same change to section 6(b)(1).

6(b)(1): Prohibition against complete report

This provision prohibits reporting infractions, arrests, and charges that do not result in convictions. We are uncertain whether the wording of this section prohibits the reporting, in the context of a criminal case that resulted in a conviction, of the individual counts other than the ones for which the defendant was convicted. If it does, the wording of this provision may actually harm its intended beneficiaries by prohibiting the reporting of the complete conviction record. Assume that an individual was charged with two crimes and was convicted of one, as part of a very typical plea bargain. Many employers ask applicants about their criminal history. Many applicants are unclear about what offense they were actually convicted of, and when the conviction occurred, especially after a few years have passed. The result is that many applicants self-report a conviction that is more severe than the one that occurred, and incorrectly report the date of the conviction. Where the background check report does not reveal the dismissed counts that were part of the case in which conviction occurred, the employer has no way of telling that the self-reported conviction is not for a completely different case.

Further, this prohibition may fall afoul of the federal Fair Credit Reporting Act, which will almost always apply to "criminal history reports" that are used for employment. The FCRA requires a consumer reporting agency's report to be complete. Where a consumer reporting agency reports a conviction, it may be required to report the other counts in the same case.

We therefore suggest modifying this provision to prohibit reporting of an infraction, arrest, or charge in a case that did not result in conviction or is not still pending.

6(b)(2): Expungements

As a company, we actively promote the use of expungements to help individuals recover from the effects of their past criminal conduct. Along these lines, we were a founding member of a national expungement clearinghouse to help individuals speed the removal of expunged records from private databases like ours.

One problem that companies like ours encounter is that courts sometimes order a record to be expunged, but then do nothing to change their records. We therefore, suggest changing this section to indicate that the prohibition applies to expunged records when the court either marks the record as expunged in its public record index or makes the record unavailable to the public. As the Legislature appears to recognize, the best practice for the courts would be to make those records completely non-public. We encourage the Legislature to continue to move the courts in that direction.

6(b)(3): Restricted records

This section potentially places an inappropriate burden on criminal history providers because it does not require that the fact of a restriction be apparent on the public record. For example, a court could simply adopt a local rule designating certain record types as restricted, without marking them or making them non-public. We therefore suggest that this provision be limited to a situation where the court marks the record in its public record index as being non-public or makes the record unavailable to the public.

7: Updating records

We have two comments on this section.

The first is that it will effectively end the practice, permitted under the federal Fair Credit Reporting Act, of reporting criminal history information immediately out of criminal record databases. Instead, the background screening company must re-confirm the information in the record. In the vast majority of cases, the information has not changed. The effect of this will be to significantly increase the cost of responsible background screening for Indiana employers. We do not take a position on whether this is wise public policy. We simply want to ensure that you are aware that it will force Indiana employers to choose between higher hiring costs and higher liability for negligent hiring.

Our second comment is that the provision as drafted prohibits conduct that results in no significant difference for a specific report. For example, suppose that a criminal history provider fails to check a record against the public record, but that information has not changed. We assume that this should not give rise to a lawsuit. But the language makes this a literal violation because the data "has not been updated." Likewise, the provision creates liability where the change in the record is immaterial (for example, adding court dates, eye color, or the like). To fix this unintended consequence, we suggest changing the prohibition so that it applies "if criminal history information fails to reflect material changes" instead of when "criminal history data has not been updated to reflect changes."

We also note that the section uses the undefined term "criminal history data." We suggest that "criminal history information" was the intended term.

8: Liability

This section includes a number of remedial provisions. While we believe that compensating individuals for actual damages arising from negligent or intentional violation of the statute would be fair, the section as written goes well beyond that remedy and is unduly punitive.

First, this section is a strict liability statute. Unlike under the federal Fair Credit Reporting Act or other state laws on the same subject, a criminal history provider will be liable whether it acted reasonably and in good faith, or negligently, or intending to violate the law. We believe that this treatment is unduly punitive and will drive Indiana-based criminal history providers out of business.

Second, the statute provides statutory damages of \$500 in the absence of any actual damages. It is unduly punitive to award damages where none have been suffered, especially when the statute does not require a finding of negligent or intentional violation of the law.

Third, the statute implicitly accords no weight to the important public benefits of background screening when balanced against the potential harm from background reports. In particular, the statute appears to allow liability for pure emotional distress and does not require an individual who claims harm to use existing procedures to correct an incorrect report. Given the public's interest in using background checks to protect vulnerable populations, we believe it reasonable for the subject of the report only to expect compensation for economic losses and to use readily available processes to mitigate them.

Finally, we note that the attorney's fees provision is unilateral. While an individual may recover attorney's fees based on success of the claim, a criminal history provider may not recover its attorney's fees based on failure of the claim.

We suggest the following kinds of changes to address these imbalances:

- Imposing civil penalties and liability only where the criminal history provider negligently violates the law or intends to violate the law.
- Eliminating liquidated damages in favor of punitive damages where the criminal history provider intends to violate the law.
- For civil penalties, treating all violations resulting from a common pattern or practice as a single violation, but increasing the penalty for violation of a previously entered injunction.
- Eliminating liability where the only claim is for emotional distress or embarrassment.
- Eliminating liability where either (a) the claimant fails to request the criminal history provider to re-investigate the report's compliance with the law or (b) the criminal history provider corrects the report as requested within 30 days after being requested to reinvestigate.
- Allowing criminal history providers to recover court costs and attorneys' fees as a prevailing party.

As a final note, we would like to reiterate our support for the portions of the bill that make certain criminal history records non-public after a period of good behavior, court action, or both. We would also encourage the Legislature to consider requiring the courts or a state agency to make available a listing of expunged and sealed records, like Pennsylvania and Texas do. Companies regulated under the federal Fair Credit Reporting Act regularly use these files to remove expunged and sealed records from private databases. The national expungement clearinghouse that we formed can assist the courts in distributing this information only to genuine consumer reporting agencies who have contractually promised not to use that information for any other purpose.

Thank you for the opportunity to participate in the consideration of this legislation.

Respectfully submitted,

Chris Lemens
General Counsel

Exhibit H
Other Written Comments from
Coalition of Sensible Public Records Access



COALITION FOR SENSIBLE PUBLIC RECORDS ACCESS

August 16, 2012

To: Members of the Indiana State Senate and House
Re: HB 1033

The Coalition for Sensible Public Records Access (CSPRA) is a non-profit organization dedicated to promoting the principle of open public record access to ensure individuals, the press, advocates, and businesses the continued freedom to collect and use the information made available in the public record for personal, commercial, and societal benefit. It is CSPRA's belief that the records of how our society governs itself at all levels and manner of government ought to be open and accessible to all.

Public records are a critical source of the truth. When open and accessible, they are heavily relied upon for advocacy, accountability, commerce, public safety, and newsgathering. They provide the truth about the behavior of our residents, the ownership of property, and the activities that influence the government. In short, they mimic what people living in smaller towns and communities in free societies have known and relied upon for centuries.

A serious threat to the truth is redacting parts or restricting use of a person's criminal record as HB 1033 does. We understand that the concern is that America has criminalized too much behavior and over-incarcerated its population, especially minority males. The desire is to give a convicted criminal a better chance at reintegration into society. We applaud the goal, but not the method. HB 1033 goes beyond traditional limitations such as insurance use or expunging juvenile records and includes a wide variety of crimes and behaviors and limits the truth of these events for various societal purposes such as employment, housing, and other forms of risk management. It even criminalizes the act of asking about potentially relevant criminal behavior covered by the law.

There are numerous legitimate uses of the truth of someone's past criminal behavior. For example, many laws require a criminal background check for purposes such as employment, licensing, access to secure facilities, and work with vulnerable populations such as children. Reviewing a person's criminal history is also a legitimate part of an assessment of the risks a person presents and the likelihood of their success in an endeavor. These include such things as:

- Will the past behavior be repeated?
- Was the person's failure in judgment transient or persistent?
- Did the person's behavior lead to ill-spent time and major gaps in their work and life experiences?

- Do they have less valuable work and life experiences because they did not get such experiences from the corrections system?
- Have they learned from their mistakes and become stronger as a result?
- How will they impact customers they serve, co-workers, neighbors, and those that depend on them?

Limiting access to the criminal record does not mean the crime is not remembered by the victims or an important part of an ex-offenders life. Many employers know this and strike a good balance between hiring ex-offenders and rejecting them for their risks or lack of qualifications. There are many more jobs that they could hold, but they need better education, substance abuse treatment, job training, and reintegration services from the corrections system to qualify for them. Criminal justice reform, sentencing reform, and a better balance between punishment and rehabilitation are needed. Such efforts will be more achievable and effective in addressing this problem than trying to expunge history or have government make risk management and qualification decisions for all employers.

When we launch down the slippery slope and say when and how we can know and use the truth of a criminal conviction, how will we know when to stop? If we cannot as individuals and as a society speak and think freely about the truth as our judges and juries find it, what is left of the public part of the public record and the truth it contains? We encourage you to reconsider HB 1033 and make changes that allow the truth of public records to be known and used with a very few and carefully crafted exceptions that narrowly address specific and important public needs.

Thank you giving for your consideration of our input.

Richard J. H. Varn
Executive Director
Coalition for Sensible Public Records Access
620 42nd St
Des Moines, IA 50312-2732
Email: rjmvarn@msn.com
Office: (515) 255-3650
Cell : (515) 229-8984

A non-profit organization dedicated to promoting the principle of open public record access to ensure governments, consumers, and businesses the continued freedom to collect and use for public, personal, and commercial benefit the information made available in the public record.



Writer's Direct Dial: 202-408-7404
Writer's Email: rlooby@cdiaonline.org

August 23, 2012

The Honorable State Rep. Greg Steuerwald
Chair, Indiana Criminal Law & Sentencing Policy Study Committee
Indianapolis, IN 46204

Re: House Bill 1033, Criminal History Providers

Dear Chairman Steuerwald:

I write on behalf of the Consumer Data Industry Association (CDIA) to offer our perspective on Indiana House Bill 1033, relating to criminal history providers.

By way of background, CDIA was founded in 1906 and is the international trade association that represents approximately 200 consumer data companies. CDIA members represent the nation's leading institutions in credit reporting, mortgage reporting, check verification, fraud prevention, risk management, employment reporting, tenant screening and collection services.

CDIA members are good stewards of the data they maintain, including criminal history information. They are heavily regulated by the federal Fair Credit Reporting Act (FCRA). The FCRA has been in place since 1971 and it has grown and changed with the times. In 2003, Congress substantially overhauled the FCRA to enact some of the most far-reaching consumer protections for consumers.

As your committee begins the important task of discussing the use and availability of criminal history information and criminal history providers, we encourage you to keep this in mind – federal laws are already in place today, to require maximum possible accuracy of criminal history information that is provided by consumer reporting agencies. Additionally, your committee should consider that sections 6 and 7 of Indiana House Bill 1033 are preempted as it relates to the subject matter under FCRA section 605.¹

While CDIA applauds the intentions of legislators to create a statewide standard for the expungement of criminal records, we believe that the enhanced regulation on criminal history providers is unnecessary given the vast protections available to consumers under federal law.

The FCRA governs consumer reports, regulates consumer reporting agencies, and protects consumers. Under the FCRA, criminal history information often qualifies as a consumer report. Consumer reporting agencies are required to maintain reasonable procedures to assure maximum possible accuracy.²

¹ U.S.C Sec. 1681c

² *Id.*, 1681e(b).

Here are but a few examples of the protections offered by the FCRA:

- Those that furnish data to consumer reporting agencies cannot furnish data that they know or have reasonable cause to believe is inaccurate, and they have a duty to correct and update information.³
- Consumers have a right to dispute information on their credit reports with consumer reporting agencies or lenders and the law requires dispute resolution in not more than 30 days (45 days in certain circumstances). If a dispute cannot be verified, the information subject to the dispute must be removed.⁴
- A consumer reporting agency that violates federal law is subject to private rights of action, enforcement by the Federal Trade Commission (FTC), and state attorneys general.⁵⁶

Indiana's criminal history providers have been well regulated and consumers have been well-protected by the FCRA. Further regulation of criminal history providers is both unprecedented and unnecessary in light of existing protections. We hope that this information is helpful to your committee as it continues the discussion of criminal history providers. We remain willing to serve as a resource about the industry in an effort to work together to craft sound public policy.

Sincerely,



Ramon O. Looby
Senior Manager, State Government Affairs

³ *Id.*, 1681s-2(a)(1)-(2).

⁴ *Id.*, 1681i(a)(1), (5).

⁵ *Id.*, 1681n, 1681o, 1681s.

⁶ Bureau of Consumer Protection, (<http://business.ftc.gov/blog/2012/08/where-hireright-solutions-went-wrong>) (last visited August 8, 2012)



THOMSON REUTERS

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August 23, 2012

The Honorable State Rep. Greg Steuerwald
Chair, Indiana Criminal Law & Sentencing Policy Study Committee
Indianapolis, IN 46204

Re: House Bill 1033, Criminal History Providers

Dear Chairman Steuerwald:

On behalf of Thomson Reuters, thank you for convening an important discussion of Indiana House Bill 1033 relating to criminal history providers. As the home of Westlaw®, we have been a trusted source of information collected from the U.S. judicial system for more than 100 years. I would like to share Thomson Reuters' perspective about the use and availability of criminal history information and the desire to create a statewide standard for the expungement of criminal records.

Thomson Reuters provides high-quality legal, regulatory and business information that helps our customers conduct their daily activities. Westlaw Classic and WestlawNext, our core online legal research services, as well as our CLEAR (Consolidated Lead Enforcement and Reporting) product, play a vital role in supporting government, law enforcement, law firms and corporate fraud departments that use our information services for: investigating fraud, preparing for litigation (e.g., locating witnesses), finding missing children, and preventing and investigating criminal and terrorist activities. We are able to support important government functions because of the extensive public records information retrieval service that we offer. We have many customers in the State of Indiana, particularly in the law enforcement and government sectors.

Thomson Reuters fully supports efforts to create a statewide standard for the expungement of criminal records. As a provider of critical legal and business research information, we are concerned that the bill may have unintended consequences. As written, the onus for correcting a public record may be put on the distributor of the public record as opposed to the source of the record that has access to updated information. We believe that the more effective solution will be to create and enforce a uniform process of expunging records and communicating those expungements to the public, as well as to providers of research solutions such as Westlaw and CLEAR.



THOMSON REUTERS

We greatly appreciate the opportunity to provide our general thoughts on this important legislation. We remain a willing resource and want to support effective policy on this important topic.

Sincerely,

Sharon Sayles Belton
Vice President,
Government Affairs and Corporate Responsibility



7300 Westmore Rd., Suite 3
Rockville, MD 20850

August 23, 2012

The Honorable Greg Steuerwald
Chair, Criminal Law and Sentencing Policy Study Committee

Re: Indiana House Bill 1033
Criminal History Providers

Dear Chairman Steuerwald:

These comments to HB 1033 are respectfully submitted on behalf of CoreLogic SafeRent, LLC ("SafeRent"), a wholly owned subsidiary of CoreLogic® (NYSE: CLGX) and one of the nation's leading providers of screening and risk management services. SafeRent provides credit performance information and other information derived from various public civil and criminal record sources to assist in the assessment of relevant financial and safety risks of applicants. SafeRent also operates as a fully regulated "consumer reporting agency" under the federal Fair Credit Reporting Act ("FCRA").

SafeRent understands the underlying and laudable objectives sought by HB 1033. However, we believe the legislation in its current form will actually be counterproductive and serve to undermine the best interests of Indiana's citizens. In particular, HB 1033 seeks to restrict truthful and relevant information relating to financial and safety risks from landlords and employers. By restricting such truthful and relevant information, HB 1033 will likely encourage less desirable and less accurate applicant screening behaviors. HB 1033 also damages the delicate balance of interests already carefully struck by the current federal regulatory scheme.

In particular, HB 1033 restricts the availability of an entire class of relevant criminal public records frequently used by landlords and employers for the appropriate and accurate assessment of financial and safety risk in Indiana's residential communities and places of employment. The practical effect of HB 1033 will be to incentivize some of Indiana's employers and landlords to rely upon alternative decision-making practices that are less accurate and less accountable, such as online search engines and social media. These searches are fast, simple, largely undocumented, rife with error, and often done on an ad hoc or inconsistent basis. Moreover, they occur largely without the involvement of a consumer reporting agency, which is required under the FCRA to "*follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.*" The FCRA also restricts the purposes for which these reports may be used, regulates the manner and conditions for preparation and access to these reports, mandates the procedures a consumer reporting agency must follow in response to assertions of inaccuracy, and provides for substantial and meaningful penalties in circumstances of non-compliance. In short, HB 1033 will encourage alternative decision-making practices that are far less accountable as to the accuracy of their results and remove from an applicant's visibility even the fact of their occurrence.

HB 1033 produces other incentives injurious to Indiana's citizens. Of particular concern is the public disclosure restriction of "vacated" judgments. It is reasonable to assume that as a result of this legislation, "vacated" judgments will now become of greater importance to defendants and criminal defense attorneys who will routinely, and likely successfully, negotiate for an agreed upon date for this status in plea agreements.

In conclusion, Indiana's citizens deserve the full benefits that public access to criminal records can provide when assessing financial and safety risk. Indiana's citizens should not be asked to bear the risk of financial loss or physical injury simply because a well-intentioned but problematic piece of legislation. In addition, consumer reporting activity is already heavily regulated by federal and state law, delicately balancing the interests of consumers, commercial entities and public policy. HB 1033 disrupts this careful balance and threatens to produce consequences far worse than the ones it seeks to cure.

SafeRent appreciates your consideration of these comments. As always, we remain open to assisting you with any additional information you may require on this subject.

Steven Flack
Vice President, Consumer Data
301-881-3400
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Exhibit I
Materials Submitted by
Steve Luce, Executive Director
Indiana Sheriffs Association

RECOMMENDED SEX AND VIOLENT OFFENDER REGISTRATION
PROCEDURES

INDIANA SHERIFFS' ASSOCIATION SVOR COMMITTEE

**** This document does not override any current policy or procedures currently in effect with local jurisdictions. This is merely a guide to assist local law enforcement agencies in establishing their own procedures. ****

THIS DOCUMENT HAS BEEN DRAFTED BASED ON CURRENT 2010 INDIANA REGISTRATION LAWS AND WILL BE AMENDED AS LAWS AND CASE LAW CHANGE.

THE READER IS CAUTIONED TO DISCUSS THIS DOCUMENT WITH THEIR AGENCY'S LEGAL ADVISOR PRIOR TO IMPLEMENTING ANY POLICY.

I. PURPOSE

This document has been drafted to assist local law enforcement agencies in establishing their own registration procedures for processing Sex and Violent Offender Registrants. This document contains procedures that have been written to foster a standardized registration process across the State of Indiana to ensure that all offenders are advised of their obligations under the law and held accountable to those obligations uniformly across the state.

II. POLICY

Indiana codes 11-8-8, 36-2-13-5.5, 35-42-4-10, 35-42-4-11, 35-42-4-12 and 35-38-1-7.5 detail the obligations of local law enforcement, IDOC, and persons required to register as sex or violent offenders in Indiana. This guide has been drafted based on those statutes so that registration procedures can be practiced uniformly across the state.

This guide outlines registration procedures that should be used with the OffenderWatch (OW) software program. All local law enforcement agencies shall enter offender information into OffenderWatch which in turn shall update the Indiana Sex and Violent Offender Registry public web site established under IC 36-2-13-5.5.

The OffenderWatch database shall link all 92 counties and allow agencies across the state to share information about sex and violent offenders.

The software application will have certain "required fields" that must be entered for each offender. These fields will be detailed in other documents and future trainings. In addition to required fields, each registering agency is encouraged to input as much relevant information as possible for each offender to assist in future investigations and the successful management of the registered offender population.

For more information about specific functions such as: merging, importing, and deleting offender records please refer to the OW User Manual located in the Help section of the program.



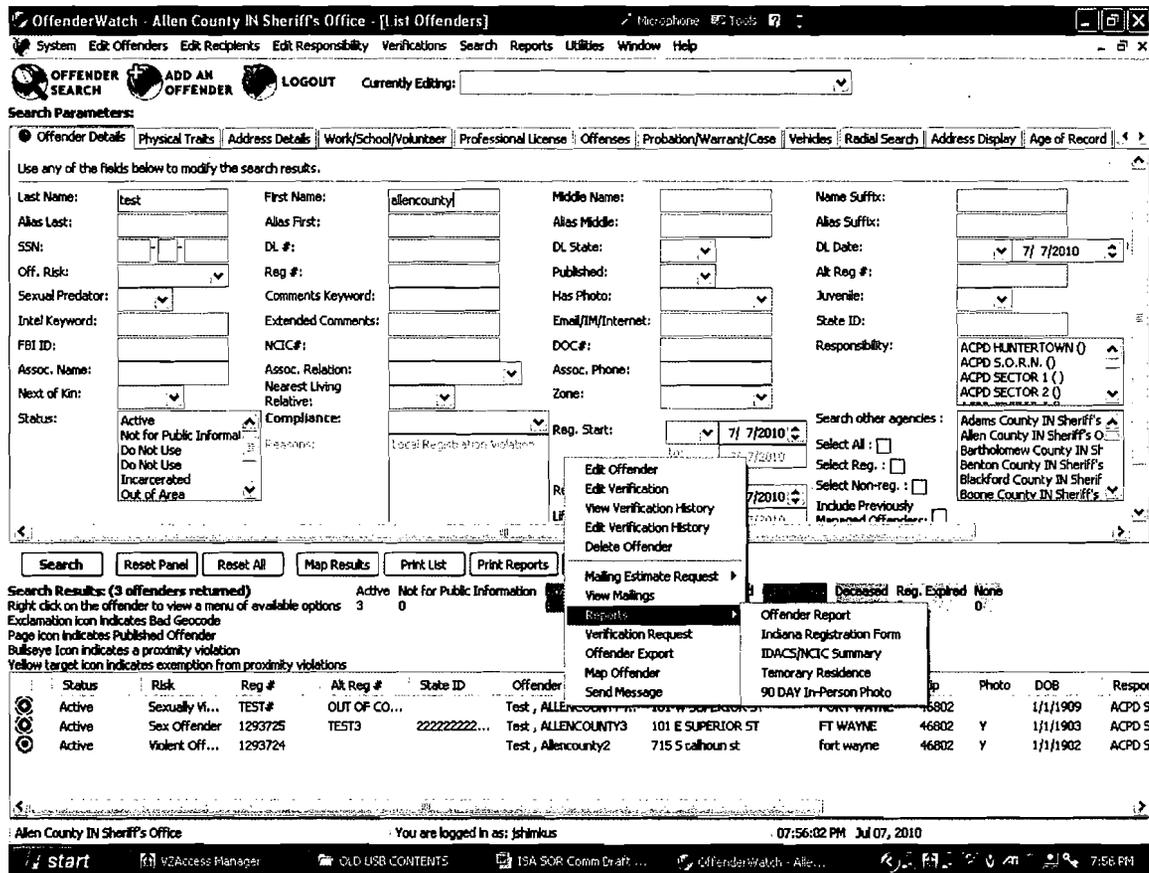
The OffenderWatch program contains both blank and populated versions of the forms to be used for the registration of sex and violent offenders. The Indiana registration forms contained in the program are the ONLY forms that should be used. This is to ensure that each offender is advised of the same obligations regardless of which agency completes the offender's initial registration.

Blank versions of the forms are located in “Reports” tab



If users intend to use these blank forms they should save a copy of the form to their computer and modify the form with their agency’s contact information (if applicable). After modifying the blank forms, the user should make copies of the forms to have on hand for future use.

Auto populated versions of the forms can be accessed by right clicking on an offender's name and selecting "reports" from the drop down menu. An auto populated version of the form can then be printed in either PDF or Word document format. The form will then contain current information as entered in the offender's record.



Note: the screen shot above contains the currently available auto populated forms at the time of this printing. Populated versions of the Change, Transfer, and Absence forms will be added to this drop down menu in future software releases.

When an agency receives notification that a person who is required to register as a sex or violent offender resides, is employed, attends school, or owns property in that agency's jurisdiction, the registering official should obtain, review, and scan the court documents associated with the offender's conviction for all sex or violent offenses requiring registration to ensure the offender is classified appropriately under Indiana law.

Offenders who are incarcerated with the Indiana Department of Correction (IDOC) shall register with IDOC prior to their release. In these cases, IDOC will be the "initial registering agency". IDOC personnel shall inform the offender of their duty to register and shall complete a Notification of Sex and Violent Offender Registration Responsibilities and Other Duties form (State form 46656). A copy of this form should be transmitted to the local law enforcement agency having jurisdiction over the offender's intended principal address. IDOC shall enter offender data into an IDOC database that will link with OW.

Offenders not committed to IDOC shall register with local law enforcement in accordance with IC 11-8-8-7. In these cases, local law enforcement shall be the “initial registering agency”. **An offender must report in-person and complete a registration form in each county where the offender is required to register.**

Note: the preferred registration process involves the registering official sitting down with the offender in-person and entering/updating data in OW and then printing the auto populated form for the offender to review and sign. If this cannot be accomplished, the offender must complete and sign a blank registration form and the registering official can then enter offender data into OW later. The registry must be updated at least daily.

Auto populated version of IN Registration Form:

The screenshot shows a web browser window with the URL http://64.6.222.31/Reports/IndianaReg_FORM.aspx?people_key=1065039. The browser displays a PDF document titled "IndianaReg_FORM[1].pdf" in Adobe Reader. The form is for the State of Indiana and is titled "Sex or Violent Offender Registration Form" (Revision 1 / June 2010). The form is divided into three main sections: Agency Information, Offender Information, and Physical Description.

AGENCY INFORMATION	
Agency Name:	Allen County IN Sheriff's Office
Agency Address:	715 S. Calhoun St. Fort Wayne IN 46802
Agency Phone:	(260)449-3074
Agency Email:	jeff.shimkus@co.allen.in.us
Agency ORM:	IN0020000
Receipt #:	
Agency Fax:	(260)449-7985

OFFENDER INFORMATION	
Name:	ALLENCOUNTY joe TEST
Registration #:	TEST#
Birthplace:	ANYWHERE USA
Alt Reg#:	OUT OF COUNTY
DOB:	01/01/1900
SSN:	123-45-6789
Age:	101
FBI:	None
DL# and state:	None
DOC:	None
SID:	None
NCIC:	None
Nationality:	No Selection
Marital Status:	None

PHYSICAL DESCRIPTION	
Sex:	Male
Eye Color:	Blue
Build:	Medium
Wears Glasses:	None
Height:	6'1"
Hair Color:	Brown
Weight:	200
Hair Length:	None
Race:	Caucasian
Facial Hair:	None
Ethnicity:	None
Handedness:	Right

Blank version of IN Registration Form:

STATE OF INDIANA SEX OR VIOLENT OFFENDER REGISTRATION FORM
(Revision 1 June 2010)

Social Security # _____ DOB: ____/____/____
 Name: _____
(Last) (First) (Middle) (Suffix)
 Driver's License # _____ State _____ Expiration Date _____

OFFICE USE ONLY Registration # _____ Alternate Registration # _____
 SID # _____ FBI# _____
 NCIC# _____ DOC# _____
 Registration Start Date _____ End Registration Date _____

Alias/Nicknames: _____
 Place of Birth: City _____ State _____ County _____
 Height _____ Weight _____ Build _____ Gender _____ Race _____
 Hispanic: Yes/No _____ Hair Color _____ Hair Length _____
 Facial Hair (describe) _____ Eye Color _____
 Do you wear Glasses or Contacts _____ Complexion _____ Right or Left Handed _____
 Describe any Scars/Marks/Tattoos on your body and their location: _____

Current Address _____ Lot/Apt # _____
 City _____ State _____ Zip _____ phone# () _____
 Additional Address : (other address that you spend more than seven (7) nights in a fourteen (14) day period.) _____ Lot/Apt# _____
 City _____ State _____ Zip _____ phone# () _____
 Email addresses, internet identifiers / usernames: _____

Regardless of the process used, the registering official shall ensure that all information provided by the offender is correct, that the offender has initialed and signed all appropriate areas on the forms, that the offender understands his duties and responsibilities under the law, and that the offender's next registration date appears on the form.

The offender is required to provide all information in accordance with IC 11-8-8. During the registration process the registering official should confirm any living/work restrictions as outlined in IC 35-42-4-10 and IC 35-42-4-11 and notify the offender accordingly.

The registering official shall provide a copy of the completed registration form to the offender and should provide the offender with a copy of the current laws governing registration. (Current IN registration laws are located in the "Reports" tab under "Law Packet")

The registering official shall ensure that any other documents pertaining to the obligations of the offender are completed. For example, Temporary Residence/Homeless Offender Form and 90 Day In-Person Photograph Form if applicable.

Upon completion of the registration process the registering official (Local LE) is responsible for entering the subject in any local programs and also into IDACS/NCIC.

Note: IDOC has stated they will be responsible for entering offenders into IDACS/NCIC. However, at the time of this printing, their system is not yet operational. So until IDOC provides notice to ISA that they are ready to assume responsibility of this function, local law enforcement shall continue to enter IDACS/NCIC records as required by IC 11-8-8. IC 11-8-8 will need to be amended to outline IDACS/NCIC responsibilities.

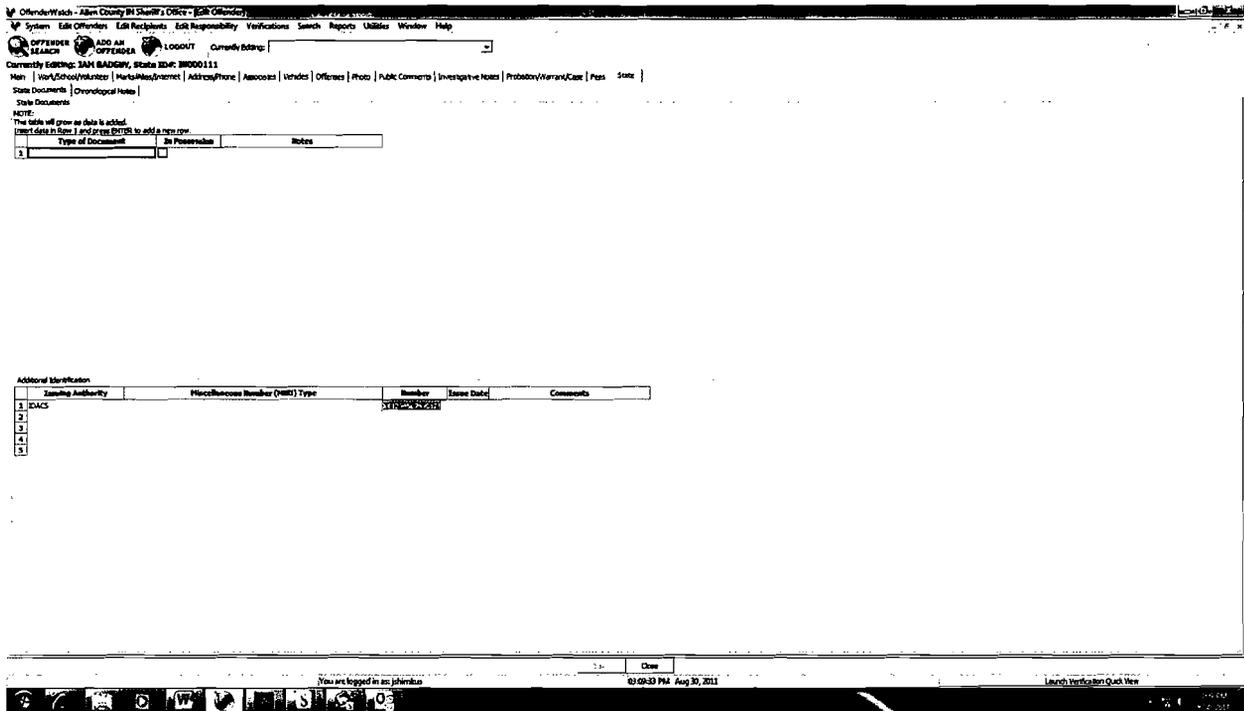
Once an offender is entered into IDACS/NCIC the user should enter the IDACS and NCIC numbers into the offender's OffenderWatch record.

The NCIC number begins with X and should be entered in the NCIC # field on the offender's General tab. See Below

The screenshot displays the 'OffenderWatch' application window for 'Allen County Sheriff's Office'. The 'General' tab is active, showing various fields for offender information. Key fields include:

- Identification:** First Name, Middle, Last (84029), Suffix, DOB (1/12/1964), Age (45), SSN (133-45-1976), DL # (12345), DL State (IN), DL Date (01/12/2011), DL Type (134226), FBI # (011234567), State ID # (830711), NCIC# (X000000000), DOC# (12345), AR # (IDACS # 12345), Publish on Website, Juvenile, and State (Not for Public Information).
- Registration:** Responsibility (ACD S.G.M.N. 0), M.C. Classification, Sexually Violent Predator, Sex-Consensual Strain, Zone (FWIN), Caseload/Case, Local Registration Station, Sexual Predator, Registration Type, and Concordant.
- Alerts:** 'Alert US Marshal' checkbox (unchecked) and 'Allow the US Marshal access to this offender' checkbox (checked).
- Footer:** 'You are logged in as jshenava', '4347:31 PM Aug 30, 2011', and 'Launch Verification Quick View'.

The IDACS number begins with XX and should be entered on the State tab in the Number field. "IDACS" should be entered in the Issuing Authority" field as shown below:



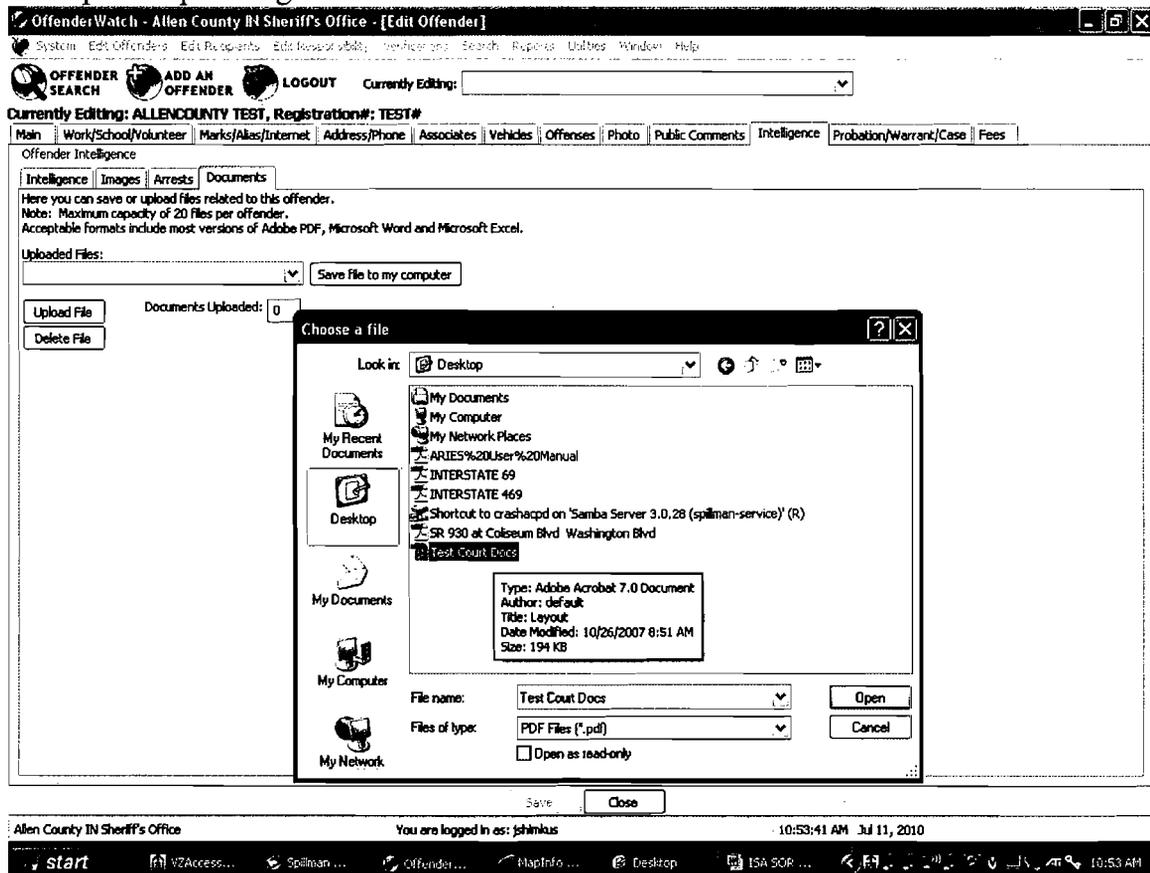
III. PROCEDURE FOR NEW REGISTRATION

The following steps should be completed by the initial registering agency to ensure that each offender file contains accurate and complete information.

- 1 The registering official should obtain the following court documents, or similar documents, if the offender was convicted or adjudicated outside of Indiana, from the Clerk of Court in the county of the offender's conviction:
 - a) Judgment of Conviction
 - b) Charging Information, including all amended informations
 - c) Affidavit for Probable Cause

Copies of these documents should be scanned and uploaded to the offender's OffenderWatch file, following the instructions listed in the OW user manual.

Example of uploading scanned courts documents:



If the documents cannot be scanned and uploaded they should be transmitted to the Indiana Department of Correction to ensure that the offender is classified appropriately under Indiana law.

IDOC should transmit copies of these documents to the local law enforcement agency having jurisdiction over the offender's principal address. The documents should be uploaded to the offender's OW file as soon as possible. Hard copies of the documents should be kept in the sex offender's file maintained by each agency the offender is required to register with.

If possible all case information should be available prior to the offender arriving to register.

- 2 Once the offender reports in-person to the registering agency, the registering official should ask the offender if he/she has ever registered as a sex or violent offender with any agency in Indiana.

- 3 The registering official should then search the Indiana sex and violent offender registry by entering the offender's name **and searching "all agencies"** to determine if a record exists for that offender. If the offender's record is located, the registering official should view that record **prior** to importing it, to ensure that the record applies to the correct offender. The registering official should use care to ensure that duplicate offender records are not created.
- 4 If the offender record already exists in the database, the registering official shall **import** the offender record and update the record accordingly.
- 5 An offender who is required to register shall complete either the blank Indiana Registration form, or review and sign the auto-populated Indiana registration form contained in the OffenderWatch program (After the record has been imported/updated with current information). A fingerprint impression of the offender's right thumb shall be placed on the last page of the registration form.
- 6 The registering official shall photograph the offender and ensure that the photo meets the requirements of IC 36-2-13-5.5.
 - a. The photograph must be full face, front view, with a plain white or off white background.
 - b. The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.
 - c. The photograph must be in color.
 - d. The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.
 - e. If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.
 - f. The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the Indiana sex and violent offender registry web site.

- 7 The registering official shall ensure that the following information is entered into the database:
- a. The registering official shall select one of the following statuses:
 - i. Active
 - ii. Not for Public Information
 - iii. Incarcerated
 - iv. Out of Area
 - v. Deceased === see note on page 35 ===
 - vi. Registration Expired +++ see note on page 11 +++
 - vii. Pending Court Order ### see note on page 13 ###
 - b. The offender shall be assigned a risk level/classification of one of the following:
 - i. Sex Offender
 - ii. Offender against Children
 - iii. Sexually Violent Predator (also check Sexual Predator checkbox)
 - iv. Violent Offender
 - v. Awaiting Classification
 - vi. Wallace/Court Order *** see note on page 12 ***
 - vii. Pending Court Order

The risk level/classification shall be assigned based on IC 11-8-8, 35-42-4-11, and 35-38-1-7.5.

Note +++ It is the opinion of the Indiana Sheriffs' Association Legal Counsel that local Sheriff's departments should NOT publish any information about offenders who have completed their registration period on the public registry website.

+++ Once an end registration date is entered into an offender's record, the OffenderWatch software will prompt the user by way of a system message that the offender's registration period has ended.

+++ The user shall review the offender's file and ensure that the offender's registration period has expired based on IC 11-8-8-19. Once the user is satisfied that the offender is no longer required to register, the user shall change the offender's status to **"Registration Expired"** and **un-check the "Publish on Website" checkbox.**

Note: * The Wallace/Court Order risk level should be used for offenders who are no longer required to register pursuant to Richard P. Wallace vs. State AFTER a court order has been obtained that prohibits dissemination of the offender's information to the public. The OW software will not allow the offender's information to be published if this risk level is selected. An associated "status" of "Not for Public Information" should be selected as well.**

Once an offender obtains a court order, a copy of the order should be scanned and uploaded to the offender's record in OffenderWatch.

The registering official should also activate an "officer alert" advising other users that the offender is no longer required to register pursuant to the court order. See example below:

Example of Officer Alert for Wallace Court Order

The screenshot shows the 'OffenderWatch - Allen County IN Sheriff's Office' interface. The main window displays the offender record for 'ALLENCOUNTY TEST, Registration#: TEST#'. The 'Registration' tab is selected, showing details such as 'ACPD S.O.R.N. 0', 'FW3J' compliance, and registration dates from 09/25/2009 to 06/14/2010. An 'Officer Alert' dialog box is overlaid on the screen, containing the text: 'RECEIVED COURT ORDER TO REMOVE UNDER WALLACE 9-27-10 JSHIMKUS ALLEN CO.' Below the dialog, the 'Activate Alert' checkbox is checked. The status is set to 'Not for Public In'. The bottom of the screen shows the user is logged in as 'jshimkus' at 07:23:30 PM on Sep 29, 2010.

It is the opinion of the Indiana Sheriffs' Association Legal Counsel that local Sheriff's departments should continue to publish information about Wallace offenders on the public registry website until the offender obtains a court order stating that Wallace vs. State applies and the offender's information should be removed from the public registry web site.

REGISTERING OFFICIALS SHOULD DISCUSS THIS ISSUE WITH THEIR SHERIFF, PROSECUTOR, AND LEGAL COUNSEL TO DETERMINE HOW THEIR AGENCY CHOOSES TO HANDLE WALLACE TYPE OFFENDERS.

Should a registering official decide to publish information about Wallace offenders WHO HAVE NOT YET OBTAINED COURT ORDERS, the FOLLOWING STEPS SHOULD BE TAKEN:

1. Change the offender's **Status** to "Pending Court Order"
2. Change the offender's **Risk Level** to "Pending Court Order"

Note # # #: Selecting the risk level of "**Pending Court Order**" will cause the offender's name, photo, and offenses to appear on the public website if the "publish on web site checkbox is selected; **however only the offender's city, state, and zip will be displayed.**

Should a registering official decide to publish the offender's last known address and not change the risk level to "Pending Court Order", the offender's status should remain "Active". The registering official is cautioned that:

1. Registering officials should use care to ensure that accurate information is being published. Since these offenders may not be reporting to local law enforcement anymore, accurate address information may be difficult to obtain.
2. The registering official is cautioned to ensure that if an address is to be published on the public website, that address is verified in accordance with IC 11-8-8-13 in the same manner as other "active" offenders.
3. If the registering official receives information that a Wallace type offender is no longer residing at that address, the address should be removed and replaced with "Whereabouts unknown" or similar text.

See examples on next pages

Example of Pending Court Order Status and Risk Level

OffenderWatch - Allen County IN Sheriff's Office - [Edit Offender]

System Edit Offenders Edit Recipients Edit Responsibility Verifications Search Reports Utilities Window Help

OFFENDER SEARCH ADD AN OFFENDER LOGOUT Currently Editing: [dropdown]

Currently Editing: ALLENCOUNTY TEST, Registrations#: TEST#

Main Work/School/Volunteer Marks/Alas/Internet Address/Phone Associates Vehicles Offences Photo Public Comments Investigative Notes Probation/Warrant/Case Fees State

General Physical

Identification

* First: ALLENCOUNTY Middle: joe * Last: TEST Suffix: [dropdown]

* DOB: 11/11/1964 Age: 47 SSN: 123 45 6789 DL Type: TEST#

DL #: [dropdown] DL State: [dropdown] DL Date: [dropdown] DL Type: [dropdown]

FBI #: [dropdown] State ID#: [dropdown] NCIC#: [dropdown] DOC#: [dropdown]

AK #: [dropdown] * Status: Pending Court Order Publish on Website: Juvenile: [dropdown]

Registration

Responsibility: ACPD S.O.R.N. 0 Risk/Classification: [dropdown] Non-Compliant Reason: Local Registration Violation

Zone: PWHM Compliance: Compliant

Sexual Predator: Registration Type: [dropdown]

* Reg. Start Date: 09/26/2009 * Reg. End Date: [dropdown]

Last Ver. Ok Date: 03/17/2011 Lifetime Registration:

Fields marked in blue indicate data that may be published

Edit Verification

Officer Alert: Admin level users may enter a message here which will appear to all agency users upon opening this record. Select "Activate Alert" to set as active.

Alert US Marshal Allow the US Marshals access to this offender

Activate Alert

Locking an offender will lock any controls that are marked as such in User Permissions.

Offender locked

Save Close

You are logged in as: jhinkus 03:36:50 PM Jun 27, 2011 Launch Verification Check View

start [Taskbar icons] System Message [Taskbar icons]

Example of public web site- no address is displayed

The screenshot shows a web browser window displaying the Allen County Sheriff's Office Offender Watch website. The page features a header with the Sheriff's Office logo and Sheriff Ken Fries' name. Below the header is a navigation bar with links for Search, Register for Email Alerts, Safety Tips, Links, and Contact. The main content area is titled "Offender Search: Results" and displays a table of search results. The table has columns for #, Status, Name, Address, City, Zip, Type, and View Details. One result is shown for "ALLEN COUNTY TEST" in Fort Wayne, IN 46802. Below the table, there are sections for "Non-Mappable Offenders" and a "Tell A Friend" form.

Offender Search: Results

Found 1 offenders Name: allencounty test City:

#	Status	Name	Address	City	Zip	Type	View Details
1		ALLEN COUNTY TEST		FORT WAYNE	46802		

Found 1 offenders Name: allencounty test Viewing locations 1 through 1
City:

Non-Mappable Offenders [Search Another Address](#)

Click [here](#) for a list of offenders with un-mappable or incomplete addresses Click [here](#) to search for offenders using another address

Tell A Friend
Share this information with a friend!

Your Name: Friends Email:

Home | View Protection | Search for Offenders in your area | Register for Email Alerts | Safety Tips | Links | Contact | Un-mappable from Email Alerts

Only City, State, and Zip are displayed

The screenshot shows a web browser window displaying the Allen County Sheriff's Office OffenderWatch website. The browser's address bar shows the URL <http://www.alcmeowatch.net>. The website header includes the name 'SHERIFF KEN FRIES' and navigation links for 'Search for Offenders in your area', 'Register for Email Alerts', 'Safety Tips', 'Links', and 'Contact'. The main content area is titled 'Offender Search: Offender Details' and features a 'Return to List' link. The offender's details are as follows:

Name:	ALLEN COUNTY joe TEST	Registration #:	TEST#
Level:	Pending Court Order		
Status:	Pending Court Order		

Physical Description

Age:	47	Height:	6'01"
Sex:	M	Weight:	200lbs
Race:	Caucasian	Eyes:	Blue
Hair:	Brown		
Scars/Tattoos:	Tattoo on L_arm (SNAKE), Tattoo on R_arm ("TEST"), Tattoo on L_eye (TEARDROP CORNER OF L EYE), Tattoo on R_ankle (rose)		

Address

FORT WAYNE, IN 46802 (Address not mappable at this time)

Offenses

- Description:** 35-42-4-3 - Child Molesting
- Date Convicted:** 01/01/2009
- Conviction State:** Indiana
- Date Released:** 01/01/2009
- Details:** B FELONY

Comments

THIS IS A TEST RECORD. IF YOU RECEIVED AN EMAIL ABOUT THIS OFFENDER PLEASE DISREGARD WE ARE TESTING THE PROGRAM NOTIFICATIONS

Tell A Friend

Share this information with a friend!

Example of Public Comments text if Agency chooses to publish full address info:

OffenderWatch - Allen County IN Sheriff's Office - [Edit Offender]

System EdR Offenders EdR Recipients EdR Responsibility Verifications Search Reports Utilities Window Help

OFFENDER SEARCH ADD AN OFFENDER LOGOUT Currently Editing: [Dropdown]

Currently Editing: ALLENCOUNTY TEST, Registration#: TEST#

Main Work/School/Volunteer Marks/Alas/Internet Address/Phone Associates Vehicles Offenses Photo Public Comments Intelligence Probation/Warrant/Case Fees State

Offender Published Comments

Enter any comments about the offender below.
This information will appear on the website and in mailings.

Wallace ruling

Address displayed is LAST KNOWN ADDRESS

Extended Comments (For Website Only)

Enter any additional comments about the offender below.
This information will appear on the website but not in mailings.

Save Close

Allen County IN Sheriff's Office You are logged in as: jshinkus 07:36:10 PM Sep 29, 2010

start V2Access Manager ISA SOR Coman Draft Offenderwatch - Alle... 7:36 PM

Note: if an offender’s classification cannot be determined at the time of registration, “Awaiting Classification” should be selected. After completing the registration form and process, the offender should be advised to return to the registering agency at a later date so the offender can be advised of their classification after IDOC has made a determination regarding the offender’s classification.

- c. The registering official shall enter a beginning and an end registration date
 - i. These dates are to be determined according to IC 11-8-8-19.
 - ii. IDOC will be responsible for determining any periods of tolling as described in 11-8-8-19.
 - iii. If the offender is required to register for life, the end registration date shall be left blank and the “lifetime registration” checkbox shall be selected.
- d. The registering official shall select the “Publish” checkbox if the offender’s information is to appear on the public registry web site.

- e. The registering official shall ensure that all information required by IC 11-8-8-8 is entered into the database.
 - f. The registering official shall take care to ensure that beginning and ending dates are entered and that the current and primary checkboxes are marked appropriately for:
 - i. Addresses / Phones
 - ii. Internet information
 - iii. Vehicles
- 8 The registering official shall ensure that Verification Cycles are set up for each offender. Sex Offenders, Violent Offenders, and Offenders Against Children are required to report in-person for photos at least once per calendar year. Sexually Violent Predators are required to report in-person for photos at least once every 90 days.
- 9 After taking an offender's photo and uploading it to OW, the registering official shall mark the Verification status as, "Verified OK" in either the Annual Photo or 90 Day Photo cycle as appropriate.
- 10 Local law enforcement is required to personally visit each registered offender at the offender's principal address at least once per year or every 90 days if the offender is a Sexually Violent Predator. Therefore the registering official shall ensure that either an Annual Address or 90 Day Address verification cycle is selected for each offender in addition to the appropriate photo cycle.

EXAMPLE: A Sexually Violent Predator completes an initial registration on April 28, 2010. A 90 Day photo cycle is started based on this registration date. The registering official enters "Verified Ok" and the software automatically calculates and displays the offender's next photo date.

Since this is the offender's first registration in that county, local law enforcement has never verified the offender's address. The registering official shall select "Updated Not Verified" in the 90 Day Address cycle and should select a next verification date from 7 to 30 days in the future.

Once local law enforcement personally visits the offender's principal address, the verifying official shall change the address cycle status to "Verified OK" and the software will automatically calculate and display the next address verification date.

(See NOTES on next page)

90 Day Verification Cycles for Sexually Violent Predator

OffenderWatch - Allen County IN Sheriff's Office - [Edit Verification]
System Edit Offenders Edit Recipients Edit Responsibility Verifications Search Reports Utilities Window Help

OFFENDER SEARCH
 ADD AN OFFENDER
 LOGOUT

Currently Editing:

Primary Address: 214 E 4TH ST
MARION IN 46953

Annual Photo
 Last Verified: Next Verification:
 Verification Status: Anniversary Date: Case Number:
 Verified By: Comments:
 Verified Address:

90 Day Photo
 Last Verified: Next Verification:
 Verification Status: Case Number:
 Verified By: Comments:
 Verified Address:

Annual Address
 Last Verified: Next Verification:
 Verification Status: Case Number:
 Verified By: Comments:
 Verified Address:

7 Day Temporary Residence
 Last Verified: Next Verification:
 Verification Status: Case Number:
 Verified By: Comments:
 Verified Address:

90 Day Address
 Last Verified: Next Verification:
 Verification Status: Case Number:
 Verified By: Comments:
 Verified Address:

Attention: Any changes to historical verification dates must be made by an admin level user in the 'Edit Verification History' section.

Allen County IN Sheriff's Office
You are logged in as: jshinkus
12:15:34 PM May 26, 2010

start
Info - Microsoft...
OffenderWatch...
Splintan - Meche...
Desktop
SVP training da...
Control Panel

NOTE: If an offender only works in your county, you ARE NOT required to set up an Address Verification Cycle. Only the local law enforcement agency having jurisdiction over the offender's principal address is required to verify that address.

NOTE: The ONLY Verification statuses that shall be used with a photo cycle are "Verified Ok", "AWOL Investigate", or "AWOL Confirmed". An offender either showed up for a photo (Verified Ok) or they failed to report (one of the AWOL statuses).

NOTE: Address verification statuses can be marked with any of the statuses in the drop down menu:

Verified Ok – LE has verified that the offender lives at that address

Updated not Verified – Offender reported a change in address but LE has not visited / verified address yet.

Requested – SOR coordinator has scheduled/requested LE to visit / verify address.

AWOL Investigate – Possible failure to register (FTR), further investigation needed

AWOL Confirmed – PC exists or warrant for FTR issued.

90 Day Verification Cycle after address has been personally visited by local LE:

OffenderWatch - Allen County IN Sheriff's Office - [Edit Verification] Microphone Tools ?

System Edit Offenders Edit Recipients Edit Responsibility Verifications Search Reports Utilities Window Help

OFFENDER SEARCH ADD AN OFFENDER LOGOUT Currently Editing:

90 Day Photo

Last Verified: Next Verification:

Verification Status: Case Number:

Verified By: Comments:

Verified Address:

Annual Address

Last Verified: Next Verification:

Verification Status: Case Number:

Verified By: Comments:

Verified Address:

7 Day Temporary Residence

Last Verified: Next Verification:

Verification Status: Case Number:

Verified By: Comments:

Verified Address:

90 Day Address

Last Verified: Next Verification:

Verification Status: Case Number:

Verified By: Comments:

Verified Address:

Attention: Any changes to historical verification dates must be made by an admin level user in the 'Edit Verification History' section.

Allen County IN Sheriff's Office You are logged in as: jshimkus 08:34:10 PM Jul 07, 2010

start WAccess Mana... OLD USB CONT... 2 Microsoft Of... OffenderWatch... 2 Adobe Read... 8:34 PM

11 The registering official shall provide the offender with copies of any completed registration forms and should provide the offender with a copy of the "Law Packet".

12 Upon completion of registration, a file should be created containing hard copies of the following documents:

- DOC Documents
- Parole/Probation Documents
- Registration Form
- Temporary Residence/Homeless Form
- 90 Day In-Person Form
- Copy of State Issued ID
- Copy of Vehicle Registration
- Copy of Pay stub / Student Schedule if working / attending school
- Triple I / Criminal History
- Court documents for offenses requiring registration
- Court documents for any prior Indiana failure to register convictions
- IDACS/NCIC entry
- Copy of Wallace Court Order if applicable

IV. UPDATES/MODIFICATIONS TO OFFENDER REGISTRY

1. Offenders are required to report in-person when adding or updating any information required by IC 11-8-8-8. The registering agency is to provide the offender with either the blank version or pre-populated version of the Change Form in the OW program.
2. The registering official shall ensure that the offender initials and signs the form as necessary and shall ensure that all information on the form is correct and legible.
 - a. The registering official shall provide the offender with a copy of the completed Change Form.

The screenshot shows a web browser window with the URL http://wm.watchsystems.com/indiana/Blank_Change_Form.doc?sub_key-540348. The browser's address bar and menu bar are visible. The main content area displays a form titled "CHANGE FORM" with the following sections:

OFFICE USE ONLY: OffenderWatch Responsibility Verification Cycle Local NCIC

CHANGE FORM

Address / Employment / School / E-Mail / Vehicle

Name: _____ Date of Birth: _____ Social Security: _____

<u>ADDRESS INFORMATION</u>	No Change	New
Previous Address: _____	Apt/Lot _____	City _____ Zip _____
New Address: _____	Apt/Lot _____	City _____ Zip _____
Telephone #: _____	Cell #: _____	Initials _____

<u>EMPLOYMENT</u>	None	No Change	New	Remove	Updated
Employer: _____					

- b. The registering official shall update the OffenderWatch database as necessary along with any local system as required by their agency. **(ensure starting and ending dates are entered where applicable)**
 - c. If the offender changes his principal address, the registering official having jurisdiction over that address shall change the verification status to "Updated Not Verified" in the Annual / 90 Day verification cycle and schedule a next verification date from 7 to 30 days in the future.

- d. The registering official shall update IDACS/NCIC as necessary and remove the old entry hard copy from the offender's file and replace it with the updated entry.
- e. The registering official shall retain the original signed Change Form in the offender's file.

V. RELOCATION OF SEX OFFENDER

- 1. If offender is relocating to another county or state, the offender must report in-person to the local law enforcement agency having jurisdiction over the offender's current principal address and complete either the blank version or the pre-populated version of the Transfer Form.

SEX OR VIOLENT OFFENDER TRANSFER FORM

Name: _____

Address: _____

Date of Birth: _____ Place of Birth: _____

Social Security #: _____ Registration #: _____

New Address: _____

Registering Agency: _____

Date of Departure: _____ Date of Arrival: _____

CHARGE INFORMATION:	OUT OF STATE:	YES	NO
Cause Number: _____	Release date: _____		
County of Conviction _____	Conviction Date: _____		
Sentence: _____	Served: _____		

VICTIM INFORMATION:

Child: Yes or No Elderly: Yes or No Disabled: Yes or No Gender: Male or Female
 Your relationship to the victim at the time: _____ Age of victim: _____

Change #1 Description of Change: _____	IC CODE:35: _____	Felony Level: _____
Change #2 Description of Change: _____	IC CODE:35: _____	Felony Level: _____
Change #3 Description of Change: _____	IC CODE:35: _____	Felony Level: _____
Change #4 Description of Change: _____	IC CODE:35: _____	Felony Level: _____

The above information is provided to assist registration of the above sex and violent offender. Attached you will find documents used to determine registration status. If you require any further information, please contact our office.

- a. The registering official shall complete the portion of the form marked "Office Use Only" and ensure that offender's conviction information, age of the victim, etc... are accurate.

- b. The registering official shall provide the offender with a copy of the Transfer Form, a copy of the offender's most recent Registration Form, and shall advise the offender to report to the local law enforcement agency having jurisdiction over the offender's new address and register with that agency as required.
 - c. The registering official shall transmit a copy of the signed Transfer Form to the local law enforcement agency having jurisdiction over the offender's new address.
2. If the offender is moving to a new county **in Indiana**, the registering official shall do the following:
 - a. If the offender's conviction information, (i.e. PC, Judgment of Conviction, Charging Information), has not been scanned into the offender's OW file, the registering official should scan and upload the documents into the offender record, or transmit copies of these documents to the new registering agency along with a copy of the Transfer Form and most recent Registration Form.
 - b. The registering official shall enter the offender's new address into the OW program and mark that address type as "Home", "current", and "primary". This will ensure that the new agency is automatically notified via the OW software of the offender's pending move.
 - c. The registering official shall leave the offender's status as "Active". Once the offender registers with the new agency. That agency will import the offender's record and the offender's status will automatically appear as "previously managed" in the losing agency's database.
 - d. The registering official shall de-activate the verification cycles as necessary. Otherwise since the offender is still "Active" with an Indiana agency, the offender will continue to show up on your verification calendar.
 - e. If the offender is only moving their principal address to a new jurisdiction and will still work, own real estate, or attend school in your jurisdiction, the photo cycle shall remain active and the address verification cycle shall be de-activated. (See page 15 for more information about verification cycles.)

Note: At no time should the offender ever be given copies of his / her conviction information. The offender must request copies of those documents from the Clerk's Office in the offender's county of conviction.

3. If the offender is moving to a new jurisdiction **outside of Indiana**, the registering official shall do the following:
 - a. The registering official shall enter the offender's new address into the OW program and mark that address type as "Home", "current", and "primary". This will ensure that the new jurisdiction is automatically notified via the OW software of the offender's pending move.
 - b. The registering official shall transmit copies of the Transfer Form, most recent Registration Form, and copies of the offender's conviction information to the agency responsible for registration efforts in that jurisdiction.
 - c. If the offender is still working or attending school in your jurisdiction the offender's status shall be kept as "Active" and the offender shall continue to be published on the public registry web site. The registering official shall de-activate the verification cycles as necessary. (See 2 (e) above)
 - d. If the offender no longer works, owns real estate, or attends school in your jurisdiction, the registering official shall change the offender's status to "Out of Area", uncheck the "Publish on web site" checkbox, and remove / modify the offender's IDACS / NCIC entry in accordance with IDACS / NCIC guidelines **after receiving notification from the new jurisdiction that the offender has successfully registered in the new jurisdiction.**

VI. ANNUAL REGISTRATIONS

1. Local law enforcement is required to mail letters to each registered offender not classified as a Sexually Violent Predator at least once per year. It is a recommended best practice that these mandatory mailings serve as reminders for the offender's annual photo dates. Letters should be mailed to offenders at least 2 weeks prior to their annual photo date. This letter should include the offenders name, address, next registration date, as well as instructions on when and where to report.

2. As part of an annual registration, the offender shall complete either the blank Indiana Registration Form or review and sign the auto populated registration form. **All registered offenders shall complete and sign a new registration form at least once per year.** This is to ensure that offenders are advised of their obligations based on current law. All forms and the Law Packet will be updated and or revised at least annually as Indiana law and case law changes.
 - a. The registering official shall photograph the offender in accordance with IC 36-2-13-5.5
 - b. The registering official shall ensure that all forms are properly initialed and signed by the offender and that the offender understands his / her obligations under the law.
 - c. The registering official shall provide a copy of the completed form to the offender and should provide the offender with a copy of the "Law Packet".

VII. 90 DAY REGISTRATIONS

1. Persons classified as Sexually Violent Predators are required to report in person to local law enforcement for photos at least once every 90 days. Again local law enforcement is required to mail letters to each Sexually Violent Predator at least once every 90 days. It is a recommended best practice that these letters serve as reminders for the offender's 90 Day photo dates. Letters should be mailed to offenders at least 2 weeks prior to their 90 Day photo date. This letter should include the offenders name, address, next registration date, as well as instructions on when and where to report.
2. As part of a 90 day registration the offender shall complete and sign a 90 Day Photo Form. The registering official shall ensure the offender's next 90 day photo date appears on the form. See example of pre-populated form on next page.

VIII. PUBLISHING OFFENDERS

1. SPECIAL CIRCUMSTANCES

- a. For the most part offenders required to register in Indiana must be published on the public website. However there may be situations where a court order specifically states that the offender is required to register with local LE but the offender's information is not to be made available to the general public. In these unique situations the registering official can mark the offender status as "Active" and de-select the "Publish on Website" checkbox.

This will ensure that the offender's verification cycles for photos and address verifications remain functional, but the offender's information will not be displayed on the public web site. It is recommended that an administrator enters an "Officer Alert" to make other users, who may access the record, aware of the unique situation.

Administrators are also encouraged to administratively "lock" the record to prevent another user from inadvertently publishing such a record. See example on next page.

Registering officials should consult with their Prosecuting Attorneys and / or their legal advisor to ensure compliance with law and / or department policy in these situations.

Example of Administrative Lock

OffenderWatch - Allen County IN Sheriff's Office - [Edit Offender]

System | Edit Offenders | Edit Residents | Edit Responsibilities | Verifications | Search | Reports | Utilities | Window | Help

OFFENDER SEARCH | ADD AN OFFENDER | LOGOUT | Currently Editing: []

Currently Editing: ALLENCOUNTY TEST, Registration#: TEST#

Main | Work/School/Volunteer | Marks/Alas/Internet | Address/Phone | Associates | Vehicles | Offenses | Photo | Public Comments | Intelligence | Probation/Warrant/Case | Fees

General | Physical

Identification

First Name: ALLENCOUNTY | Middle Name: | Last Name: TEST | Suffix: |
 Birth Date: 1/1/1909 | Age: 101 | SSN: 123-45-6789 | Print # | TEST#
 LE # | EQ State: | EQ License: | FBI # |
 State ID# | KODIAK | DPO # | Alt # |
 Status: Active | Publish on Website

Registration

Registration #: ACPD S.O.R.N. Q | Sex: Sexually Violent Predator | Non-Compliant Reason
 Fines: FW3J | Compliance: Compliant | Local Registration Violation
 Registration Date: 09/25/2009 | Reg. Exp. Date: |
 License Exp. Date: 04/28/2010 | Reference Registration

Fields marked in blue indicate data that may be published

Officer Alert: Admin level users may enter a message here which will appear to all agency users upon opening this record. Select "Activate Alert" to set as active.

DO NOT PUBLISH
 Offender must register with LE but court order specifically states info is NOT to be published on the public website.
 DO NOT PUBLISH

Activate Alert

Locking an offender will lock any controls that are marked as such in User Permissions.
 Offender locked

Allen County IN Sheriff's Office | You are logged in as: jshimkus | 12:01:51 PM May 27, 2010

start | Inbox - Microsoft Out... | Removable Disk (F:) | SOP rambling draft u... | OffenderWatch - Alle... | 12:01 PM

Officer Alert

DO NOT PUBLISH

Offender must register with LE but court order specifically states info is NOT to be published on the public website.

2. INCARCERATED OFFENDERS

- a. Users are encouraged to publish incarcerated offenders. However, care should be taken to ensure that accurate address information is displayed to the public. For example if an offender is incarcerated in a local jail for less than 30 days and the offender will most likely be returning to his registered address upon release, it would be acceptable to continue to publish his registered address of 123 Main St in Anytown, USA.
- b. However if the offender is sentenced to 10 years in DOC, there is no point in publishing 123 Main St. as his principal address. In this case, publishing that address does a disservice to the public and to the current residents of that address who may be new tenants and have no connection to the offender.
- c. In situations like “a” the user should change the offender’s **status** to “Incarcerated” This will ensure that the offender will not show up on the verification calendar as being due for a photo or an address check. But the offender’s address WILL be displayed on the public web site. Once the offender is released, the user should change the **status** to “Active” to re-activate the cycles. The user should change the next photo / address check dates if necessary.
- d. In situations like “b” the user should change the **status** to “Incarcerated” AND update the offender’s **address as described below**. The user should also enter an “officer alert” so that other users (not the public) can see where this person is and when he’ll be released. See example on next page.
 - a. XXX in the “St. Number” field.
 - b. Enter “CURRENTLY IN CUSTODY IN DOC” in the “Street Name” field. (Enter the name of the facility where the offender is incarcerated; “ALLEN COUNTY JAIL, MI DOC, etc...)
 - c. Enter the offender’s last known city in the “City” field. (Fort Wayne, Indianapolis, etc...)
 - d. Enter IN the in the “ST” field.
 - e. Mark this XXX address as “current” and “primary”

f. **DO NOT delete the offender's last known address prior to their incarceration.**

The above listed steps are necessary because of the "required" address fields. The "CURRENTLY IN CUSTODY..." message will now be displayed to the public. See examples below:

Example of "Incarcerated" offender address tab:

OffenderWatch - Allen County IN Sheriff's Office - [Edit Offender]

System Edit Offenders Edit Recipients Edit Responsibility Verifications Search Reports Utilities Window Help

OFFENDER SEARCH ADD AN OFFENDER LOGOUT Currently Editing: [Dropdown]

Currently Editing: ALLENCOUNTY TEST, Registration#: TEST#

Main Work/School/Volunteer Marks/Alas/Internet Address/Phone Associates Vehicles Offenses Photo Public Comments Intelligence Probation/Warrant/Case Fees State

Addresses Phones

NOTE:
This grid will expand when data is added to the last row.

	* Primary	* Current	St. Number	Dir. Prefix	* St. Name	St. Type	Dir. Suffix	Apt./Unit/Suit	* City	* State	* Zip	* County
1	<input type="checkbox"/>	<input type="checkbox"/>	101	W	SUPERIOR	ST			FORT WAYNE	IN	46802	Allen
2	<input type="checkbox"/>	<input type="checkbox"/>	715	S	CALHOUN	ST			FORT WAYNE	IN	46802	Allen
3	<input type="checkbox"/>	<input type="checkbox"/>	214	E	4TH	ST			MARION	IN	46953	Grant
4	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	XXX		CURRENTLY IN CUSTODY IN DOC				FORT WAYNE	IN	46802	Allen
5	<input type="checkbox"/>	<input type="checkbox"/>										
6	<input type="checkbox"/>	<input type="checkbox"/>										
7	<input type="checkbox"/>	<input type="checkbox"/>										
8	<input type="checkbox"/>	<input type="checkbox"/>										
9	<input type="checkbox"/>	<input type="checkbox"/>										
10	<input type="checkbox"/>	<input type="checkbox"/>										
11	<input type="checkbox"/>	<input type="checkbox"/>										

Only primary home address and current temporary addresses will be published.

Save Close

Allen County IN Sheriff's Office You are logged in as: jshinkus 08:13:03 PM Sep 29, 2010

start v2Access Manager ISA SOR Coman Draft ... OffenderWatch - All... 8:13 PM

Example of Officer Alert

Allen County Sheriff's Office [Full Offender]

System Edit Offenders Edit Receipts Edit Responsibility Verifications Search Reports Utilities Window Help

OFFENDER SEARCH ADD AN OFFENDER LOGOUT Currently Editing: [Dropdown]

Currently Editing: ALLEN COUNTY TEST, Registration#: TEST#

Main Work/School/Volunteer Marks/Alas/Internet Address/Phone Associates Vehicles Offenses Photo Public Comments Intelligence Probation/Warrant/Case Fees State

General Physical

Identification

* First ALLEN COUNTY Middle Joe Last TEST Suffix

* DOB 1/11/1969 Age 101 SSN 123 45 6789 TEST#

DL # DL State DL Date FBI#

State ID# NCIC# DOC# Ak # OUT OF COUNTY

* Status Incorporated Publish on Website Juvenile

Registration

Responsibility AQD S.O.R.N. O Risk Sexually Violent Predator Non-Compliant Reason

Zone PW31 Compliance Compliant Local Registration Violation

Sexual Predator [Checked]

* Reg. Start Date 09/25/2009 Reg. End Date

Last Ver. Ok Date 06/14/2010 Lifetime Registration [Checked]

Fields marked in blue indicate data that may be published

Edit Verification

Officer Alert: Admin level users may enter a message here which will appear to all agency users upon opening this record. Select "Activate Alert" to set as active.

CURRENTLY IN DOC UNTIL JUNE 2012. #links 7-14-10

Activate Alert

Locking an offender will lock any controls that are marked as such in User Permissions.

Offender locked

Allen County Sheriff's Office You are logged in as: shinkus 09:57:37 PM Jul 16, 2010

start [Taskbar icons]

Example of "Incarcerated" offender as displayed to public:

The screenshot shows a web browser window displaying the Allen County Sheriff's Office OffenderWatch website. The browser's address bar shows the URL: <http://www.alcnwobch.net/offenderdetail.php?OffndrID=10579390&AgentID=54034>. The website header includes navigation links: Search for Offenders in your area, Register for Email Alerts, Safety Tips, Links, and Contact. The main content area is titled "Offender Search: Offender Details" and includes a "Return to list" link. Below this, there are tabs for "Details", "Warrants", and "Other Known Addresses". The "Details" tab is active, showing the following information:

Name:	ALLEN COUNTY joe TEST	Registration #:	TEST#
Level:	Sexually Violent Predator		
Status:	Incarcerated		

Physical Description

• Age:	46	• Height:	6'01"
• Sex:	M	• Weight:	200lbs
• Race:	Caucasian	• Eyes:	Blue
• Hair:	Brown		
• Scars/Tattoos:	Tattoo on L_arm (SNAKE), Tattoo on R_arm ("TEST"), Tattoo on L_eye (TEARDROP CORNER OF L EYE)		

Address

XXX CURRENTLY IN CUSTODY IN DOC FORT WAYNE, IN 46802 (Address not mappable at this time)

At the bottom right of the offender details, there is a link: [Register to track this offender](#). The browser's taskbar at the bottom shows several open windows, including "start", "V2Access Manager", "ISA SOR Comm Draft...", "Offenderwatch - Alle...", "Allen County Sheriff's...", and "Allen County Sheriff's...". The system clock shows 8:19 PM.

3. OUT OF AREA OFFENDERS

- a. If an offender relocates to another state they should remain published until your agency receives confirmation that the offender has registered in the new jurisdiction. Once an offender has registered in the new jurisdiction, the user should de-select the "Publish on Website" checkbox. Users are cautioned that once an offender moves out of state they will only have access to the offender's last known address. Therefore is recommended that "out of area" offenders should NOT be published on the public website.

4. REGISTRATION EXPIRED OFFENDERS

a. As stated on page 10 of this document, it is the opinion of the Indiana Sheriffs' Association Legal Counsel that local Sheriff's departments should NOT publish any information about offenders who have completed their registration period on the public registry website.

+++ Once an end registration date is entered into an offender's record, the OffenderWatch software will prompt the user by way of a system message that the offender's registration period has ended.

+++ The user shall review the offender's file and ensure that the offender's registration period has expired based on IC 11-8-8-19. Once the user is satisfied that the offender is no longer required to register, the user shall change the offender's status to "**Registration Expired**" and **un-check the "Publish on Website" checkbox.**

5. === DECEASED OFFENDERS ===

- a. Upon receiving **credible** confirmation that a registered offender has died, the registering agency having jurisdiction over the offender's principal address shall ensure that the offender's information is no longer published on the public website.
- b. Registering officials should take advantage of the Social Security Administration's Death Index to assist in obtaining information about deceased offenders.
- c. The registering official shall change the offender's status to "**Deceased**" and **un-check the "Publish on Website" checkbox.**

6. DELETING OFFENDER RECORDS

- a. Users do have the option of deleting records from the database. However, it is strongly recommended that offender records not be deleted from the database unless the record was entered in error, or is a duplicate record that contains no valuable information and does not need to be merged with an accurate record.
- b. Situations may arise where an offender record may need to be deleted from the database due to a record entered in error, or a court order that specifically directs that the record is deleted.
- c. **It is recommended that if a user receives such a court order, the user should contact the court to seek clarification before completely deleting the offender's record.**
- d. There are several safeguards such as administratively locking the record and the "Wallace/Court Order" risk level to ensure that it will not be published or ever made available to the public. Users and the courts should understand that the database contains valuable information and that it may prove valuable in future investigations.

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Exhibit J
Testimony of Detective Jeff Shimkus
Allen County Sheriff's Department

Sex and Violent Offender Registry Issues



What State Agency should oversee the registry?

- Attorney General's office
 - State Leader with knowledge of case law
 - Guide local LE through registration process
 - Direct communication with sheriffs on issues
 - Success of States where AG leads registry
 - Ohio, Louisiana
 - Add current successful system to state budget
 - Unfunded mandate
 - Ensure AG and Local LE have tools / personnel needed

Loopholes in registry laws

- Several areas of code need to be addressed
 - 11-8-8-4.5 parent / guardian exception
 - 11-8-8-5 "Sex or Violent Offender"
 - 11-8-8-8 and 11-8-8-11 required info / updates
 - 11-8-8-13 verification mailings
 - 11-8-8-14 Annual /90 day reporting
 - 11-8-8-15 Possession of "valid" ID
 - 35-38-1-7.5 / 35-42-4-11 SVP / OAC petitions

Loopholes in registry laws

- Address these few issues now
- Clarify law for offenders and local LE
- Move towards Adam Walsh compliance
 - Complete overhaul of existing laws AFTER committee has chance to research issues

Adam Walsh SORNA Compliance

- Indiana is NOT alone
 - Only 15 states are SORNA compliant
 - Concerns about juveniles/ Ex Post Facto issues
 - Implementation costs
 - Proverbial carrot is 10% loss of Byrne funds

Adam Walsh SORNA Compliance

- Requires complete overhaul of existing IN laws
 - Tier system : 15, 25, lifetime registration periods
 - Annual, biannual, and quarterly reporting
 - IN offenses = what Tier level?
 - Juvenile offenders
 - Cost to State and local sheriffs
- Committee needs to look at “Big Picture”

Past, Present, and Future

- Prior to 2005 IN law was unenforceable
- 2006 11-8-8 replaces 5-2-12
 - launch of registry website/mapping
 - Public had better search capabilities
 - Sheriffs began looking for better solution
 - 92 different ways of doing things
- 2007-2009
 - Updates to law to fix conflicting language
 - ISA takes leadership role

Past, Present, and Future

- 2009-2012
 - ISA leadership unites sheriffs
 - Sheriffs implement current application
 - Duplicate records drop from thousands to 4!
 - ISA SVOR Committee
 - Standardized registration forms / procedures
 - Statewide Guidelines / Best Practices
 - Sponsored 13 Statewide trainings
 - Participation from ALL 92 counties

Past, Present, and Future

■ 2012-

- Data sharing partnerships
- DOC, ISP, BMV, IN FSSA, YMCA, USMS, NCIC
- Ohio, Illinois, Florida, California, Michigan and over 1000 other LE agencies across US

Where do we go from here?

- Secure funding for registry programs
- AG to be leader for registry efforts
- Establish Interim Study Committee
 - Local LE SOR personnel
 - DOC, AG, Victim Advocates, IPAC, Public Defender, Treatment providers, Legislators
 - Courts
- See “big picture” / SORNA

Questions?



Questions

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Necessary changes to Indiana Registry Laws

11-8-8-4.5 “Sex Offender”

Kidnapping and Criminal Confinement

Section 11-8-8-5 (a) (11) and (12) address the crimes of Kidnapping IC 35-42-3-2 and Criminal Confinement IC 35-42-3-3. The current version of the law, exempts a person from the requirement to register if the perpetrator was the parent or legal guardian of the victim

This section must be re-visited to allow the sentencing court to review the totality of the circumstances surrounding the kidnapping or confinement of the minor victim.

Cases involving parents or guardians may or may not be sexual in nature. In some of these cases there may have been a clear intent to commit a sexual assault but the victim was found or the perpetrator was unable to commit the assault. In these situations the sentencing court should be given the discretion to require these offenders to register as sex offenders based on a conviction for kidnapping or criminal confinement.

The issue of plea agreements is another concern. For instance, a parent or guardian charged with child molesting and criminal confinement would eagerly sign a plea agreement that dismissed the molesting charge for a guilty plea on the confinement charge. Armed with the knowledge that the offender’s relationship to the victim will exclude him or her from the sex offender registry, offenders would be eager to plead guilty to kidnapping or criminal confinement so that they could live undetected in the community.

In 2006 SOR personnel had originally recommended that language that simply stated “unless the sentencing court finds that the person should not be required to register” be added to the law. At that time IPAC felt that the language was too vague and the changes made in committee never made it into 11-8-8-4.5.

The dilemma we are faced with is trying to find the proper language to legislate common sense. If we look at the wording in 11-8-8-5 (b) (2) (C) regarding the registration of juvenile offenders we see that before a juvenile can be required to register as a sex offender, the court must find by “clear and convincing evidence” that juvenile is likely to re-offend.

The term “clear and convincing evidence” is not defined anywhere in the statute. However we and the court understand the term and the court is fully capable of determining exactly what “clear and convincing evidence” is, and they regularly apply this language to juvenile offenders. This is perhaps the best way to legislate common sense.

We recommend re-writing section 11-8-8-4.5 (a) (11) and (12) to state:

(11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, **unless the person who kidnapped the victim is not the victim's parent or guardian, AND the sentencing court finds by clear and convincing evidence that the kidnapping was not for sexual purposes.**

(12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, **unless the person who confined or removed the victim is not the victim's parent or guardian, AND the sentencing court finds by clear and convincing evidence that the victim was not confined or removed for sexual purposes.**

If we adopt this language;

1. Parents and guardians will not be automatically exempted from the requirement to register based solely on their relationship to the victim.
2. By stating that the court must find "by clear and convincing evidence" that the offense was not committed for sexual purposes, we will place the burden on the defendant to prove his or her intent. This will ensure that the community is protected from offenders who kidnap or confine children for questionable or unknown reasons. Prior to the parent or guardian exemption, the law allowed us to err on the side of caution and require registration of the offender based simply on a conviction for kidnapping or criminally confining a minor. However under the current law parents and guardians are relieved of the duty to register even if they kidnapped or confined their children for the sole purpose of sexually assaulting them.

11-8-8-5 "Sex or Violent Offender"

This section was intended to define the term "Violent Offender" as a person convicted of Murder or Voluntary Manslaughter. However it actually defines the term "Sex or Violent Offender". This section of code lists ALL of the sex offenses listed in the previous section, 11-8-8-4.5 and then adds Murder and Voluntary Manslaughter to this list. This section is confusing to both offenders and law enforcement alike.

SOR personnel understand that under Indiana law there are 4 classifications: Sex Offender, Violent Offender, Offender Against Children, and Sexually Violent Predator. However the current language of section 5 does not support this.

11-8-8-5 must be re-written as follows:

IC 11-8-8-5

"Violent offender"

Sec. 5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "violent offender" means a person convicted of any of the following offenses:

- (1) Murder (IC 35-42-1-1).
- (2) Voluntary manslaughter (IC 35-42-1-3).
- (3) An attempt or conspiracy to commit a crime listed in

subdivisions (1) through (2).

(4) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (2).

(b) The term includes:

- (1) a person who is required to register as a sex or violent offender in any jurisdiction; and
- (2) a child who has committed a delinquent act and who:

(A) is at least fourteen (14) years of age;

(B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and

(C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

11-8-8-8 defines the required registration information and states that registered offenders must submit to the search of their personal computers as well as the installation, at the offender's expense, of hardware or software to monitor the offender's internet usage. We need to add "vehicle VIN number" to the required information as this number is required by IDACS/NCIC if local law enforcement is to add vehicle information to the offender's mandatory sex offender entry into NCIC.

The search of the offender's personal computer was found to be unconstitutional and applies only to offenders on parole or probation in US District Court Indianapolis under John Doe, Steve Morris v. Marion Co Prosecutor CASE NO. 1:08-cv-0436-DFH-TAB. The language regarding this unconstitutional search must be removed from 11-8-8-8.

11-8-8-11 details the offender's obligation to report changes in address, employment, school, and email or internet identifiers to local law enforcement within 3 days of the change. At first glance this appears to be sufficient, however vehicles, tattoos, and drastic changes in personal appearance are not covered under this section and therefore an offender is under no obligation to notify law enforcement within 3 days of the change, and is not actually required to provide that information until his or her next annual or 90 day registration. This section needs to state that if any of the required information listed in 11-8-8-8 changes, the offender must report these changes to local law enforcement within 3 days of the change.

As it stands now an offender could register today and state that he has no vehicles. This same offender could buy a new vehicle tomorrow and he is not required to provide the vehicle description and plate number for the new vehicle until his next annual registration date.

Another issue that must be addressed is an offender who advises local law enforcement that he is relocating to another jurisdiction and then changes his or her mind and proceeds on to another unknown location. In these situations the offender simply disappears and no agency can issue an arrest warrant. The issue lies with establishing jurisdiction for the crime of "failure to register".

For example Offender X reports to the Allen County Sheriff's Department and says that he is moving to 123 Main Street in Indianapolis. This offender has just complied with the requirements of 11-8-8-11. Allen County officers notify Marion County of the intended move and if the offender does not register in-person in Marion County within 3 days of the move, the registry software automatically sends a message to both Marion County and Allen County advising both agencies that the offender has failed to register. However neither agency can file charges until the offender is located. In order for Allen County to file charges, they must establish that the offender "knowingly and intentionally made a material misstatement or omission while registering".

In this example the offender did not make a "material misstatement" in Allen County; he had every intention of relocating to 123 Main Street in Indianapolis, he simply changed his mind and decided to go to somewhere else. The only agency that can file charges is "somewhere else". Allen County can't because no crime was committed in Allen County. Marion County can't file charges until they can prove that the offender actually stayed in Marion County for 7 days without registering.

The state of Florida solved this problem by requiring the offender to return to the “agency where the offender last registered” and advise that agency of his new address. Adding similar language to 11-8-8-11 would solve this issue in most cases. However legislators must also draft language to deal with offenders released from the Department of Corrections. Again if an offender registers before his release from DOC and states that he intends to reside in Allen County, that offender has complied with the law. If the offender does not register in Allen County, we are faced with the same situation; Allen County cannot file charges until they can prove that the offender did in fact reside in Allen County and failed to register. DOC cannot file charges because they are not a law enforcement agency.

11-8-8-13 Verification of current addresses This section requires the local law enforcement agency having jurisdiction over the offender’s principal address to mail “a form” to each offender at least once per year, or at least once every 90 days, if the offender is a sexually violent predator. Additionally the letters are to be mailed, “beginning 7 days AFTER Local law enforcement receives notification that the offender has relocated to their jurisdiction. However **11-8-8-11** states that these same verifications must be done WITHIN 7 days of the offender’s relocation. The offender is NOT required to return the form and no enforcement action can be taken against an offender who does not return the form

Local law enforcement is also required to personally visit each offender at their registered address at least once per year or every 90 days. Requiring law enforcement to complete both tasks is overly burdensome and required mailings are unnecessary; especially since the offender is not required to respond to letters law enforcement is required to send.

The current registry application has a feature called “Active Contact” and this feature will be implemented statewide in the next few weeks. Active Contact will actually call each offender at their listed phone number to remind them of their upcoming registration dates.

11-8-8-14 Annual reporting; quarterly reporting for SVP’s This section of code requires offenders not classified as sexually violent predators to report in-person to local law enforcement for registration and photographs. The problem is that the offender is required to register “at least one time per calendar year”. The language “calendar year” is the issue here. A calendar year runs from January 1 to December 31 therefore an offender could register on January 1, 2012 and then not return to re-register until December 31, 2014; two years, or 729 days after his last “calendar year” registration. As long as the offender registered at least once in the calendar year of 2014, he or she would comply with the current wording of the law. We need to add the word “annually” or the wording “every 365 days” to this section of code.

11-8-8-14 must be re-written as follows:

IC 11-8-8-14

Annual reporting; quarterly reporting for sexually violent predators; registration and photographs

Sec. 14. (a) This subsection does not apply to a sex or violent offender who is a sexually violent predator. In addition to the other requirements of this chapter, a sex or violent offender who is required to register under this chapter shall **at least one (1) time annually Or every 365 days:**

- (1) report in person to the local law enforcement authority;
 - (2) register; and
 - (3) be photographed by the local law enforcement authority;
- in each location where the offender is required to register;

IC 11-8-8-15

Possession of valid Indiana driver's license or identification card required This section states:

Sec. 15. (a) A sex or violent offender who is a resident of Indiana shall obtain and keep in the sex or violent offender's possession:

- (1) a valid Indiana driver's license; or
- (2) a valid Indiana identification card (as described in IC 9-24-16).

(b) A sex or violent offender required to register in Indiana who is not a resident of Indiana shall obtain and keep in the sex or violent offender's possession:

- (1) a valid driver's license issued by the state in which the sex or violent offender resides; or
- (2) a valid state issued identification card issued by the state in which the sex or violent offender resides.

The issue here is the definition of "valid" some prosecutors question filing charges under this section because of the word "valid". Some believe the term refers to the status of a person's driver's license; i.e. "Is the offender's license valid or have his driving privileges been suspended?"

Clearly the intent of this section of code was to ensure that offenders carried identification with CURRENT information on it. The offender should carry identification that lists his current registered address and current physical descriptors. This section needs to include language that clarifies the intent of the law. Simply defining "valid" will clarify this issue; **"for the purposes of this section, the term "valid" means the driver's license or identification card must contain the offender's current registered address and current physical descriptors"**.

35-38-1-7.5 and 35-42-4-11 detail an offender's right to petition the court to seek relief from the classifications of Sexually Violent Predator" and "Offender Against Children". There are several issues with both of these statutes.

35-38-1-7.5 defines a Sexually Violent Predator and 35-38-1-7.5 (b) (4) states that "a person is a sexually violent predator by operation of law if they meet certain conditions and the person was released from **incarceration, secure detention, or probation** for the offense after June 30, 1994."

The word "**parole**" was inadvertently omitted and this was supposed to have been addressed in 2008 as an emergency fix. As it stands right now a person convicted of Rape and placed on **probation** is a predator, and a person convicted of Rape and placed **on parole is not** a predator. The word **parole** needs to be added to this section of law.

Another issue can be found in 35-38-1-7.5 (g) which states:

"If a court finds that the person should no longer be considered a sexually violent predator, the **court shall send notice** to the department of correction **that the person is no longer considered a sexually violent predator.**"

In cases involving child molesting convictions **the court should also indicate that the offender is also no longer "an offender against children."** A person is a predator if they were convicted of class A or B felony molesting and an offender against children is a person convicted of child molesting at any level.

The problem here is that a person no longer considered a sexually violent predator is still an offender against children because of the wording in 35-42-4-11 that states "**offender against children" means a person required to register as a sex or violent offender under IC 11-8-8 who has been:**

(1) found to be a sexually violent predator under IC 35-38-1-7.5; or

(2) convicted of one (1) or more of the following offenses:

(A) **Child molesting** (IC 35-42-4-3).

(B) Child exploitation (IC 35-42-4-4(b)).

(C) Child solicitation (IC 35-42-4-6).

(D) Child seduction (IC 35-42-4-7).

(E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian.

Based on that wording the only way to resolve this is to require the court making the determination that a person is no longer a sexually violent predator, to also indicate on the record that the person is also no longer an offender against children.

Finally, under these two statutes, a sexually violent predator can petition the court to remove the predator status years BEFORE an offender against children is allowed to seek the same type of relief. The problem lies in **35-42-4-11 (d)** that states a person seeking relief from the Offender Against Children classification, **“may file a petition under this subsection not earlier than ten (10) years after the person is released from incarceration, probation, or parole, whichever occurs last”**

Currently under IC **35-38-1-7.5 (g) (2)**, a sexually violent predator may petition the court “not earlier than ten (10) years **after “the person is released from incarceration or secure detention”**

This is not logical; a person convicted of class A felony child molesting and deemed a predator can petition the court several years before a person convicted of a lesser class D felony molesting (offender against children) can seek the same relief from the court. An offender against children should be allowed to petition the court 10 years after release from incarceration. This could be accomplished by simply removing the wording, **“, probation, or parole, whichever occurs last”** from the law to permit the offender to seek relief 10 years after his release from incarceration.

(UPDATED July 14, 2011)

Information Maintained by the Office of Code Revision Indiana Legislative Services Agency

IC 11-8-8

Chapter 8. Sex Offender Registration

IC 11-8-8-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The addition of sections 15, 17, and 18 of this chapter by P.L.140-2006 applies only to crimes committed after June 30, 2006.

(2) The addition of sections 15, 17, and 18 of this chapter by P.L.173-2006 applies only to crimes committed after June 30, 2006.

(3) The amendments to sections 17 and 18 of this chapter by P.L.216-2007 apply only to offenses committed after June 30, 2007.

As added by P.L.220-2011, SEC.244.

IC 11-8-8-0.2

Application of certain amendments to prior law

Sec. 0.2. (a) The amendments made to IC 5-2-12-4, IC 5-2-12-9, and IC 5-2-12-12 (before their repeal) by P.L.33-1996 apply to a child who is adjudicated a delinquent child after June 30, 1996, for an act that would be an offense described in IC 5-2-12-4(1) (before its repeal), as amended by P.L.33-1996.

(b) The amendments made to IC 5-2-12-9 by P.L.33-1996 apply to a person who commits a crime after June 30, 1996.

As added by P.L.220-2011, SEC.245.

IC 11-8-8-1

"Correctional facility"

Sec. 1. As used in this chapter, "correctional facility" has the meaning set forth in IC 4-13.5-1-1.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13.

IC 11-8-8-1.2

"Electronic chat room username"

Sec. 1.2. As used in this chapter, "electronic chat room username" means an identifier that allows a person to communicate over the Internet in real time using typed text.

As added by P.L.119-2008, SEC.1.

IC 11-8-8-1.4

"Electronic mail address"

Sec. 1.4. As used in this chapter, "electronic mail address" means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.

As added by P.L.119-2008, SEC.2.

IC 11-8-8-1.6

"Instant messaging username"

Sec. 1.6. As used in this chapter, "instant messaging username" means an identifier that allows a person to communicate over the Internet in real time using typed text.

As added by P.L.119-2008, SEC.3.

IC 11-8-8-1.8

"Social networking web site username"

Sec. 1.8. As used in this chapter, "social networking web site username" means an identifier or profile that allows a person to create, use, or modify a social networking web site, as defined in IC 35-42-4-12.

As added by P.L.119-2008, SEC.4.

IC 11-8-8-2

"Local law enforcement authority"

Sec. 2. As used in this chapter, "local law enforcement authority" means the:

- (1) chief of police of a consolidated city; or
- (2) sheriff of a county that does not contain a consolidated city.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13.

IC 11-8-8-3

"Principal residence"

Sec. 3. As used in this chapter, "principal residence" means the residence where a sex or violent offender spends the most time. The term includes a residence owned or leased by another person if the sex or violent offender:

- (1) does not own or lease a residence; or
- (2) spends more time at the residence owned or leased by the other person than at the residence owned or leased by the sex or violent offender.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.10.

IC 11-8-8-4

"Register"

Sec. 4. As used in this chapter, "register" means to report in person to a local law enforcement authority and provide the information required under section 8 of this chapter.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.11.

IC 11-8-8-4.5

"Sex offender"

Sec. 4.5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9),

unless:

- (A) the person is convicted of sexual misconduct with a minor as a Class C felony;
- (B) the person is not more than:
 - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
 - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
- (C) the sentencing court finds that the person should not be required to register as a sex offender.
- (9) Incest (IC 35-46-1-3).
- (10) Sexual battery (IC 35-42-4-8).
- (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
- (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
- (13) Possession of child pornography (IC 35-42-4-4(c)).
- (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.
- (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.
- (16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).
- (17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age.
- (18) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (17).
- (19) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (18).

(b) The term includes:

- (1) a person who is required to register as a sex offender in any jurisdiction; and
- (2) a child who has committed a delinquent act and who:
 - (A) is at least fourteen (14) years of age;
 - (B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and
 - (C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

As added by P.L.216-2007, SEC.12.

IC 11-8-8-5

"Sex or violent offender"

Sec. 5. (a) Except as provided in section 22 of this chapter, as used in this chapter, "sex or violent offender" means a person convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor as a Class A, Class B, or Class C felony (IC 35-42-4-9),

unless:

- (A) the person is convicted of sexual misconduct with a minor as a Class C felony;
 - (B) the person is not more than:
 - (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or
 - (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and
 - (C) the sentencing court finds that the person should not be required to register as a sex offender.
- (9) Incest (IC 35-46-1-3).
 - (10) Sexual battery (IC 35-42-4-8).
 - (11) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age, and the person who kidnapped the victim is not the victim's parent or guardian.
 - (12) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian.
 - (13) Possession of child pornography (IC 35-42-4-4(c)).
 - (14) Promoting prostitution (IC 35-45-4-4) as a Class B felony.
 - (15) Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age.
 - (16) Sexual trafficking of a minor (IC 35-42-3.5-1(b)).
 - (17) Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age.
 - (18) Murder (IC 35-42-1-1).
 - (19) Voluntary manslaughter (IC 35-42-1-3).
 - (20) An attempt or conspiracy to commit a crime listed in subdivisions (1) through (19).
 - (21) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (20).

(b) The term includes:

- (1) a person who is required to register as a sex or violent offender in any jurisdiction; and
- (2) a child who has committed a delinquent act and who:
 - (A) is at least fourteen (14) years of age;
 - (B) is on probation, is on parole, is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and
 - (C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

(c) In making a determination under subsection (b)(2)(C), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.

As added by P.L. 140-2006, SEC.13 and P.L. 173-2006, SEC.13. Amended by P.L. 216-2007, SEC.13.

IC 11-8-8-5.2

"Sex offense"

Sec. 5.2. As used in this chapter, "sex offense" means an offense listed in section 4.5(a) of this chapter.

As added by P.L.216-2007, SEC.14.

IC 11-8-8-6

"Sexually violent predator"

Sec. 6. As used in this chapter, "sexually violent predator" has the meaning set forth in IC 35-38-1-7.5.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13.

IC 11-8-8-7

Persons required to register; registration locations; time limits; photographs; duties of local law enforcement

Sec. 7. (a) Subject to section 19 of this chapter, the following persons must register under this chapter:

(1) A sex or violent offender who resides in Indiana. A sex or violent offender resides in Indiana if either of the following applies:

(A) The sex or violent offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The sex or violent offender owns real property in Indiana and returns to Indiana at any time.

(2) A sex or violent offender who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period:

(A) exceeding seven (7) consecutive days; or

(B) for a total period exceeding fourteen (14) days;

during any calendar year in Indiana regardless of whether the sex or violent offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) A sex or violent offender who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or postsecondary educational institution.

(b) Except as provided in subsection (e), a sex or violent offender who resides in Indiana shall register with the local law enforcement authority in the county where the sex or violent offender resides. If a sex or violent offender resides in more than one (1) county, the sex or violent offender shall register with the local law enforcement authority in each county in which the sex or violent offender resides. If the sex or violent offender is also required to register under subsection (a)(2) or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (c) or (d).

(c) A sex or violent offender described in subsection (a)(2) shall register with the local law enforcement authority in the county where the sex or violent offender is or intends to be employed or carry on a vocation. If a sex or violent offender is or intends to be employed or carry on a vocation in more than one (1) county, the sex or violent offender shall register with the local law enforcement authority in each county. If the sex or violent offender is also required to register under subsection (a)(1) or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (d).

(d) A sex or violent offender described in subsection (a)(3) shall register with the local law enforcement authority in the county where the sex or violent offender is enrolled or intends to be enrolled as a student. If the sex or violent offender is also required to register under subsection (a)(1) or (a)(2), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b) or (c).

(e) A sex or violent offender described in subsection (a)(1)(B) shall register with the local law enforcement authority in the county in which the real property is located. If the sex or violent offender is

also required to register under subsection (a)(1)(A), (a)(2), or (a)(3), the sex or violent offender shall also register with the local law enforcement authority in the county in which the offender is required to register under subsection (b), (c), or (d).

(f) A sex or violent offender committed to the department shall register with the department before the sex or violent offender is released from incarceration. The department shall forward the sex or violent offender's registration information to the local law enforcement authority of every county in which the sex or violent offender is required to register.

(g) This subsection does not apply to a sex or violent offender who is a sexually violent predator. A sex or violent offender not committed to the department shall register not more than seven (7) days after the sex or violent offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or
- (8) arrives at the place where the sex or violent offender is required to register under subsection (b),

(c), or (d);

whichever occurs first. A sex or violent offender required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the sex or violent offender's arrival in that county or acquisition of real estate in that county.

(h) This subsection applies to a sex or violent offender who is a sexually violent predator. A sex or violent offender who is a sexually violent predator shall register not more than seventy-two (72) hours after the sex or violent offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21);
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);
- (3) is released from a juvenile detention facility;
- (4) is transferred to a community transition program;
- (5) is placed on parole;
- (6) is placed on probation;
- (7) is placed on home detention; or

(8) arrives at the place where the sexually violent predator is required to register under subsection (b), (c), or (d);

whichever occurs first. A sex or violent offender who is a sexually violent predator required to register in more than one (1) county under subsection (b), (c), (d), or (e) shall register in each appropriate county not more than seventy-two (72) hours after the offender's arrival in that county or acquisition of real estate in that county.

(i) The local law enforcement authority with whom a sex or violent offender registers under this section shall make and publish a photograph of the sex or violent offender on the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5. The local law enforcement authority shall make a photograph of the sex or violent offender that complies with the requirements of IC 36-2-13-5.5 at least once per year. The sheriff of a county containing a consolidated city shall provide the police chief of the consolidated city with all photographic and computer equipment necessary to enable the police chief of the consolidated city to transmit sex or violent offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5.

(j) When a sex or violent offender registers, the local law enforcement authority shall:

- (1) immediately update the Indiana sex and violent offender registry web site established under

IC 36-2-13-5.5;

(2) notify every law enforcement agency having jurisdiction in the county where the sex or violent offender resides; and

(3) update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS).

When a sex or violent offender from a jurisdiction outside Indiana registers a change of address, electronic mail address, instant messaging username, electronic chat room username, social networking web site username, employment, vocation, or enrollment in Indiana, the local law enforcement authority shall provide the department with the information provided by the sex or violent offender during registration.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.2-2007, SEC.151; P.L.216-2007, SEC.15; P.L.119-2008, SEC.5.

IC 11-8-8-8

Required registration information; consent to computer search

Sec. 8. (a) The registration required under this chapter must include the following information:

(1) The sex or violent offender's full name, alias, any name by which the sex or violent offender was previously known, date of birth, sex, race, height, weight, hair color, eye color, any scars, marks, or tattoos, Social Security number, driver's license number or state identification card number, vehicle description and vehicle plate number for any vehicle the sex or violent offender owns or operates on a regular basis, principal residence address, other address where the sex or violent offender spends more than seven (7) nights in a fourteen (14) day period, and mailing address, if different from the sex or violent offender's principal residence address.

(2) A description of the offense for which the sex or violent offender was convicted, the date of conviction, the county of the conviction, the cause number of the conviction, and the sentence imposed, if applicable.

(3) If the person is required to register under section 7(a)(2) or 7(a)(3) of this chapter, the name and address of each of the sex or violent offender's employers in Indiana, the name and address of each campus or location where the sex or violent offender is enrolled in school in Indiana, and the address where the sex or violent offender stays or intends to stay while in Indiana.

(4) A recent photograph of the sex or violent offender.

(5) If the sex or violent offender is a sexually violent predator, that the sex or violent offender is a sexually violent predator.

(6) If the sex or violent offender is required to register for life, that the sex or violent offender is required to register for life.

(7) Any electronic mail address, instant messaging username, electronic chat room username, or social networking web site username that the sex or violent offender uses or intends to use.

(8) Any other information required by the department.

(b) If the sex or violent offender registers any information under subsection (a)(7), the offender shall sign a consent form authorizing the:

(1) search of the sex or violent offender's personal computer or device with Internet capability, at any time; and

(2) installation on the sex or violent offender's personal computer or device with Internet capability, at the sex or violent offender's expense, of hardware or software to monitor the sex or violent offender's Internet usage.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.16; P.L.119-2008, SEC.6.

IC 11-8-8-9

Informing of duty to register; registration time limits; offenders not committed to the department

Sec. 9. (a) Not more than seven (7) days before an Indiana sex or violent offender who is required to register under this chapter is scheduled to be released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Orally inform the sex or violent offender of the sex or violent offender's duty to register under this chapter and require the sex or violent offender to sign a written statement that the sex or violent offender was orally informed or, if the sex or violent offender refuses to sign the statement, certify that the sex or violent offender was orally informed of the duty to register.

(2) Deliver a form advising the sex or violent offender of the sex or violent offender's duty to register under this chapter and require the sex or violent offender to sign a written statement that the sex or violent offender received the written notice or, if the sex or violent offender refuses to sign the statement, certify that the sex or violent offender was given the written notice of the duty to register.

(3) Obtain the address where the sex or violent offender expects to reside after the sex or violent offender's release.

(4) Transmit to the local law enforcement authority in the county where the sex or violent offender expects to reside the sex or violent offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the sex or violent offender.

(b) Not more than seventy-two (72) hours after a sex or violent offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The sex or violent offender's fingerprints, photograph, and identification factors.

(2) The address where the sex or violent offender expects to reside after the sex or violent offender's release.

(3) The complete criminal history data (as defined in IC 10-13-3-5) or, if the sex or violent offender committed a delinquent act, juvenile history data (as defined in IC 10-13-4-4) of the sex or violent offender.

(4) Information regarding the sex or violent offender's past treatment for mental disorders.

(5) Information as to whether the sex or violent offender has been determined to be a sexually violent predator.

(c) This subsection applies if a sex or violent offender is placed on probation or in a community corrections program without being confined in a penal facility. The probation office serving the court in which the sex or violent offender is sentenced shall perform the duties required under subsections (a) and (b).

(d) For any sex or violent offender who is not committed to the department, the probation office of the sentencing court shall transmit to the department a copy of:

(1) the sex or violent offender's:

(A) sentencing order; and

(B) presentence investigation; and

(2) any other information required by the department to make a determination concerning sex or violent offender registration.

As added by P.L. 140-2006, SEC.13 and P.L. 173-2006, SEC.13. Amended by P.L. 216-2007, SEC.17; P.L. 3-2008, SEC.87.

IC 11-8-8-10

Duty to transmit fingerprints to Federal Bureau of Investigation

Sec. 10. Notwithstanding any other law, upon receiving a sex or violent offender's fingerprints from a correctional facility, the state police shall immediately send the fingerprints to the Federal Bureau of Investigation.

As added by P.L. 140-2006, SEC.13 and P.L. 173-2006, SEC.13. Amended by P.L. 216-2007, SEC.18.

IC 11-8-8-11

Change in registration location or status; duty to register or notify; updates

Sec. 11. (a) If a sex or violent offender who is required to register under this chapter changes:

(1) principal residence address; or

(2) if section 7(a)(2) or 7(a)(3) of this chapter applies, the place where the sex or violent offender stays in Indiana;

the sex or violent offender shall report in person to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal address or location and, if the offender moves to a new county in Indiana, to the local law enforcement authority having jurisdiction over the sex or violent offender's new principal address or location not more than seventy-two (72) hours after the address change.

(b) If a sex or violent offender moves to a new county in Indiana, the local law enforcement authority where the sex or violent offender's current principal residence address is located shall inform the local law enforcement authority in the new county in Indiana of the sex or violent offender's residence and forward all relevant registration information concerning the sex or violent offender to the local law enforcement authority in the new county. The local law enforcement authority receiving notice under this subsection shall verify the address of the sex or violent offender under section 13 of this chapter not more than seven (7) days after receiving the notice.

(c) If a sex or violent offender who is required to register under section 7(a)(2) or 7(a)(3) of this chapter changes the sex or violent offender's principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school, the sex or violent offender shall report in person:

(1) to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school; and

(2) if the sex or violent offender changes the sex or violent offender's place of employment, vocation, or enrollment to a new county in Indiana, to the local law enforcement authority having jurisdiction over the sex or violent offender's new principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school; not more than seventy-two (72) hours after the change.

(d) If a sex or violent offender moves the sex or violent offender's place of employment, vocation, or enrollment to a new county in Indiana, the local law enforcement authority having jurisdiction over the sex or violent offender's current principal place of employment, principal place of vocation, or campus or location where the sex or violent offender is enrolled in school shall inform the local law enforcement authority in the new county of the sex or violent offender's new principal place of employment, vocation, or enrollment by forwarding relevant registration information to the local law enforcement authority in the new county.

(e) If a sex or violent offender moves the sex or violent offender's residence, place of employment, vocation, or enrollment to a new state, the local law enforcement authority shall inform the state police in the new state of the sex or violent offender's new place of residence, employment, vocation, or enrollment.

(f) If a sex or violent offender who is required to register under this chapter changes or obtains a new:

(1) electronic mail address;

(2) instant messaging username;

(3) electronic chat room username; or

(4) social networking web site username;

the sex or violent offender shall report in person to the local law enforcement authority having jurisdiction over the sex or violent offender's current principal address or location and shall provide the local law enforcement authority with the new address or username not more than seventy-two (72) hours after the change or creation of the address or username.

(g) A local law enforcement authority shall make registration information, including information concerning the duty to register and the penalty for failing to register, available to a sex or violent offender.

(h) A local law enforcement authority who is notified of a change under subsection (a), (c), or (f) shall:

(1) immediately update the Indiana sex and violent offender registry web site established under IC 36-2-13-5.5;

(2) update the National Crime Information Center National Sex Offender Registry data base via the Indiana data and communications system (IDACS); and

(3) notify the department.

(i) If a sex or violent offender who is registered with a local law enforcement authority becomes incarcerated, the local law enforcement authority shall transmit a copy of the information provided by the sex or violent offender during registration to the department.

(j) If a sex or violent offender is no longer required to register due to the expiration of the registration period, the local law enforcement authority shall transmit a copy of the information provided by the sex or violent offender during registration to the department.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.1-2007, SEC.100; P.L.216-2007, SEC.19; P.L.119-2008, SEC.7.

IC 11-8-8-12

Temporary residence

Sec. 12. (a) As used in this section, "temporary residence" means a residence:

(1) that is established to provide transitional housing for a person without another residence; and

(2) in which a person is not typically permitted to reside for more than thirty (30) days in a sixty (60) day period.

(b) This section applies only to a sex or violent offender who resides in a temporary residence. In addition to the other requirements of this chapter, a sex or violent offender who resides in a temporary residence shall register in person with the local law enforcement authority in which the temporary residence is located:

(1) not more than seventy-two (72) hours after the sex or violent offender moves into the temporary residence; and

(2) during the period in which the sex or violent offender resides in a temporary residence, at least once every seven (7) days following the sex or violent offender's initial registration under subdivision (1).

(c) A sex or violent offender who does not have a principal residence or temporary residence shall report in person to the local law enforcement authority in the county where the sex or violent offender resides at least once every seven (7) days to report an address for the location where the sex or violent offender will stay during the time in which the sex or violent offender lacks a principal address or temporary residence.

(d) A sex or violent offender's obligation to register in person once every seven (7) days terminates when the sex or violent offender no longer resides in the temporary residence or location described in subsection (c). However, all other requirements imposed on a sex or violent offender by this chapter continue in force, including the requirement that a sex or violent offender register the sex or violent offender's new address with the local law enforcement authority.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.20.

IC 11-8-8-13

Verification of current residences

Sec. 13. (a) To verify a sex or violent offender's current residence, the local law enforcement authority having jurisdiction over the area of the sex or violent offender's current principal address or location shall do the following:

(1) Mail a form that is approved or prescribed by the department to each sex or violent offender in the county at the sex or violent offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex or violent offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(2) Mail a form that is approved or prescribed by the department to each sex or violent offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 11 or 20 of this chapter or the date the sex or violent offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(3) Personally visit each sex or violent offender in the county at the sex or violent offender's listed address at least one (1) time per year, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex or violent offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(4) Personally visit each sex or violent offender who is designated a sexually violent predator under IC 35-38-1-7.5 at least once every ninety (90) days, beginning seven (7) days after the local law enforcement authority receives a notice under section 7 of this chapter or the date the sex or violent offender is:

(A) released from a penal facility (as defined in IC 35-41-1-21), a secure private facility (as defined in IC 31-9-2-115), or a juvenile detention facility;

(B) placed in a community transition program;

(C) placed in a community corrections program;

(D) placed on parole; or

(E) placed on probation;

whichever occurs first.

(b) If a sex or violent offender fails to return a signed form either by mail or in person, not later than fourteen (14) days after mailing, or appears not to reside at the listed address, the local law enforcement

authority shall immediately notify the department and the prosecuting attorney.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.21.

IC 11-8-8-14

Annual reporting; quarterly reporting for sexually violent predators; registration and photographs

Sec. 14. (a) This subsection does not apply to a sex or violent offender who is a sexually violent predator. In addition to the other requirements of this chapter, a sex or violent offender who is required to register under this chapter shall, at least one (1) time per calendar year:

- (1) report in person to the local law enforcement authority;
- (2) register; and
- (3) be photographed by the local law enforcement authority;

in each location where the offender is required to register.

(b) This subsection applies to a sex or violent offender who is a sexually violent predator. In addition to the other requirements of this chapter, a sex or violent offender who is a sexually violent predator under IC 35-38-1-7.5 shall:

- (1) report in person to the local law enforcement authority;
- (2) register; and
- (3) be photographed by the local law enforcement authority in each location where the sex or violent offender is required to register;

every ninety (90) days.

(c) Each time a sex or violent offender who claims to be working or attending school registers in person, the sex or violent offender shall provide documentation to the local law enforcement authority providing evidence that the sex or violent offender is still working or attending school at the registered location.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.22.

IC 11-8-8-15

Possession of valid Indiana driver's license or identification card required

Sec. 15. (a) A sex or violent offender who is a resident of Indiana shall obtain and keep in the sex or violent offender's possession:

- (1) a valid Indiana driver's license; or
- (2) a valid Indiana identification card (as described in IC 9-24-16).

(b) A sex or violent offender required to register in Indiana who is not a resident of Indiana shall obtain and keep in the sex or violent offender's possession:

- (1) a valid driver's license issued by the state in which the sex or violent offender resides; or
- (2) a valid state issued identification card issued by the state in which the sex or violent offender resides.

(c) A person who knowingly or intentionally violates this section commits failure of a sex or violent offender to possess identification, a Class A misdemeanor. However, the offense is a Class D felony if the person:

- (1) is a sexually violent predator; or
- (2) has a prior unrelated conviction:
 - (A) under this section; or
 - (B) based on the person's failure to comply with any requirement imposed on an offender under this chapter.

(d) It is a defense to a prosecution under this section that:

- (1) the person has been unable to obtain a valid driver's license or state issued identification card because less than thirty (30) days have passed since the person's release from incarceration; or
- (2) the person possesses a driver's license or state issued identification card that expired not more than thirty (30) days before the date the person violated subsection (a) or (b).

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.23.

IC 11-8-8-16

Name changes

Sec. 16. (a) A sex or violent offender who is required to register under this chapter may not petition for a change of name under IC 34-28-2.

(b) If a sex or violent offender who is required to register under this chapter changes the sex or violent offender's name due to marriage, the sex or violent offender must register with the local law enforcement authority not more than seven (7) days after the name change.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.24.

IC 11-8-8-17

Registration violations; penalty

Sec. 17. (a) A sex or violent offender who knowingly or intentionally:

- (1) fails to register when required to register under this chapter;
 - (2) fails to register in every location where the sex or violent offender is required to register under this chapter;
 - (3) makes a material misstatement or omission while registering as a sex or violent offender under this chapter;
 - (4) fails to register in person as required under this chapter; or
 - (5) does not reside at the sex or violent offender's registered address or location;
- commits a Class D felony.

(b) The offense described in subsection (a) is a Class C felony if the sex or violent offender has a prior unrelated conviction for an offense:

- (1) under this section; or
- (2) based on the person's failure to comply with any requirement imposed on a sex or violent offender under this chapter or under IC 5-2-12 before its repeal.

(c) It is not a defense to a prosecution under this section that the sex or violent offender was unable to pay the sex or violent offender registration fee or the sex or violent offender address change fee described under IC 36-2-13-5.6.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.25.

IC 11-8-8-18

Sexually violent predator; duty to notify

Sec. 18. (a) A sexually violent predator who will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours shall inform the local law enforcement authority in the county where the sexually violent predator's principal address is located, in person, of the following:

- (1) That the sexually violent predator will be absent from the sexually violent predator's principal residence for more than seventy-two (72) hours.
- (2) The location where the sexually violent predator will be located during the absence from the sexually violent predator's principal residence.
- (3) The length of time the sexually violent predator will be absent from the sexually violent predator's principal residence.

(b) A sexually violent predator who will spend more than seventy-two (72) hours in a county in which the sexually violent predator is not required to register shall inform the local law enforcement authority in the county in which the sexually violent predator is not required to register, in person, of the following:

- (1) That the sexually violent predator will spend more than seventy-two (72) hours in the county.
- (2) The location where the sexually violent predator will be located while spending time in the county.
- (3) The length of time the sexually violent predator will remain in the county.

Upon request of the local law enforcement authority of the county in which the sexually violent predator

is not required to register, the sexually violent predator shall provide the local law enforcement authority with any additional information that will assist the local law enforcement authority in determining the sexually violent predator's whereabouts during the sexually violent predator's stay in the county.

(c) A sexually violent predator who knowingly or intentionally violates this section commits failure to notify, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section based on the person's failure to comply with any requirement imposed on a sex or violent offender under this chapter.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.26.

IC 11-8-8-19

Expiration of duty to register; lifetime registration; out-of-state registrants

Sec. 19. (a) Except as provided in subsections (b) through (e), a sex or violent offender is required to register under this chapter until the expiration of ten (10) years after the date the sex or violent offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;
- (2) is placed in a community transition program;
- (3) is placed in a community corrections program;
- (4) is placed on parole; or
- (5) is placed on probation;

for the sex or violent offense requiring registration, whichever occurs last. The registration period is tolled during any period that the sex or violent offender is incarcerated. The registration period does not restart if the offender is convicted of a subsequent offense; however, if the subsequent offense is a sex or violent offense, a new registration period may be imposed in accordance with this chapter. The department shall ensure that an offender who is no longer required to register as a sex or violent offender is notified that the obligation to register has expired.

(b) A sex or violent offender who is a sexually violent predator is required to register for life.

(c) A sex or violent offender who is convicted of at least one (1) offense under section 5(a) of this chapter that the sex or violent offender committed:

- (1) when the person was at least eighteen (18) years of age; and
- (2) against a victim who was less than twelve (12) years of age at the time of the crime;

is required to register for life.

(d) A sex or violent offender who is convicted of at least one (1) offense under section 5(a) of this chapter in which the sex offender:

- (1) proximately caused serious bodily injury or death to the victim;
- (2) used force or the threat of force against the victim or a member of the victim's family, unless the offense is sexual battery as a Class D felony; or
- (3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

(e) A sex or violent offender who is convicted of at least two (2) unrelated offenses under section 5(a) of this chapter is required to register for life.

(f) A person who is required to register as a sex or violent offender in any jurisdiction shall register for the period required by the other jurisdiction or the period described in this section, whichever is longer.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.27; P.L.119-2008, SEC.8.

IC 11-8-8-20

Interstate agreements; department to determine status of out-of-state offenders

Sec. 20. (a) The department may enter into a compact or agreement with one (1) or more jurisdictions outside Indiana to exchange notifications concerning the change of address, employment, vocation, or enrollment of a sex or violent offender between Indiana and the other jurisdiction or the other jurisdiction and Indiana.

(b) If the department receives information that a sex or violent offender has relocated to Indiana to reside, engage in employment or a vocation, or enroll in school, or that a sex or violent offender has been convicted in Indiana but not sentenced to the department, the department shall determine:

(1) whether the person is defined as a:

(A) sex offender under IC 11-8-8-4.5; or

(B) sex or violent offender under IC 11-8-8-5;

(2) whether the person is a sexually violent predator under IC 35-38-1-7.5;

(3) the period for which the person will be required to register as a sex or violent offender in Indiana; and

(4) any other matter required by law to make a registration determination.

(c) After the department has made a determination under subsection (b), the department shall update the sex and violent offender registry web site and transmit the department's determination to the local law enforcement authority having jurisdiction over the county where the sex or violent offender resides, is employed, and attends school. The department shall transmit:

(1) the sex or violent offender's name, date of relocation, and new address (if applicable), the offense or delinquent act committed by the sex or violent offender, and any other available descriptive information;

(2) whether the sex or violent offender is a sexually violent predator;

(3) the period for which the sex or violent offender will be required to register in Indiana; and

(4) anything else required by law to make a registration determination.

As added by P.L.140-2006, SEC.13 and P.L.173-2006, SEC.13. Amended by P.L.216-2007, SEC.28; P.L.3-2008, SEC.88.

IC 11-8-8-21

Sex and violent offender fund

Sec. 21. (a) The state sex and violent offender administration fund is established to assist the department in carrying out its duties under IC 11-8-2-12.4 concerning the Indiana sex and violent offender registry. The fund shall be administered by the department.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The fund consists of:

(1) grants;

(2) donations;

(3) appropriations;

(4) money from the annual sex or violent offender registration fee (IC 36-2-13-5.6(a)(1)(A)); and

(5) money from the sex or violent offender address change fee (IC 36-2-13-5.6(a)(1)(B)).

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund is continually appropriated to carry out the purposes of the fund.

As added by P.L.216-2007, SEC.29.

IC 11-8-8-22

Procedure for retroactive application of ameliorative statutes

Sec. 22. (a) As used in this section, "offender" means a sex offender (as defined in section 4.5 of this chapter) and a sex or violent offender (as defined in section 5 of this chapter).

(b) Subsection (g) applies to an offender required to register under this chapter if, due to a change in federal or state law after June 30, 2007, an individual who engaged in the same conduct as the offender:

(1) would not be required to register under this chapter; or

(2) would be required to register under this chapter but under less restrictive conditions than the offender is required to meet.

(c) A person to whom this section applies may petition a court to:

(1) remove the person's designation as an offender; or

(2) require the person to register under less restrictive conditions.

(d) A petition under this section shall be filed in the circuit or superior court of the county in which the offender resides. If the offender resides in more than one (1) county, the petition shall be filed in the circuit or superior court of the county in which the offender resides the greatest time. If the offender does not reside in Indiana, the petition shall be filed in the circuit or superior court of the county where the offender is employed the greatest time. If the offender does not reside or work in Indiana, but is a student in Indiana, the petition shall be filed in the circuit or superior court of the county where the offender is a student. If the offender is not a student in Indiana and does not reside or work in Indiana, the petition shall be filed in the county where the offender was most recently convicted of a crime listed in section 5 of this chapter.

(e) After receiving a petition under this section, the court may:

(1) summarily dismiss the petition; or

(2) give notice to:

(A) the department;

(B) the attorney general;

(C) the prosecuting attorney of:

(i) the county where the petition was filed;

(ii) the county where offender was most recently convicted of an offense listed in section 5 of this chapter; and

(iii) the county where the offender resides; and

(D) the sheriff of the county where the offender resides;

and set the matter for hearing. The date set for a hearing must not be less than sixty (60) days after the court gives notice under this subsection.

(f) If a court sets a matter for a hearing under this section, the prosecuting attorney of the county in which the action is pending shall appear and respond, unless the prosecuting attorney requests the attorney general to appear and respond and the attorney general agrees to represent the interests of the state in the matter. If the attorney general agrees to appear, the attorney general shall give notice to:

(A) the prosecuting attorney; and

(B) the court.

(g) A court may grant a petition under this section if, following a hearing, the court makes the following findings:

(1) The law requiring the petitioner to register as an offender has changed since the date on which the petitioner was initially required to register.

(2) If the petitioner who was required to register as an offender before the change in law engaged in the same conduct after the change in law occurred, the petitioner would:

(A) not be required to register as an offender; or

(B) be required to register as an offender, but under less restrictive conditions.

(3) If the petitioner seeks relief under this section because a change in law makes a previously unavailable defense available to the petitioner, that the petitioner has proved the defense.

The court has the discretion to deny a petition under this section, even if the court makes the findings

under this subsection.

(h) The petitioner has the burden of proof in a hearing under this section.

(i) If the court grants a petition under this section, the court shall notify:

(1) the victim of the offense, if applicable;

(2) the department of correction; and

(3) the local law enforcement authority of every county in which the petitioner is currently required to register.

(j) An offender may base a petition filed under this section on a claim that the application or registration requirements constitute ex post facto punishment.

(k) A petition filed under this section must:

(1) be submitted under the penalties of perjury;

(2) list each of the offender's criminal convictions and state for each conviction:

(A) the date of the judgment of conviction;

(B) the court that entered the judgment of conviction;

(C) the crime that the offender pled guilty to or was

convicted of; and

(D) whether the offender was convicted of the crime in a trial or pled guilty to the criminal charges; and

(3) list each jurisdiction in which the offender is required to register as a sex offender or a violent offender.

(l) The attorney general may initiate an appeal from any order granting an offender relief under this section.

As added by P.L.216-2007, SEC.30. Amended by P.L.103-2010, SEC.2.

IC 35-38-1-7.5

Sexually violent predators

Sec. 7.5. (a) As used in this section, "sexually violent predator" means a person who suffers from a mental abnormality or personality disorder that makes the individual likely to repeatedly commit a sex offense (as defined in IC 11-8-8-5.2). The term includes a person convicted in another jurisdiction who is identified as a sexually violent predator under IC 11-8-8-20. The term does not include a person no longer considered a sexually violent predator under subsection (g).

(b) A person who:

(1) being at least eighteen (18) years of age, commits an offense described in:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3 as a Class A or Class B felony;

(D) IC 35-42-4-5(a)(1);

(E) IC 35-42-4-5(a)(2);

(F) IC 35-42-4-5(a)(3);

(G) IC 35-42-4-5(b)(1) as a Class A or Class B felony;

(H) IC 35-42-4-5(b)(2);

(I) IC 35-42-4-5(b)(3) as a Class A or Class B felony;

(J) an attempt or conspiracy to commit a crime listed in clauses (A) through (I); or

(K) a crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (J);

(2) commits a sex offense (as defined in IC 11-8-8-5.2) while having a previous unrelated conviction for a sex offense for which the person is required to register as a sex or violent offender under IC 11-8-8;

(3) commits a sex offense (as defined in IC 11-8-8-5.2) while having had a previous unrelated adjudication as a delinquent child for an act that would be a sex offense if committed by an adult, if, after considering expert testimony, a court finds by clear and convincing evidence that the person is likely to commit an additional sex offense; or

(4) commits a sex offense (as defined in IC 11-8-8-5.2) while having had a previous unrelated adjudication as a delinquent child for an act that would be a sex offense if committed by an adult, if the person was required to register as a sex or violent offender under IC 11-8-8-5(b)(2); is a sexually violent predator. Except as provided in subsection (g) or (h), a person is a sexually violent predator by operation of law if an offense committed by the person satisfies the conditions set forth in subdivision (1) or (2) and the person was released from incarceration, secure detention, or probation for the offense after June 30, 1994.

(c) This section applies whenever a court sentences a person or a juvenile court issues a dispositional decree for a sex offense (as defined in IC 11-8-8-5.2) for which the person is required to register with the local law enforcement authority under IC 11-8-8.

(d) At the sentencing hearing, the court shall indicate on the record whether the person has been convicted of an offense that makes the person a sexually violent predator under subsection (b).

(e) If a person is not a sexually violent predator under subsection (b), the prosecuting attorney may request the court to conduct a hearing to determine whether the person (including a child adjudicated to be a delinquent child) is a sexually violent predator under subsection (a). If the court grants the motion, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person is a sexually violent predator under subsection (a). A hearing conducted under this subsection may be combined with the person's sentencing hearing.

(f) If a person is a sexually violent predator:

(1) the person is required to register with the local law enforcement authority as provided in IC 11-8-8; and

(2) the court shall send notice to the department of correction.

(g) This subsection does not apply to a person who has two (2) or more unrelated convictions for an offense described in IC 11-8-8-4.5 for which the person is required to register under IC 11-8-8. A person who is a sexually violent predator may petition the court to consider whether the person should no longer be considered a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after:

(1) the sentencing court or juvenile court makes its determination under subsection (e); or

(2) the person is released from incarceration or secure detention.

A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered a sexually violent predator. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person should no longer be considered a sexually violent predator under subsection (a). If a court finds that the person should no longer be considered a sexually violent predator, the court shall send notice to the department of correction that the person is no longer considered a sexually violent predator. Notwithstanding any other law, a condition imposed on a person due to the person's status as a sexually violent predator, including lifetime parole or GPS monitoring, does not apply to a person no longer considered a sexually violent predator.

(h) A person is not a sexually violent predator by operation of law under subsection (b)(1) if all of the following conditions are met:

- (1) The victim was not less than twelve (12) years of age at the time the offense was committed.
- (2) The person is not more than four (4) years older than the victim.
- (3) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.
- (4) The offense committed by the person was not any of the following:
 - (A) Rape (IC 35-42-4-1).
 - (B) Criminal deviate conduct (IC 35-42-4-2).
 - (C) An offense committed by using or threatening the use of deadly force or while armed with a deadly weapon.
 - (D) An offense that results in serious bodily injury.
 - (E) An offense that is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.
- (5) The person has not committed another sex offense (as defined in IC 11-8-8-5.2) (including a delinquent act that would be a sex offense if committed by an adult) against any other person.
- (6) The person did not have a position of authority or substantial influence over the victim.
- (7) The court finds that the person should not be considered a sexually violent predator.

As added by P.L.56-1998, SEC.17. Amended by P.L.1-1999, SEC.77; P.L.238-2001, SEC.18; P.L.116-2002, SEC.20; P.L.6-2006, SEC.5; P.L.140-2006, SEC.21 and P.L.173-2006, SEC.21; P.L.216-2007, SEC.37.

IC 35-42-4-10

Unlawful employment near children

Sec. 10. (a) As used in this section, "offender against children" means a person who is an offender against children under IC 35-42-4-11.

(b) As used in this section, "sexually violent predator" means a person who is a sexually violent predator under IC 35-38-1-7.5.

(c) A sexually violent predator or an offender against children who knowingly or intentionally works for compensation or as a volunteer:

- (1) on school property;
- (2) at a youth program center; or
- (3) at a public park;

commits unlawful employment near children by a sexual predator, a Class D felony. However, the offense is a Class C felony if the person has a prior unrelated conviction based on the person's failure to comply with any requirement imposed on an offender under IC 11-8-8.

As added by P.L.6-2006, SEC.3; P.L.140-2006, SEC.31 and P.L.173-2006, SEC.31. Amended by P.L.1-2007, SEC.231; P.L.216-2007, SEC.46.

IC 35-42-4-11

Sex offender residency restrictions

Sec. 11. (a) As used in this section, and except as provided in subsection (d), "offender against children" means a person required to register as a sex or violent offender under IC 11-8-8 who has been:

- (1) found to be a sexually violent predator under IC 35-38-1-7.5; or
- (2) convicted of one (1) or more of the following offenses:

(A) Child molesting (IC 35-42-4-3).

(B) Child exploitation (IC 35-42-4-4(b)).

(C) Child solicitation (IC 35-42-4-6).

(D) Child seduction (IC 35-42-4-7).

(E) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian.

(F) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (E).

(G) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (F).

A person is an offender against children by operation of law if the person meets the conditions described in subdivision (1) or (2) at any time.

(b) As used in this section, "reside" means to spend more than three (3) nights in:

(1) a residence; or

(2) if the person does not reside in a residence, a particular location;

in any thirty (30) day period.

(c) An offender against children who knowingly or intentionally:

(1) resides within one thousand (1,000) feet of:

(A) school property, not including property of an institution providing post-secondary education;

(B) a youth program center; or

(C) a public park; or

(2) establishes a residence within one (1) mile of the residence of the victim of the offender's sex offense;

commits a sex offender residency offense, a Class D felony.

(d) This subsection does not apply to an offender against children who has two (2) or more unrelated convictions for an offense described in subsection (a). A person who is an offender against children may petition the court to consider whether the person should no longer be considered an offender against children. The person may file a petition under this subsection not earlier than ten (10) years after the person is released from incarceration, probation, or parole, whichever occurs last. A person may file a petition under this subsection not more than one (1) time per year. A court may dismiss a petition filed under this subsection or conduct a hearing to determine if the person should no longer be considered an offender against children. If the court conducts a hearing, the court shall appoint two (2) psychologists or psychiatrists who have expertise in criminal behavioral disorders to evaluate the person and testify at the hearing. After conducting the hearing and considering the testimony of the two (2) psychologists or psychiatrists, the court shall determine whether the person should no longer be considered an offender against children. If a court finds that the person should no longer be considered an offender against children, the court shall send notice to the department of correction that the person is no longer considered an offender against children.

As added by P.L. 6-2006, SEC. 8. Amended by P.L. 140-2006, SEC. 32 and P.L. 173-2006, SEC. 32; P.L. 216-2007, SEC. 47.

IC 35-42-4-12

Sex offender internet offense

Sec. 12. (a) This section does not apply to a person to whom all of the following apply:

- (1) The person is not more than:
 - (A) four (4) years older than the victim if the offense was committed after June 30, 2007; or
 - (B) five (5) years older than the victim if the offense was committed before July 1, 2007.
- (2) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.
- (3) The crime:
 - (A) was not committed by a person who is at least twenty-one (21) years of age;
 - (B) was not committed by using or threatening the use of deadly force;
 - (C) was not committed while armed with a deadly weapon;
 - (D) did not result in serious bodily injury;
 - (E) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and
 - (F) was not committed by a person having a position of authority or substantial influence over the victim.

(b) This section applies only to a person required to register as a sex or violent offender under IC 11-8-8 who has been:

- (1) found to be a sexually violent predator under IC 35-38-1-7.5; or
- (2) convicted of one (1) or more of the following offenses:
 - (A) Child molesting (IC 35-42-4-3).
 - (B) Child exploitation (IC 35-42-4-4(b)).
 - (C) Possession of child pornography (IC 35-42-4-4(c)).
 - (D) Vicarious sexual gratification (IC 35-42-4-5(a) or IC 35-42-4-5(b)).
 - (E) Sexual conduct in the presence of a minor (IC 35-42-4-5(c)).
 - (F) Child solicitation (IC 35-42-4-6).
 - (G) Child seduction (IC 35-42-4-7).
 - (H) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age and the person is not the child's parent or guardian.
 - (I) Attempt to commit or conspiracy to commit an offense listed in clauses (A) through (H).
 - (J) An offense in another jurisdiction that is substantially similar to an offense described in clauses (A) through (H).

(c) As used in this section, "instant messaging or chat room program" means a software program that requires a person to register or create an account, a username, or a password to become a member or registered user of the program and allows two (2) or more members or authorized users to communicate over the Internet in real time using typed text. The term does not include an electronic mail program or message board program.

(d) As used in this section, "social networking web site" means an Internet web site that:

- (1) facilitates the social introduction between two (2) or more persons;
- (2) requires a person to register or create an account, a username, or a password to become a member of the web site and to communicate with other members;
- (3) allows a member to create a web page or a personal profile; and
- (4) provides a member with the opportunity to communicate with another person.

The term does not include an electronic mail program or message board program.

(e) A person described in subsection (b) who knowingly or intentionally uses:

- (1) a social networking web site; or
- (2) an instant messaging or chat room program;

that the offender knows allows a person who is less than eighteen (18) years of age to access or use the web site or program commits a sex offender Internet offense, a Class A misdemeanor. However, the

offense is a Class D felony if the person has a prior unrelated conviction under this section.

(f) It is a defense to a prosecution under this section that the person:

(1) did not know that the web site or program allowed a person who is less than eighteen (18) years of age to access or use the web site or program; and

(2) upon discovering that the web site or program allows a person who is less than eighteen (18) years of age to access or use the web site or program, immediately ceased further use or access of the web site or program.

As added by P.L.119-2008, SEC.18.

Exhibit K
Testimony of Robin Miller
Indiana Reform Sex Offender Laws

**CRIMINAL LAW AND
SENTENCING POLICY
STUDY COMMITTEE**

Sex Offender laws
Aug 23, 2012
Indiana Statehouse
Robin Miller
Indiana chapter Reform Sex Offender Laws

Juvenile SO Recidivism

- Indiana juvenile 2008
- <http://www.in.gov/idoc/files/2011JuvRecidivismRpt.pdf>

3%

Recidivism

- Indiana
- Return to incarceration for a new sex offense within 3 years of release
- NOTE: Technical violations are higher than average for SO

SO Recidivism

- Indiana 2005-2008
- <http://www.in.gov/idoc/files/RecidivismRelease.pdf>

1.05%

one of the lowest in the nation

SO Recidivism

- Indiana 2005-2007
- http://www.in.gov/idoc/files/05_07RecidivismRpt.pdf
- '05 5.3% '06 5.2% '07 5.7%

5.4%

Recidivism

Indiana is doing something right

WITHOUT

AWA

Most offenders not on registry

- Few RSO are reoffending
- Who is committing sexual crimes?
 - Offenders **NOT** on the registry
 - We need to protect our children from those not on registry

Kline

- Statute does not have an expungement provision

Ex post facto clause of constitution

- We cannot add punishment beyond what could have been imposed when the crime was committed

Wallace

<http://www.ai.org/judiciary/opinions/pdf/04300901rdr.pdf>

Ex port facto - Wallace

- Factor 7 - disclosure is punitive
 - Being on the registry is punishment

<http://www.ai.org/judiciary/opinions/pdf/04300901rdr.pdf>

Pollard

- <http://www.in.gov/judiciary/opinions/pdf/05130807pdm.pdf>
- Appellate May 2008
- Residency statute is criminal/punitive
 - Criminalizes residency
 - Forces relinquishing ownership
 - No exemptions

The sex and violent offender registry (HR 20 - 2012) Removing names

- I'm not finding other states that do not remove information once registration period has expired

To comply with awa

- broaden the definition of sex offenses
- raise the minimum number of years from 10 to 15 or 25
- give up some discretion in how it handles juvenile sex offenders

\$\$ lost non-compliance AWA

- 2009 \$10,291,799 to implement
- byrne funding: 3,696,033
 - Lose 10% - 369,603

Save **\$9,895,196**

by NOT implementing AWA

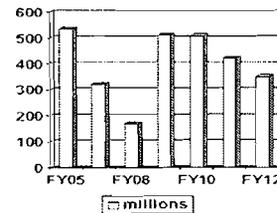
http://www.justicepolicy.org/images/upload/08-08_FAC_SORNACosts_JJ.pdf

35 states not in compliance

- <http://www.ncja.org/issues-and-legislation/legislation/webb-commission>

National Criminal Justice Association - home of Byrne\JAG US funding

- <http://www.ncja.org/issues-and-legislation/about-byrne-jag>



Potential loss of federal funds due to noncompliance with the Sex Offender Registry and Notification Act

Recover Loss of Funding

- States may apply for a reallocation of their penalty, to be used for SORNA purposes only.
- <http://ncja.informz.net/admin31/content/template.asp?sid=26714&brandid=3027&uid=763601645&mi=1472577&ptid=55>

SORNA Reauthorization

- <http://www.ncja.org/issues-and-legislation/legislation/webb-commission>
- Not certain

Answer

Barriers to Implementing

- <http://ncja.informz.net/admin31/content/template.asp?sid=26714&brandid=3027&uid=763601645&mi=1472577&ptid=55>
- Juvenile registration
- Website requirements
- Risk assessment \ tiering structure
- Registration and reporting requirements
- Penalty and reallocation

Organizations with Answers

- NAESV <http://endsexualviolence.org/where-we-stand/community-management-of-sex-offenders>
- Jaco wetterling
- Childmolestationprevention.org
- Jill Levenson – Lynn University
- Association for the Treatment of Sexual Abusers (ATSA) - www.atsa.com
- 2. Center for Sex Offender Management (CSOM) - www.csom.org
- 4. Stop It Now! - www.stopitnow.com

Maintenance costs

- 11323 RSO in IN as of 8/23/12
 - Add crimes more offenders
 - Add time *1.5 or 2.5 or life
 - Addl staff, buildings
 - Addl prosecution
 - Addl investigation
 - Addl court costs
 - Addl law enforcement

Human Rights Watch

- US No Easy Answers
Sex Offender Laws in the US
Sept 2007
- Registration should be limited to former offenders who have been individually assessed as dangerous, and only for as long as they pose a significant risk. Community notification should be restricted to those who genuinely can benefit from knowledge about dangerous former offenders in their midst.
- <http://www.hrw.org/reports/2007/09/11/no-easy-answers-0>

Stability

- Families
- Employment
- Housing

More harm than good

- Limit lists to those at most risk to reoffend
- Residency restrictions decrease safety
- Long term mandatory minimum sentences are harmful
- Studies

Exhibit L
Written Comments from Persons
and Families of Persons
Convicted of Sex Offenses

July 20, 2012

Dear Senator Hume:

I am writing to you as a member of the Criminal Law and Sentencing Committee, which was appointed to evaluate the sex offender registry and registration guidelines. (HR20-2012)

As an advocate for families and registrants in Indiana, I have had the opportunity to speak and listen to many testimonies regarding the registry and its effects on Indiana families. One of the main topics which arise in my conversations with the registrants and their family members is the ostracizing that children receive with a family member on the registry.

Indiana registrants' children are often ridiculed by their peers at school, church and other social outlets. Children are often witness to violent crimes and vigilante acts their families receive in consequence of the family's' address being listed for the public to view. Many are not allowed to have slumber parties, birthday parties or attend family events with their parent that is on the registry. The children suffer from lack of parental support at school functions, dance/piano recitals, attending movies, skating rinks, play places like Bounce Planet or Chuck E. Cheese, or even meet the teacher night at school. If a registrant is allowed at school for teacher conferences, they must be accompanied by law or school officials, thus bringing more attention and humiliation to the family. Some commit suicide to get away from the pain and suffering the registry has caused them and their families.

Children's safety and wellbeing should be our primary reasoning behind abolishing the public registry, however, there are other substantiated arguments as well:

- 1) The Indiana Department of Correction released a report in March 2009, that stipulates the recidivism rate for offenders at 1.05%. Included in this rate are violations of probation and parole. So, in actuality, the re-offense rate, for a second sexual crime, is even lower than the 1.05% stated. (attachment #1)
- 2) Per the 2009 Justice Policy Institute Study, the cost for Indiana to implement the registry in 2009 was \$10,291,799. The Byrne Funding received by the state in 2009 was \$3,696,033. If Indiana does not comply with SORNA or AWA guidelines, then the state would lose 10% of the Byrne Jag Funding amounting to a mere \$369,603. By losing the 10% Byrne Funding, Indiana still saves (per 2009 statistics) over \$9,895,196.00 in tax payer money. (attachment #2)
- 3) As noted in the Reauthorization of the AWA Amendment, Byrne Jag funds per state are also being reduced in 2012, yet still leaving the \$10,291,799 for Indiana to pay for the implementation of SORNA requirements. Indiana, could stand to lose more than the projected above figure of \$9,895,196.00.
- 4) Additionally, we must also factor in the costs of prosecution, investigation, court costs, incarceration and law enforcement cost to monitor registrants.
- 5) The additional costs for Indiana to support families of registrants are \$42, 630.00 per year for a family of four with an unemployed registrant. (See attachment #3 for breakdown of costs.)

*I have included the studies and references with this packet for your review.

In closing, I am asking you to not allow media and political gain to cloud your judgment on the registry issue. We, as citizens of Indiana, need to think about enacting laws that are safe, effective and constitutionally sound before implementing them. The sex offender registry is none of the above, nor does research show the registry effective to reduce recidivism rates. (Attachment #4)

Please take my plea to protect all of our children and families? Please abolish the registry for first time offenders.

I thank you for your time and open my availability to you should you have any questions or concerns regarding the above matter.

Respectfully,

Kimberly DuBina

Indiana Reform Sex Offender Laws President , 317-341-5164, rwsmom@frontier.com, www.reformsexoffenderlaws.org

August 22, 2012 11:20 PM

Senator_ Steele, Senator Young, Senator Arnold, Senator Hume,

Subject: AWA Re-authorization

Dear Senators,

My name is Alfred Epperly and my son is a RSO. In March 2006 my son was arrested during a Internet "Sting" operation in Jefferson County Colorado. Charged with a class D felony of "Attempted sexual assault of a minor child". (There was no child involved) In any case he was facing up to 15 years in prison. So when the prosecutor offered 3 years Intense Supervised Probation (ISP) and 10 years on the registry, he took the plea bargain. He was in Bolder Co with no support system. (He was doing grad work at college there) Anyway, I was spending 3-5 hours a day on the phone because of what they was putting him through... My wife and I decided to get his probation transferred to Indiana. (To this point the cost was \$22,700.00) We was fortunate that he was able to live at home. (we are not near a school, nursery etc) But the cost of everything was on me because he could not find work. During his 3 year probation he was able to attend college and obtain his masters degree. He was released from probation and treatment 6 months early. NEVER HAD ONE INFRACTION or failed any test of any type. He even went back to treatment sessions to help a couple men with their reports etc... At this point my savings had decreased by another \$21,000.00. For the past 2 years he has been in another state because he is NOT on the internet registry in that state. He was hired at a college to teach Communications Labs. (Didn't require background check) After teaching 2 class days, (they asked him to start early) he went to the state police and registered as required. Although not required, the clerk called the college and reported my son as a RSO. The college terminated his employment the next day because he was on the registry. Since then he has been hired by 2 other companies that did not require background checks but when my son informed them of being on the registry, they told him that they could not hire him after all. He has been attempting to start his own business but so far has not been able to get a loan. (guess why?) As of this date we have spent another \$56,000.00 for a total of \$100,000.00 with no progress made.

I am a Retired Navy Veteran, Taught at College level for 8 years and Retired from Madison County Government Center and Courts in 2005. My wife is still employed and can't retire. I do part time security work and must continue. Why? Because my son CANT and we refuse to give up on him. He has done everything required of him (and more) WE have not had a good night sleep in over 6 (SIX) years. Regardless of what the Supreme Court says, the registry is punitive. Not just to the RSO but to his/her family as well. If the plea bargain had indicated 25 years or life, we would have gone to trial. If the registry is not part of the punishment, why is it part of the plea?

I am only ONE person but my story can be multiplied by thousands. Most of the registry is loaded down with NON-violent and/or Victimless offenses that

only bough down law enforcement and hinder them in keeping close tabs on the REAL criminals.

Placing RSO's on the registry for longer periods will cause the registry to grow at a rate that will cost millions just to manage it. Other states have found that it is better to loose \$300.000 than to spend 10's of millions to become AWA compliant.

In closing I would like to ask, can anyone name a child that has kept a CURRENT RSO from assaulting them? I ask that you vote NO on the AWA re-authorization Act.

Respectfully
Alfred Epperly
2420 Bramble way
Anderson, In. 46011

8-20-12

Dear Mr. Steverwald,

My name is Jeff Griffin, and I am an inmate at the New Castle Correctional Facility.

The reason I am writing to you concerns the parole stipulation and this 100 ft law that says sex offenders cannot live at some locations. In all honesty sir, who does this law benefit? I will tell you this, 1. it does not benefit the citizens as some were led to believe, 2. it does not help the inmates that have been released on parole. So who does benefit from this useless law, a privately run prison like GEO. This law does not stop a person from committing a crime. What is the purpose of this law? It does hurt inmates who want to do what is right and become law abiding tax paying citizens. Most of us don't get the help that

we really do need. I was violated for not having an approved address, and I was charged with a class D felony. I was giving 2 years for living at the only place I could find. I would not steal, rob or do anything I use to do because I really was trying to do what was right.

I want to get back into truck driving. Will I be given the chance to do this? Will I be denied for yet another rule or law that serves no useful purpose. All inmates should be given training and assistance in finding the job he was trained for. We can and would repay what this training cost. This would stop the return to prison.

Use reason when it comes to inmates being released.

Sincerely
Jeff Griffin

Dear Mr Steuerwald

8-15-2012

My name is Ryan Moen and I'm a sex offender who is incarcerated at the New castle correctional facility. I'm writing to you to share this letter with the Criminal Code Study Committee. To my understanding this committee will be reviewing the very laws that affect my life on a daily bases, not just mine, but my family too. The prison system is over crowded and I know this because I'm living in one. I was released from prison in July of 2010 to sex offender parole, which is different from other offenses that offenders are placed on parole. I went to stay at my mother's, because I DOC and Liberty Health would not let me stay with my children and their mother, because my children are under the age of 18. Unlike me alot of sex offenders have no place to go, because of minors living at the address they are trying to parole to.

So I DOC puts these parolees in a hotel for two weeks, which after two weeks the parolee must pay the rent or find an address that parole will approve or be violated to do the back part of their time. When all I DOC had to do was let the man go back and live with his family. For the parolees who have somewhere to go they must have \$30 to \$70 a week to pay Liberty Health for Somms counseling. Which is the same counseling the parolee had while incarcerated.

For me to make my point I have to define "Somms". Somms is defined like this it is a contract between the state of Indiana and Liberty Health for the monitoring and management of sex offenders. Sex offender monitoring and management coined Somms by I DOC, so if Somms is

defined like this not by me, but IDOC why then is the tax payers of Indiana paying twice for the monitoring and management of sex offenders. It seems to me that Liberty Health is not really monitoring or managing sex offenders at all. Liberty Health and IDOC manage sex offenders by violating their parole and keeping the sex offender incarcerated, while passing the buck back to the tax payer. See IDOC web site Parole violations for sex offenses are higher than any other offense it is at 87.6% of sex offenders released to parole violate it within two years. The reason is there are 36 sex offender parole rules where as regular offenders have only 9 rules. The actual recidivism rate for new sex offenses is 1.5% again according to IDOC web site. However, because of technical rule violations with the additional rules 87.6% of sex offenders are returned to prison to do the remaining part of their sentence, where as a non-sex offender for the same technical violation is set free a sex offender is doing 5 years on the ~~the~~ ^{same} violation.

So with numbers like this why is the wonderful State of Indiana paying Liberty Health care million of dollars to monitor and manage sex offenders when all they are doing is making it appear they are, when in reality they soak the parolee for as long as they see fit and then they have the parolee violated and sent back to prison, again passing the buck back to the wonderful tax payers of Indiana. As a tax payer my self I am mad that this could happen and I would think you would be too.

In conclusion to all these facts and numbers

It would seem to me to make more sense to eliminate many of the petty sex offender laws, increase educational opportunities, and consider alternative sentencing options for sex offenders as the Pew Institute recommended in a recent study, creating options that will allow sex offenders to support their families and strengthen family bonds, instead of continually taking them away from their families. Not only would sex offenders be contributing to the Indiana tax base, but over all cost of incarceration would be reduced, as would over crowding and the eventual need for new prison construction.

Sincerely Yours,

Ryan Moon Doc 944825 61-216

N.C.C.F

P.O. Box A

New Castle IN 47362

Exhibit M

Materials Submitted by Brent Myers,
Director of Registration and Victims Services,
Department Of Correction

Case Summary

The Boone Circuit Court determined that Jeremiah Cline (“Cline”) is not required to register as a sex offender, but also determined that it lacked authority to order the removal of Cline’s name and information from the Indiana Sex Offender Registry (“the Registry”). Cline appeals and presents the sole issue of whether the trial court has authority to expunge Cline’s information from the Registry. We affirm.

Facts and Procedural History

Then twenty-year-old Cline engaged in sexual intercourse with a fifteen-year-old in February of 2001 and with a fourteen-year-old on June 4, 2001. On May 31, 2002, Cline pled guilty to two counts of Sexual Misconduct with a Minor, as Class C felonies.¹ He was sentenced to six years imprisonment, with two years suspended.

The Indiana Sex Offender Act (originally enacted in 1994) (“the Act”), was amended, effective July 1, 2001 such that one convicted of the crime of Sexual Misconduct with a Minor, as a Class C felony, was required to register as a sex offender. Although Cline’s crimes predated the statutory change, he was required upon release from incarceration to register accordingly.

On July 26, 2011, Cline filed his “Amended Petition to Remove Petitioner From Sex Offender Registration Requirement.” (App. 20.) A hearing was conducted on July 27, 2011. On October 24, 2011, the trial court issued an order with specific findings. The trial court found that Cline had no obligation to continue to register as a sex offender, because

¹ Ind. Code § 35-42-4-9(a).

application of the statutory change would constitute ex post facto punishment as to him. However, the trial court also found that it lacked authority to expunge Cline's existing information from the Registry. This appeal ensued.

Discussion and Decision

I. Standard of Review

Cline petitioned for relief pursuant to the provision of the Act allowing a sex offender to petition to remove the designation or register under less restrictive conditions. Ind. Code § 11-8-8-22. Generally, a trial court's ruling on a petition for relief filed under subsection 22 is reviewed for an abuse of discretion. Lucas v. McDonald, 954 N.E.2d 996, 998 (Ind. Ct. App. 2011). Here, however, the issue presented is one of law.

The interpretation of a statute is a legal question that is reviewable de novo. Avemco Ins. Co. v. State ex rel. McCarty, 812 N.E.2d 108, 115 (Ind. Ct. App. 2004). We owe no deference to a trial court's determination. Bowling v. State, 960 N.E.2d 837, 841 (Ind. Ct. App. 2012). The goal of statutory construction is to determine and implement legislative intent. Fort Wayne Patrolmen's Benev. Ass'n v. Fort Wayne, 903 N.E.2d 493, 497 (Ind. Ct. App. 2009), trans. denied. We read all sections of an act and strive to give effect to all provisions. Id. "We will not read into a statute that which is not the manifest intent of the legislature. For this reason, it is as important to recognize not only what a statute says, but also what a statute does not say." Cox v. Cantrell, 866 N.E.2d 798, 809 (Ind. Ct. App. 2007) (citation and quotation marks omitted), trans. denied.

II. Analysis

Indiana law requires persons convicted of sex or violent crimes to report to and register with local law enforcement. Ind. Code § 11-8-8-14. Sex offenders must fulfill obligations including providing personal information, registering annually,² being photographed, and keeping law enforcement authority apprised of any changes in work or residence. See id. Sex offender registry information appears on an Internet website jointly established and maintained by Indiana sheriffs. Ind. Code § 36-2-13-5.5.

However, effects of the Act have been declared in violation of the ex post facto clause contained in the Indiana Constitution,³ as applied to persons who had committed their crimes prior to the imposition of any registration requirement. See Wallace v. State, 905 N.E.2d 371, 384 (Ind. 2009) (defendant's conviction for failing to register as a sex offender was reversed because the registration statute, as applied to him, added punishment beyond that which could have been imposed when he committed his crime), reh'g denied; see also State v. Pollard, 908 N.E.2d 1145, 1154 (Ind. 2009) (trial court properly dismissed charge that Pollard violated the residency restriction provision of the Sex Offender Registration Act when he had served his sentence before the Act was enacted and application to him would add punishment beyond that possible when his crime was committed).⁴

² Sexually violent predators must register every 90 days. Ind. Code § 11-8-8-14(b).

³ Article I, section 24 of the Indiana Constitution provides that “[n]o ex post facto law . . . shall ever be passed.”

⁴ However, on the same day that it handed down Wallace, our supreme court handed down Jensen v. State, 905 N.E.2d 384, 394 (Ind. 2009), a plurality decision supporting the proposition that portions of the Act requiring lifetime registration may be applied retroactively if the offender was already required to register at the time of his offense. Jensen, who had pled guilty to child molesting while the registration statute included a ten-year reporting requirement, and was subsequently adjudicated a sexually violent predator and ordered to register for life, did not demonstrate a violation of the ex post facto clause. Id. See also Lemmon v. Harris, 949 N.E.2d 803 (Ind. 2011) (applying Jensen and concluding that a sexual violent predator designation with lifetime

Subsequent to the Wallace decision, our Legislature amended the Act such that it includes a provision allowing a sex offender to petition for removal of the designation, providing in relevant part:

(c) A person to whom this section applies may petition a court to:

- (1) remove the person's designation as an offender; or
- (2) require the person to register under less restrictive conditions.

(d) A petition under this section shall be filed in the circuit or superior court of the county in which the offender resides

....

(g) A court may grant a petition under this section if, following a hearing, the court makes the following findings:

(1) The law requiring the petitioner to register as an offender has changed since the date on which the petitioner was initially required to register.

(2) If the petitioner who was required to register as an offender before the change in law engaged in the same conduct after the change in law occurred, the petitioner would:

(A) not be required to register as an offender; or

(B) be required to register as an offender, but under less restrictive conditions.

(3) If the petitioner seeks relief under this section because a change in law makes a previously unavailable defense available to the petitioner, that the petitioner has proved the defense.

Ind. Code § 11-8-8-22(c)-(d),(g). Cline contends that the foregoing is a statutory codification of Wallace, and must be interpreted so as to not only relieve him of future obligations but also to provide for removal of his name and existing information from the Registry. According to Cline, complete expungement is required to avoid ex post facto punishment because retention of identifying information (even without a duty to provide updates) has a punitive effect upon him akin to the ex post facto punishment discussed in Wallace. He thus argues that, not only should he not have to register in the future, he should be placed in a

registration requirements did not violate the ex post facto clause).

position as if he had never reported his personal information.

In Wallace, our supreme court recognized that the Act imposes “significant affirmative obligations and a severe stigma on every person to whom it applies” and “exposes registrants to profound humiliation and community-wide ostracism.” 905 N.E.2d at 379-80. Mindful of such onerous effects, the Court highlighted a deficiency of the Act as it then existed, observing:

In this jurisdiction the Act makes information on all sex offenders available to the general public without restriction and without regard to whether the individual poses any particular future risk. Indeed we think it significant for this excessiveness inquiry that the Act provides no mechanism by which a registered sex offender can petition the court for relief from the obligation of continued registration and disclosure. Offenders cannot shorten their registration or notification period, even on the clearest proof of rehabilitation.

Wallace, 905 N.E.2d at 384. Effectively, our supreme court invited the Legislature to provide a “mechanism by which a registered sex offender can petition the court for relief from the obligation of continued registration and disclosure” or for shortening the time of obligation. Id. (emphasis added.) The Legislature responded by enacting a mechanism for relief from registration obligations and for shortening of the period of obligation. Notably, the Wallace Court did not address expungement; nor did the legislative response specifically do so.

Although Cline claims he will have to endure the stigma associated with registration even if he does not register in the future, the fact that Cline committed sex crimes is a matter of public record. We do not read the Wallace decision as broadly as does Cline; it does not insulate an offender from all punitive consequences associated with having committed his

crimes.⁵ Furthermore, the statutory provision under which Cline sought relief does not include an expungement provision.⁶ We will not add such a provision. See Cox, 866 N.E.2d at 809 (observing that we will not read into a statute that which is not the manifest intent of the legislature).

Nonetheless, a panel of this Court has very recently observed: “The undisputed facts here establish that the DOC [the Indiana Department of Correction] determines whether an incarcerated individual belongs on the Registry and also handles complaints about mistaken sex offender registrations.” Myers v. Coats, 966 N.E.2d 652, 658 (Ind. Ct. App. 2012) (emphasis added). We further observed that the DOC had added an administrative appeal to allow for challenges to errors on the Registry. Id. at 4, n.4. Cline is not precluded from this avenue, although we express no opinion on the breadth of relief to be afforded, if any.

Cline has not demonstrated his entitlement to expungement as a judicial remedy; the trial court did not misapply the law. Accordingly, we affirm the trial court.

Affirmed.

⁵ We acknowledge that, in Brogan v. State, 925 N.E.2d 1285, 1289 (Ind. Ct. App. 2010), a panel of this Court stated that Indiana Code Section 11-8-8-22, as revised in 2010, “provides for a petition by a sex offender to have his name removed from the designation as a sex offender so as to relieve him from the duty to register as a sex offender.” In determining whether Brogan’s motion for removal from the Registry was a cognizable vehicle for his ex post facto argument, the Court appeared to equate “removal of the person’s name from any sexual offender registry” with “relie[f] from the obligation to register.” Id. at 1289-90. In holding that Noble County was not the appropriate forum in which to obtain judicial relief directing removal of Brogan’s name, the Court observed: “One thing is patently clear from the Wallace decision. Brogan is entitled to have his name removed from any sex offender registry which has resulted from his 1994 convictions in Noble County.” Id. at 1291. See also Clampitt v. State, 932 N.E.2d 1256, 1258 (Ind. Ct. App. 2010) (directing the trial court to consider an amended petition “to remove [Clampitt]’s name from Indiana’s sex offender registry”).

⁶ The general expungement statute, Indiana Code § 35-38-5-1, affords relief only when there has been no charge following an arrest or where a charge is dismissed because of mistaken identity, no offense was in fact committed, or there is an absence of probable cause.

MATHIAS, J., concurs.

ROBB, C.J., dissents with opinion.

**IN THE
COURT OF APPEALS OF INDIANA**

JEREMIAH CLINE,)	
)	
Appellant-Petitioner,)	
)	
vs.)	No. 06A05-1111-MI-611
)	
STATE OF INDIANA,)	
)	
Appellee-Respondent.)	

ROBB, Chief Judge, dissenting

I respectfully dissent. I begin to explain why by briefly describing the factual and legal context. Upon Cline’s release from incarceration, a state office required Cline to add his name and information to the sex offender registry. He later took the initiative to request the court remove⁷ his name and information, alleging it was unlawful to require him to have registered at all. Following a hearing, the trial court agreed with Cline that authorities

⁷ The majority and the trial court refer to Cline’s request as one of expungement. While his request for removal of his name and information from the registry does constitute “expungement” in some form, expungement is a term of art which refers to complete removal of an arrest from one’s criminal history retained by a local, regional, or state entity, *see* Ind. Code § 35-38-5-3, and limited access to one’s criminal history upon the passage of fifteen years since the date of discharge from probation, imprisonment, or parole, *see* Ind. Code 35-38-5-5. Expungement is similar to what Cline requests regarding the sex offender registry, but the distinction is significant enough and the similarity is potentially confusing enough that I believe it important to use different nomenclature in discussing Cline’s case. I refer to Cline’s request as one to remove his name and information from the sex offender registry, and conclude his petition does not seek expungement of his arrest or conviction from his criminal record.

violated the Indiana Constitution by requiring he add his name and information to the registry in the first place. I agree, and the majority appears to as well.

The majority further concludes, though, that trial courts have no authority to correct this admitted constitutional violation by ordering the removal of an erroneous-registrant's name and information from the registry. It is this latter conclusion from which I respectfully dissent.

Before going further, it is important to note what this case is not about. It is not about determining whether the registry requirement is an ex post facto law as applied to Cline. It is not about removing one's name and information from the registry due to a change in the law that eliminates an offense for which one must register. For instance, it is not about one who initially registered pursuant to a statute requiring registry for a conviction of sexual misconduct with a minor and later seeks removal upon a statutory change so that one later convicted of that offense is not required to register. This case is also not about removal of one's name and information from the registry or termination of the duty to register upon the passage of a period of time since he or she began registering. See Ind. Code § 11-8-8-19(a). Finally, this case is not about expungement of a conviction from one's criminal history or record.

This is a case about whether a person who should not have had to but was erroneously required to add his name and information to the registry in the first place is entitled to relief in the form of having his name and information removed. The backdrop is Wallace, in which our supreme court held that the sex offender registration act was unconstitutional as applied

to one who committed his offense before the act was enacted. See 905 N.E.2d at 384. Specifically, the court held that it “violates the prohibition on ex post facto laws contained in the Indiana Constitution because it imposes burdens that have the effect of adding punishment beyond that which could have been imposed when his crime was committed.” Id. The General Assembly responded by amending Indiana Code section 11-8-8-22 to address the supreme court’s ex post facto concern.

Thus, this case is also about interpreting and applying section 11-8-8-22. This section is poorly written and confusing. Nevertheless, a logical reading of the following subsections of section 11-8-8-22 determines the fate of Cline’s petition.⁸

(b) Subsection (g) applies to an offender required to register under this chapter if, due to a change in federal or state law after June 30, 2007, an individual who engaged in the same conduct as the offender:

- (1) would not be required to register under this chapter; or
- (2) would be required to register under this chapter but under less restrictive conditions than the offender is required to meet.

(c) A person to whom this section applies may petition a court to:

- (1) remove the person’s designation as an offender; . . .

(g) A court may grant a petition under this section if, following a hearing, the court makes the following findings:

- (1) The law requiring the petitioner to register as an offender has changed since the date on which the petitioner was initially required to register.
- (2) If the petitioner who was required to register as an offender before the change in law engaged in the same conduct after the change in law occurred, the petitioner would:
 - (A) not be required to register as an offender; or
 - (B) be required to register as an offender, but under less restrictive conditions.

⁸ As to the principles governing our court’s interpretation of a statute, I agree with the majority’s references to and reading of Avemco, Bowling, Fort Wayne Patrolmen’s Benev. Ass’n, and Cox. See Slip Op. at 3.

(3) If the petitioner seeks relief under this section because a change in law makes a previously unavailable defense available to the petitioner, that the petitioner has proved the defense.

The court has the discretion to deny a petition under this section, even if the court makes the findings under this subsection.

Ind. Code § 11-8-8-22.

Subsection (c) states that the relief Cline seeks is available so long as the section applies to Cline. Subsection (b) states that a court may grant a petition to remove one's designation as an offender, referring to subsection (g), if "a change in federal or state law" after a certain date resulted in particular consequences for others. Subsection (g) also describes a court's authority regarding the registry when particular changes in the law occur.

The only way the repeated references to a "change in law" in section 11-8-8-22 make sense is if the section addresses the supreme court's concern that some applications of the registry laws lead to violations of the Indiana Constitution's ex post facto clause. If the statute – particularly subsection (c) – does not mean that a court may remove an offender's name and information from the registry, then it has no meaning at all. "The goal of statutory construction is to determine, give effect to, and implement the intent of the General Assembly." Sanders v. Bd. of Comm'rs of Brown Cnty., 892 N.E.2d 1249, 1252 (Ind. Ct. App. 2008), trans. denied. "[I]n seeking to give effect to the legislature's intent, we . . . strive to give effect to all of the provisions so that no part is held meaningless if it can be reconciled with the rest of the statute. We presume that our legislature intended for its language to be applied in a logical manner consistent with the statute's underlying policy and goals." Fort Wayne Patrolmen's Benev. Ass'n, 903 N.E.2d at 497-98 (citations omitted).

Further, to the extent it is clear that section 11-8-8-22 is intended to address the Indiana Constitution's prohibition of ex post facto laws, the authority to remove an offender's name and information from the registry must rest with someone. Subsection (c) states that the authority rests with the trial court. The majority suggests Cline take up his cause with the Department of Correction. I believe the trial court is the appropriate authority, first because it is explicitly designated as such in subsection (c), and second because Cline's allegation that his listing violates the Indiana Constitution is one which trial courts have the authority and legal training to address.

The majority also supports its decision, in part, by contending that removal of Cline's name and information from the registry would be pointless because Cline's convictions would remain part of the public record even if he receives the relief he seeks. This implies that the registry is not harmful or punitive, and perhaps is merely a replica of the already-public criminal history of offenders. Our supreme court concluded that the registry is punitive for its relative excessiveness, especially, as the majority points out, because as formulated at the time of Wallace, there was "no mechanism by which a registered sex offender can petition the court for relief from the obligation of continued registration and disclosure." Slip Op. at 6 (quoting Wallace, 905 N.E.2d at 384). As the majority notes, section 11-8-8-22 might have partially or fully addressed this concern.

Regardless, the supreme court concluded the registry is punitive for other reasons too: because it "impose[s] substantial disabilities on registrants," Wallace, 905 N.E.2d at 380, "resembles the punishment of shaming," is "comparable to conditions of supervised

probation or parole,” id. at 381, and it “promote[s] community condemnation of the offender,” id. at 382 (quotation omitted). Therefore, it is incorrect to suggest that removal of Cline’s name from the registry would be pointless. To the extent the majority construes Cline’s request as one to eliminate all punitive consequences associated with having committed his offenses, I believe that to be a different issue.

For these reasons, I respectfully dissent.

I. INTRODUCTION

The Sex Offender Registration and Notification Act (“SORNA” or “the Act”), which is title I of the Adam Walsh Child Protection and Safety Act of 2006 (P.L. 109-248), provides a new comprehensive set of minimum standards for sex offender registration and notification in the United States. These Guidelines are issued to provide guidance and assistance to covered jurisdictions—the 50 States, the District of Columbia, the principal U.S. territories, and Indian tribal governments—in implementing the SORNA standards in their registration and notification programs.

The adoption of these Guidelines carries out a statutory directive to the Attorney General, appearing in SORNA § 112(b), to issue guidelines to interpret and implement SORNA. Other provisions of SORNA establish the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (the “SMART Office”), a component of the Office of Justice Programs of the U.S. Department of Justice. The SMART Office is authorized by law to administer the standards for sex offender registration and notification that are set forth in SORNA and interpreted and implemented in these Guidelines. It is further authorized to cooperate with and provide assistance to states, local governments, tribal governments, and other public and private entities in relation to sex offender registration and notification and other measures for the protection of the public from sexual abuse or exploitation. *See* SORNA § 146(c). Accordingly, the SMART Office should be regarded by jurisdictions discharging registration and notification functions as their key partner and resource in the federal government in further developing and strengthening their sex offender registration and notification programs, and the SMART Office will provide all possible assistance for this purpose.

The development of sex offender registration and notification programs in the United States has proceeded rapidly since the early 1990s, and at the present time such programs exist in all of the states, the District of Columbia, and some of the territories and tribes. These programs serve a number of important public safety purposes. In their most basic character, the registration aspects of these programs are systems for tracking sex offenders following their release into the community. If a sexually violent crime occurs or a child is molested, information available to law enforcement through the registration program about sex offenders who may have been present in the area may help to identify the perpetrator and solve the crime. If a particular released sex offender is implicated in such a crime, knowledge of the sex offender’s whereabouts through the registration system may help law enforcement in making a prompt apprehension. The registration program may also have salutary effects in relation to the likelihood of registrants committing more sex offenses. Registered sex offenders will perceive that the authorities’ knowledge of their identities, locations, and past offenses reduces the chances that they can avoid detection and apprehension if they reoffend, and this perception may help to discourage them from engaging in further criminal conduct.

Registration also provides the informational base for the other key aspect of the programs—notification—which involves making information about released sex offenders more broadly available to the public. The means of public notification currently include sex offender websites in all states, the District of Columbia, and some territories, and may involve other forms

of notice as well. The availability of such information helps members of the public to take common sense measures for the protection of themselves and their families, such as declining the offer of a convicted child molester to watch their children or head a youth group, or reporting to the authorities approaches to children or other suspicious activities by such a sex offender. Here as well, the effect is salutary in relation to the sex offenders themselves, since knowledge by those around them of their sex offense histories reduces the likelihood that they will be presented with opportunities to reoffend.

While sex offender registration and notification in the United States are generally carried out through programs operated by the individual states and other non-federal jurisdictions, their effectiveness depends on also having effective arrangements for tracking of registrants as they move among jurisdictions and some national baseline of registration and notification standards. In a federal union like the United States with a mobile population, sex offender registration could not be effective if registered sex offenders could simply disappear from the purview of the registration authorities by moving from one jurisdiction to another, or if registration and notification requirements could be evaded by moving from a jurisdiction with an effective program to a nearby jurisdiction that required little or nothing in terms of registration and notification.

Hence, there have been national standards for sex offender registration in the United States since the enactment of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Act (42 U.S.C. 14071) in 1994. The national standards from their inception have addressed such matters as the offenses for which registration should be required, updating and periodic verification of registration information, the duration of registration, public notification, and continued registration and tracking of sex offenders when they relocate from one jurisdiction to another.

Following the enactment of the Wetterling Act in 1994, that Act was amended a number of times, in part reflecting and in part promoting trends in the development of the state registration and notification programs. Ultimately, Congress concluded that the patchwork of standards that had resulted from piecemeal amendments should be replaced with a comprehensive new set of standards—the SORNA reforms, whose implementation these Guidelines concern—that would close potential gaps and loopholes under the old law, and generally strengthen the nationwide network of sex offender registration and notification programs. Important areas of reform under the SORNA standards include:

- Extending the jurisdictions in which registration is required beyond the 50 States, the District of Columbia, and the principal U.S. territories, to include Indian tribal jurisdictions.
- Extending the classes of sex offenders and sex offenses for which registration is required.
- Consistently requiring that sex offenders in the covered classes register and keep the registration current in the jurisdictions in which they reside, work, or go to school.

- Requiring more extensive registration information.
- Adding to the national standards periodic in-person appearances by registrants to verify and update the registration information.
- Broadening the availability of information concerning registered sex offenders to the public, through posting on sex offender websites and by other means.
- Adopting reforms affecting the required duration of registration.

In addition, SORNA strengthens the federal superstructure elements that leverage and support the sex offender registration and notification programs of the registration jurisdictions. These strengthened elements are: (i) stepped-up federal investigation and prosecution efforts to assist jurisdictions in enforcing sex offender registration requirements; (ii) new statutory provisions for the national database and national website (i.e., the National Sex Offender Registry and the Dru Sjodin National Sex Offender Public Website) that effectively compile information obtained under the registration programs of the states and other jurisdictions and make it readily available to law enforcement or the public on a nationwide basis; (iii) development by the federal government of software tools, which the states and other registration jurisdictions will be able to use to facilitate the operation of their registration and notification programs in conformity with the SORNA standards; and (iv) establishment of the SMART Office to administer the national standards for sex offender registration and notification and to assist registration jurisdictions in their implementation.

Through the cooperative effort of the 50 States, the District of Columbia, the U.S. territories, and Indian tribal governments with the responsible federal agencies, the SORNA goal of an effective and comprehensive national system of registration and notification programs can be realized, with great benefit to the ultimate objective of “protect[ing] the public from sex offenders and offenders against children.” SORNA § 102. These Guidelines provide the blueprint for that effort.

II. GENERAL PRINCIPLES

Before turning to the specific SORNA standards and requirements discussed in the remainder of these Guidelines, certain general points should be noted concerning the interpretation and application of the Act and these Guidelines:

A. Terminology

These Guidelines use key terms with the meanings defined in SORNA. In particular, the term “jurisdiction” is consistently used with the meaning set forth in SORNA § 111(10). As defined in that provision, it refers to the 50 States, the District of Columbia, the five principal U.S. territories—i.e., the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the United States Virgin Islands—and Indian tribes that elect to function as registration jurisdictions under SORNA § 127. (For more concerning covered jurisdictions, *see*

The Evolution of IC 5-2-12-4 and IC 11-8-8-5 - Sex and Violent Offender Registration Offenses

Year, Notes		1994, note 1	1995, note 2	1996, note 3	1997, note 3	1998, note 3	2001, note 8	2002, note 11	2005, note 11	2006, note 15	2007, note 16
Public Law		PL 11	PL 63	PL 33	PL 36	PL 56	PL 238	PL 116	PL 51	PL 140, 173	PL 216
IC Section		IC 5-2-12-4	IC 5-2-12-4	IC 5-2-12-4	IC 5-2-12-4	IC 5-2-12-4	IC 5-2-12-4	IC 5-2-12-4	IC 5-2-12-4	IC 11-8-8-5	IC 11-8-8-5
Effective Date								01/01/2003			
Rape	35-42-4-1	yes, if victim < 18	yes, if victim < 18	yes, if victim < 18	yes	yes	yes	yes	yes	yes	yes
Criminal deviate conduct	35-42-4-2	yes, if victim < 18	yes, if victim < 18	yes, if victim < 18	yes	yes	yes	yes	yes	yes	yes
Child molesting	35-42-4-3	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Child exploitation	35-42-4-4(b)	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Vicarious sexual gratification	35-42-4-5	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Vicarious sexual gratification (including performing sexual conduct in the presence of a minor)	35-42-4-5(c)										yes
Child solicitation	35-42-4-6	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Child seduction	35-42-4-7	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
Sexual misconduct with a minor as a Class A	35-42-4-9		yes	yes	yes	yes	yes	yes	yes	yes	yes
Sexual misconduct with a minor as a Class B	35-42-4-9		yes	yes	yes	yes	yes	yes	yes	yes	yes
Sexual misconduct with a minor as a Class C	35-42-4-9						yes	yes	yes	yes	yes, note 17
Incest	35-46-1-3	yes, if victim < 18	yes, if victim < 18	yes, if victim < 18	yes	yes	yes	yes	yes	yes	yes
Sexual battery	35-42-4-8			yes, if victim < 18	yes	yes	yes	yes	yes	yes	yes
Kidnapping	35-42-3-2					yes, note 5	yes, if victim < 18	yes if victim < 18, note 18			
Criminal confinement	35-42-3-3					yes, note 5	yes, if victim < 18	yes if victim < 18, note 19			
Possession of child pornography	35-42-4-4(c)								yes, note 13	yes, note 13	yes, note 20
Promoting prostitution as a Class B felony	35-45-4-4										yes
Promotion of human trafficking if the victim is less than eighteen (18) years of age	35-42-3.5-1(a)(2)										yes
Sexual trafficking of a minor	35-42-3.5-1(b)										yes
Human trafficking if the victim is less than eighteen (18) years of age	35-42-3.5-1(c)(3)										yes
Murder	35-42-1-1										yes
Voluntary Manslaughter	35-42-1-3										yes
Attempt or conspiracy to commit a crime							yes	yes	yes	yes	yes
Substantially equivalent				yes, note 3(b)	yes, note 4	yes, note 6	yes, note 9	Yes, note 9	yes, note 14	yes, note 14	yes
A person who is required to register as a sex offender in any jurisdiction										yes	yes, note 21
Juveniles				yes, note 3(c)	yes, note 3(c)	yes, note 7	yes, note 10	yes, note 12	yes, note 12	yes, note 12	yes, note 12 and 22

Notes

- (1) As used in this chapter, "offender" refers to a person on probation or parole as the result of a conviction for any of the following:
- (2) As used in this chapter, "offender" refers to a person convicted after June 30, 1994, of any of the following:
- (3) As used in this chapter, "offender" refers to a person convicted in Indiana after June 30, 1994 of:
 - (3b) A person residing in Indiana who was convicted after June 30, 1994, in another state of a sex offense against a child that is substantially equivalent to any of the offenses listed in subdivision (1).
 - (3c) A child who: (A) is at least fourteen (14) years of age; (B) is on probation, is on parole, or is discharged from a facility by the department of correction as a result of an adjudication as a delinquent child for an act that would be an offense described in subdivision (1) if committed by an adult; and (C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subdivision (1) if committed by an adult.
- (4) A person residing in Indiana who was convicted after June 30, 1994, in another state of a sex offense that is substantially equivalent to any of the offenses listed in subdivision (1).
- (5) A person convicted in Indiana after June 30, 1998, of [kidnapping or criminal confinement, IC 35-42-3-2 and IC 35-42-3-3 respectively] if the victim is less than eighteen (18) years of age.
- (6) A person residing in Indiana who was convicted after (A) June 30, 1994, in another state of an offense that is substantially equivalent to any of the sex offenses listed in subdivision (1) or (B) June 30, 1998, in another state of an offense that is substantially equivalent to any of the violent offenses listed in subdivision (2).
- (7) A child who: (A) is at least fourteen (14) years of age; (B) is on probation, is on parole, or is discharged from a facility by the department of correction as a result of an adjudication as a delinquent child for an act that would be an offense described in subdivision (1) or (2) if committed by an adult; and (C) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subdivision (1) or (2) if committed by an adult.
- (8) As used in this chapter, "sex and violent offender" means a person convicted of any of the following sex and violent offenses:
- (9) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (13). [All other relevant language from the previous statute was deleted from this part fo the section. See note 6 above.]
- (10) The term includes a delinquent act by a child who: (1) is at least fourteen (14) years of age; (2) is on probation, is on parole, or is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and (3) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.
- (11) As used in this chapter, "offender" means a person convicted of any of the following sex and violent offenses:
- (12) The term includes a child who has committed a delinquent act and who: (1) is at least fourteen (14) years of age; (2) is on probation, is on parole, or is discharged from a facility by the department of correction, is discharged from a secure private facility (as defined in IC 31-9-2-115), or is discharged from a juvenile detention facility as a result of an adjudication as a delinquent child for an act that would be an offense described in subsection (a) if committed by an adult; and (3) is found by a court by clear and convincing evidence to be likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.
- (13) Possession of child pornography is included if the person has a prior unrelated conviction for possession of child pornography under IC 35-42-4-4(c).
- (14) A crime under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in subdivisions (1) through (14).
- (15) As used in this chapter, "sex offender" means a person convicted of any of the following offenses:
- (16) Except as provided in section 22 of this chapter, as used in this chapter, "sex or violent offender" means a person convicted of any of the following offenses:
- (17) Unless (A) the person is convicted of sexual misconduct with a minor as a Class C felony; (B) the person is not more than: (i) four (4) years older than the victim if the offense was committed after June 30, 2007; or (ii) five (5) years older than the victim if the offense was committed before July 1, 2007; and (C) the sentencing court finds that the person should not be required to register as a sex offender.
- (18) And the person who kidnapped the victim is not the victim's parent or guardian.
- (19) And the person who confined or removed the victim is not the victim's parent or guardian.
- (20) The language requiring a prior unrelated conviction for possession of child pornography was removed.
- (21) A person who is required to register as a sex or violent offender in any jurisdiction.
- (22) (c) in making a determination under subsection (b)(2)(c), the court shall consider expert testimony concerning whether a child is likely to repeat an act that would be an offense described in subsection (a) if committed by an adult.



Indiana State Statutes

The U.S. Department of Justice, Office of Justice Program's SMART Office has completed the review of Indiana's state statutes submission pertaining to classification of registration tier levels for sex offenders within the state. This submission was made in order to determine where existing statutes align with the tiering structure created in Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA).

The SMART Office has reviewed all statutes identified in the submission and has identified Indiana's placement of these statutes within the SORNA three tier levels. It should be noted that SORNA requires all attempts, conspiracies, and solicitations to mirror requirements of the actual offense. Unless indicated in the notes herein, the SMART office has not reviewed any statutes (or subsections) that were not included in the legislation provided by Indiana. Furthermore, Indiana's registration scheme includes several non-sexual offenses (outside the scope of SORNA requirements), which are not included in this review. It is possible that other offenses will need to be included in Indiana's sex offender registry to come in to compliance with SORNA.

In reviewing Indiana Code of Criminal Procedure, the SMART Office understands that Indiana has essentially two categories of registrants:

- 1) Lifetime registrants (sexually violent predators), who are required to report to local law enforcement every 90-days to verify registration information; and
- 2) 10-year registrants (sex or violent offenders), who are required to report to local law enforcement each year to verify registration information.

Tier I Offenses

SORNA requires a minimum duration of 15 years for all Tier I offenses and a one-year interval for in-person registration verification. In order to meet these minimum requirements, Indiana must ensure that the registration duration is 15 years for State offenses equivalent to Tier I offense under SORNA, as well as continue to require annual in-person verification of registration information. The following offense listed in Indiana Code would require, at minimum, Tier I registration requirement:

IC 35-42-4-4(c) Possession of child pornography

Tier II Offenses

SORNA requires a minimum duration of 25 years for all Tier II offenses and a 6-month interval for in-person registration verification. Indiana currently does not utilize this tier in their registration scheme. However, the following offenses listed in Indiana Code would require, at minimum, Tier II registration requirements:

Tier I recidivists

IC 35-42-4-4(b) Child exploitation: Production/distribution of pornography

IC 35-42-4-5 Vicarious sexual gratification

IC 35-42-4-7 Child seduction (sexual contact with victim age 13 – 17)



- IC 35-42-4-9 Sexual misconduct with a minor (sexual contact with victim age 13 – 17) (five years older than victim)
- IC 35-42-4-8 Sexual battery (sexual contact with victim age 13 – 17)
- IC 35-45-4-4 Promoting prostitution (victim less than 18 years of age)
- IC 35-42-3.5-1(a)(2) Promotion of human trafficking if the victim is less than 18 years of age
- IC 35-42-3.5-1(b) Sexual trafficking of a minor
- IC 35-42-3.5-1(c)(3) Human trafficking if the victim is less than 18 years of age

Tier III Offenses

SORNA requires lifetime registration for all Tier III offenses and a 90-day interval for in-person registration verification. The following offenses listed in Indiana Code would require Tier III registration requirements:

- Tier II recidivists
- IC 35-42-4-1 Rape
- IC 35-42-4-2 Criminal deviate conduct
- IC 35-42-4-3 Child molesting
- IC 35-42-4-7 Child seduction (sexual act or sexual contact with victim under 13 years of age)
- IC 35-42-4-9 Sexual misconduct with a minor (sexual act) (five years older than victim)
- IC 35-46-1-3 Incest
- IC 35-42-4-8 Sexual battery (victim under 13 years of age)
- IC 35-42-3-2 Kidnapping
- IC 35-42-3-3 Criminal confinement

Further Review

The SMART office has not further reviewed the Indiana Code for additional statutes which might also require registration and are not currently included in Indiana's sex offender registry scheme. Broadly speaking, Indiana is encouraged to find any and all of the following categories of violations of the criminal law as contained in Indiana criminal code so as to determine the propriety of requiring registration (to the extent that they are not already included). The following offenses will require registration under SORNA:

1. Any criminal offense that has an element involving a sexual act or sexual contact with another, regardless of the age of the victim;
2. Any offense involving the non-parental kidnapping of a minor;
3. Any offense involving the non-parental false imprisonment of a minor;
4. Any offense involving solicitation to engage a minor in sexual conduct;
5. Any offense involving use of a minor in a sexual performance;
6. Any offense involving solicitation of a minor to practice prostitution;
7. Any offense involving video voyeurism of a minor;
8. Any offense involving possession, production, or distribution of child pornography;
9. Any offense involving criminal sexual conduct involving a minor; or
10. Any offense involving the use of the internet to engage a minor in criminal sexual conduct.

Indiana is in a better position than the SMART office to review its criminal laws for any additional offenses which might warrant inclusion. The SMART office is happy to review any proposed additional tiering decisions.



SEX OFFENDER REGISTRATION AND NOTIFICATION ACT: SUBSTANTIAL IMPLEMENTATION CHECKLIST

This checklist is designed as a tool to assist registration jurisdictions as they seek to substantially implement Title I of the Adam Walsh Child Protection and Safety Act of 2006, the Sex Offender Registration and Notification Act (SORNA). It is not a definitive guide to SORNA's full implementation requirements. Jurisdictions are advised to consult with the SMART Office throughout their implementation process to ensure that their laws, policies, procedures, and practices conform with the entirety of what SORNA requires.

This checklist includes SORNA's basic requirements, along with space for users to fill in their jurisdictions' statutes, policies, and procedures. Please be advised that this version continues to update an earlier version of the checklist with the following:

1. Sex Trafficking of Children by Force, Fraud, or Coercion (18 U.S.C. 1591) was INCORRECTLY listed as a Tier I Offense; it is a Tier II Offense.
2. The Kids Act of 2008 (42 U.S.C. § 16915a & b) amended the SORNA provisions of the Adam Walsh Act by adding Internet identifiers as items that are NOT permitted to be displayed on public sex offender registry websites.

Additionally, this latest version of the checklist makes substantive changes to the previous version with changes authorized by the Supplemental Guidelines, including:

1. Jurisdictions are required to have sex offenders report international travel 21 days in advance of such travel and to submit information concerning such travel to the appropriate Federal agencies and databases.
2. Jurisdictions are required to utilize the SORNA Exchange Portal to ensure consistent interjurisdictional information sharing and tracking of sex offenders.
3. Jurisdictions must now include the forms signed by sex offenders acknowledging that they were advised as required registration information.
4. Relating to recapture of sex offenders, jurisdictions are now to require registration for individuals who reenter the jurisdiction's criminal justice system because of a conviction for some other **felony** crime (whether or not it is a sex offense).

The SORNA Checklist is organized into 14 sections, covering the major requirements of the Act. Each section contains a table listing the SORNA requirement with space to answer whether the jurisdiction meets that requirement (yes/no), the relevant statute citation and/or the relevant administrative policy or procedure page number, and a "notes" space to further elaborate or explain the jurisdiction's approach to the corresponding requirement. When submitting a completed checklist, please attach all relevant statutes, codes, and administrative policy or procedures, along with documentation of database/data sharing systems and the jurisdiction's public sex offender website.

U.S. Department of Justice

Office of Justice Programs

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART)



Pursuant to §127 of the Adam Walsh Act, designated federally recognized Indian tribes were entitled to elect to become SORNA registration and notification jurisdictions or to delegate the responsibility to the state in which they are located. As of December 2010, 192 federally recognized Indian tribes have elected to be SORNA registration and notification jurisdictions. If a state has a tribe or tribes located within its boundaries that have elected to implement SORNA, the SMART Office also requests that these states submit the following information:

- An explanation of working relationship with SORNA tribes
- The name and contact information of the tribal point of contact for the State
- Any information sharing arrangements, including DNA, Fingerprints, NCIC, Criminal History, and Corrections Information
- Any Memoranda of Understanding (MOU) or Cooperative Agreements

For those federally recognized Indian tribes have elected to be SORNA registration and notification jurisdictions, the SMART Office also requests that these tribes submit the following information:

- An explanation of working relationship with State(s) in which the tribe is located
- The name and contact information of the State point of contact for the tribe
- Any information sharing arrangements, including DNA, Fingerprints, NCIC, Criminal History, and Corrections Information
- Any Memoranda of Understanding (MOU) or Cooperative Agreements

Please be advised that additional information is required for tribes when submitting a Substantial Implementation Package for review by the SMART Office. Information for tribes about these additional materials and how to submit materials to the SMART Office is available on the SMART Office Website:

www.ojp.usdoj.gov/smart

For further information, all jurisdictions should contact the assigned policy advisor:

http://www.ojp.usdoj.gov/smart/pdfs/jurisdiction_assignments.pdf



I. IMMEDIATE TRANSFER OF INFORMATION

Whenever a sex offender initially registers or updates their registration information with a jurisdiction, that jurisdiction is required to immediately notify any other jurisdiction where the sex offender resides, is an employee, or is a student and each jurisdiction from or to which a change of residence, employment, or student status occurs. This includes notification to any relevant SORNA-registration jurisdiction, including states, territories, tribes, and the District of Columbia.

The jurisdiction is also required to immediately update the National Sex Offender Registry (NSOR) and its own public sex offender registry website.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
'Immediate' and 'immediately' are defined as 'within 3 business days'			
Any initial registration and/or updated information is immediately sent to any required SORNA-registration jurisdiction, including:			
• States			
• D.C.			
• The five principal U.S. Territories (Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the U.S. Virgin Islands)			
• Any tribe operating as a SORNA registration jurisdiction			
• NCIC/NSOR			
• The jurisdiction's public sex offender registry website			



II. OFFENSES THAT MUST BE INCLUDED IN THE REGISTRY

A jurisdiction must include certain sex offenders in their registration schemes. As defined by SORNA, sex offenders are individuals convicted of sex offenses.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
An adult sex offender is convicted for SORNA purposes if her or she has been subject to penal consequences based on the conviction, however it may be styled.			
The following two classes of convictions are also included in the SORNA definition of convicted, and must be included in the jurisdiction's registry: ¹			
<ul style="list-style-type: none"> • Convictions of juveniles who are prosecuted as adults. 			
<ul style="list-style-type: none"> • Persons adjudicated delinquent as a juvenile for a sex offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in 18 U.S.C. § 2241(a) or (b)), or was an attempt or conspiracy to commit such an offense. 			

SORNA specifies the sex offenses which, if they already exist in a jurisdiction, must be included in any jurisdiction's registration scheme, as well as those convictions from other jurisdictions (including the federal government and foreign countries) which must be included. Jurisdictions are not required to enact any new substantive sex offense crimes in order to substantially implement SORNA.

Jurisdictions must register any sex offender convicted of any of the following offenses:

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Any attempt or conspiracy to commit any sex offense			
Convictions under the following federal statutes (including any offenses prosecuted under the Assimilative Crimes Act (18 U.S.C. §1152 or §1153)):			

¹ See SMART's Juvenile Fact Sheet for additional information.
http://www.ojp.usdoj.gov/smart/pdfs/factsheet_sorna_juvenile.pdf



SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
• 18 U.S.C. §1591 (Sex Trafficking of Children)			
• 18 U.S.C. §1801 (Video Voyeurism of a Minor)			
• 18 U.S.C. §2241 (Aggravated Sexual Abuse)			
• 18 U.S.C. §2242 (Sexual Abuse)			
• 18 U.S.C. §2243 (Sexual Abuse of a Minor or Ward)			
• 18 U.S.C. §2244 (Abusive Sexual Contact)			
• 18 U.S.C. §2245 (Offenses Resulting in Death)			
• 18 U.S.C. §2251 (Sexual Exploitation of Children)			
• 18 U.S.C. §2251A (Selling or Buying of Children)			
• 18 U.S.C. §2252 (Material Involving the Sexual Exploitation of Minors)			
• 18 U.S.C. §2252A (Material Containing Child Pornography)			
• 18 U.S.C. §2252B (Misleading Domain Names on the Internet)			
• 18 U.S.C. §2252C (Misleading Words or Digital Images on the Internet)			
• 18 U.S.C. §2260 (Production of Sexually Explicit Depictions of a Minor for Import in to the United States)			
• 18 U.S.C. §2421 (Transportation of a Minor for Illegal Sexual Activity)			
• 18 U.S.C. §2422 (Coercion and Enticement of a Minor for Illegal Sexual Activity)			
• 18 U.S.C. §2423 (Transportation of Minors for Illegal Sexual Activity, Travel With the Intent to Engage in Illicit Sexual Conduct with a Minor, Engaging in Illicit Sexual Conduct in Foreign Places)			
• 18 U.S.C. §2424 (Failure to File Factual Statement about an Alien Individual)			
• 18 U.S.C. §2425 (Transmitting Information about a Minor to further Criminal Sexual Conduct)			



SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Jurisdictions must also register certain sex offenders convicted of foreign sex offenses when such offenders are convicted either:			
<ul style="list-style-type: none"> Under the laws of Canada, United Kingdom, Australia, and New Zealand 			
<ul style="list-style-type: none"> In any foreign country where the U.S. State Department, in its Country Reports on Human Rights Practices, has concluded that an independent judiciary generally (or vigorously) enforced the right to a fair trial in that country during the year in which the conviction occurred.² 			
Jurisdictions must register anyone convicted of a military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. §951 note). Jurisdictions are encouraged to review Department of Defense Instruction (DoDI) 1325.7 and the current 10 U.S.C. §920 et. seq. to determine which UCMJ convictions will be appropriate for inclusion. ³			
Jurisdictions are required to register any person who has been convicted of a criminal offense in any state, tribe, territory, or the District of Columbia, and any foreign country (subject to the limitations described above) that involves:			
<ul style="list-style-type: none"> Any conduct that by its nature is a sex offense against a minor 			
<ul style="list-style-type: none"> Any type or degree of genital, oral, or anal penetration 			
<ul style="list-style-type: none"> Any sexual touching of or contact with a person's body, either directly or through the clothing 			
<ul style="list-style-type: none"> Criminal sexual conduct involving a minor (where the elements of the offense involve physical contact with the victim), or the use of the internet to facilitate or attempt such conduct 			

² These annual reports can be found at <http://www.state.gov/g/drl/rls/hrrpt/>

³ The current version of DoDI 1325.7 can be found here: <http://www.dtic.mil/whs/directives/corres/pdf/132507p.pdf>

U.S. Department of Justice

Office of Justice Programs

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART)



SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
<ul style="list-style-type: none"> Including offenses whose elements involve using other persons in prostitution -- such as provisions defining crimes of "pandering," "procuring," or "pimping" in cases where the victim was below 18 at the time of the offense 			
<ul style="list-style-type: none"> False imprisonment or a minor 			
<ul style="list-style-type: none"> Kidnapping of a minor 			
<ul style="list-style-type: none"> Possession, production, or distribution of child pornography 			
<ul style="list-style-type: none"> Solicitation of a minor to practice prostitution 			
<ul style="list-style-type: none"> Solicitation to engage a minor in sexual conduct (this should be understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct) 			
<ul style="list-style-type: none"> Use of a minor in a sexual performance 			
<p>Jurisdictions are required to register any person who has been convicted of conduct similar to that prohibited by the following Federal Offenses:</p>			
<ul style="list-style-type: none"> 18 U.S.C. §1591 (Sex Trafficking by Force, Fraud, or Coercion) 			
<ul style="list-style-type: none"> 18 U.S.C. §1801 (Video Voyeurism of a Minor) 			
<ul style="list-style-type: none"> 18 U.S.C. §2241 (Aggravated Sexual Abuse) 			
<ul style="list-style-type: none"> 18 U.S.C. §2242 (Sexual Abuse) 			
<ul style="list-style-type: none"> 18 U.S.C. §2244 (Abusive Sexual Contact) 			
<ul style="list-style-type: none"> 18 U.S.C. §2422(b) (Coercing a Minor to Engage in Prostitution) 			
<ul style="list-style-type: none"> 18 U.S.C. §2423(a) (Transporting a Minor to Engage in Illicit Conduct) 			



III. TIERING OF OFFENSES

Once a jurisdiction determines which sex offenses will require registration, it will have to decide at what 'level' of registration those convicted of each particular offense must register. SORNA establishes a baseline or minimum standard by way of a 3-tier classification system.

For the purposes of tiering sex offenses:

- Minor is defined as an individual under the age of 18
- Sexual contact means offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing
- Sexual act means offenses involving:
 - Any direct touching of the genitals of a person under 16; or
 - Oral, anal, or vaginal penetration of any kind which occurs:
 - when the victim is under 13
 - by force
 - by way of threat or intimidation
 - when the victim has been rendered unconscious
 - when the victim is incapable of appraising the nature of their conduct;
 - when the victim is physically incapable of communicating non-consent;
 - when a drug or intoxicant has been administered which substantially impairs the ability of the other person to appraise or control their conduct

The following table will assist jurisdictions in tiering federal offenses. We recommend using the State Tiering table (starting on page 9) to tier state/territory/tribal offenses. Additionally, please indicate how your jurisdiction tiers out-of-state offenses.

SORNA Requirement	Y/N	Statute Citation	Notes
Tier I Offenses — Convictions that have an element involving a sexual act or sexual contact with another, that are not included in either Tier II or Tier III, including:			
• False Imprisonment of a Minor			
• Video Voyeurism of a Minor			
• Possession or Receipt of Child Pornography			
• The following Federal Offenses:			
• 18 U.S.C. §1801 (Video Voyeurism of a Minor)			
• 18 U.S.C. §2252 (Receipt or Possession of Child Pornography)			
• 18 U.S.C. §2252A (Receipt or Possession of Child Pornography)			



SORNA Requirement	Y/N	Statute Citation	Notes
• 18 U.S.C. §2252B (Misleading Domain Name)			
• 18 U.S.C. §2252C (Misleading Words or Digital Images)			
• 18 U.S.C. §2422(a) (Coercion to Engage in Prostitution)			
• 18 U.S.C. §2423(b) (Travel with the Intent to Engage in Illicit Conduct)			
• 18 U.S.C. §2423(c) (Engaging in Illicit Conduct in Foreign Places)			
• 18 U.S.C. §2424 (Filing Factual Statement about Alien Individual)			
• 18 U.S.C. §2425 (Transmitting Information about a Minor to further Criminal Sexual Conduct)			
• Any comparable military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. §951 note)			

Tier II Offenses — Convictions that involve:			
• A person previously convicted of a tier I offense whose current sex offense conviction is punishable by more than one year imprisonment			
• The use of minors in prostitution (to include solicitations)			
• Enticing a minor to engage in criminal sexual activity			
• A non-forcible Sexual Act with a minor 16 or 17 years old			
• Sexual contact with a minor 13 or older			
• The use of a minor in a sexual performance			
• The production or distribution of child pornography			
The following Federal Offenses:			
• 18 U.S.C. §1591 (Sex Trafficking by Force, Fraud, or Coercion)			
• 18 U.S.C. §2243 (Sexual Abuse of a Minor)			
• 18 U.S.C. §2244 (Abusive Sexual			



SORNA Requirement	Y/N	Statute Citation	Notes
Contact, Victim 13 or Older)			
• 18 U.S.C. §2251 (Sexual Exploitation of Children)			
• 18 U.S.C. §2251A (Selling or Buying of Children)			
• 18 U.S.C. §2252 (Sale or Distribution of Child Pornography)			
• 18 U.S.C. §2252A (Sale or Distribution of Child Pornography)			
• 18 U.S.C. §2260 (Producing Child Pornography for Import)			
• 18 U.S.C. §2421 (Transportation for Prostitution)			
• 18 U.S.C. §2422(b) (Coercing a Minor to Engage in Prostitution)			
• 18 U.S.C. §2423(a) (Transporting a Minor to Engage in Illicit Conduct)			
Any comparable military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. §951 note)			

Tier III Offenses — Convictions that involve:			
• A person previously convicted of a tier II offense whose current sex offense conviction is punishable by more than one year imprisonment			
• Non-parental kidnapping of a minor			
• Any Sexual Act with another			
• Sexual contact with a minor under 13			
The following Federal Offenses:			
• 18 U.S.C. §2241 (Aggravated Sexual Abuse)			
• 18 U.S.C. §2242 (Sexual Abuse)			
• 18 U.S.C. §2244 (Abusive Sexual Contact, victim under 13)			
Any comparable military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. §951 note)			



State Offense Tiering

Please list state/territory/tribal offenses, along with statute citation, and any notes necessary for interpretation (corresponding SORNA Tier to be determined by SMART staff). If your jurisdiction does not use a tiering structure, please indicate registration duration (i.e., 15 years, 25 years, lifetime) and frequency of reporting required (i.e., annually, twice-yearly, quarterly) for each offense.

State Tier	Statute Citation	Notes	SORNA Tier
Tier I Offenses			

Tier II Offenses			

Tier III Offenses			



IV. REQUIRED REGISTRATION INFORMATION

Once a jurisdiction determines which sex offense convictions will require what level of registration, the question turns to the types of information they are required to collect for their sex offender registry. These requirements are different from the more limited list of items that are required to be displayed via a jurisdiction’s public sex offender registry website.

All information is to be available in digitized format. Jurisdictions will need to maintain all required registration information in a digitized form that will enable it to be immediately accessed by or transmitted to various entities. The jurisdiction’s registry must be an electronic database, and descriptions of the required types of information should consistently be understood as referring to digitizable information rather than hard copies or physical objects.

However, when items and/or data might be stored in separate databases (such as DNA profiles in CODIS, fingerprints in IAFIS, or professional licensing information with a separate board or committee), it is sufficient if a jurisdiction provides an identification number or some other indicator of precisely where such registration information might be found, and in which database.

SORNA Requirement	Digitized	Y/N	Statute Citation or Regulation Page #	Notes
Criminal History information, including:	<input type="checkbox"/>			
• Date of all arrests	<input type="checkbox"/>			
• Date of all convictions	<input type="checkbox"/>			
• Status of parole, probation, or supervised release	<input type="checkbox"/>			
• Registration status	<input type="checkbox"/>			
• Outstanding arrest warrants	<input type="checkbox"/>			
Date of Birth, including:				
• Actual date of birth	<input type="checkbox"/>			
• Purported date of birth	<input type="checkbox"/>			
DNA, including:				
• A DNA sample must be taken, or must have been taken, from the sex offender for purposes of analysis and entry of the resulting DNA profile into the Combined DNA Index System (CODIS)	<input type="checkbox"/>			
• Samples are analyzed and submitted for entry to CODIS	<input type="checkbox"/>			
Driver’s License or ID Card:				



SORNA Requirement	Digitized	Y/N	Statute Citation or Regulation Page #	Notes
<ul style="list-style-type: none"> A photocopy of a valid driver's license or identification card (to include a tribal identification card) issued to the sex offender by a jurisdiction 	<input type="checkbox"/>			
Employment Information, including:				
<ul style="list-style-type: none"> Employer Name (Business Name) 	<input type="checkbox"/>			
<ul style="list-style-type: none"> Employer Address 	<input type="checkbox"/>			
<ul style="list-style-type: none"> Transient/day labor employment information 	<input type="checkbox"/>			
Fingerprints: taken and submitted to IAFIS	<input type="checkbox"/>			
Internet Identifiers, including:				
<ul style="list-style-type: none"> Email addresses 	<input type="checkbox"/>			
<ul style="list-style-type: none"> Instant Message addresses/identifiers 	<input type="checkbox"/>			
<ul style="list-style-type: none"> Any other designations or monikers used for self-identification in Internet communications or postings 	<input type="checkbox"/>			
<ul style="list-style-type: none"> All designations used by sex offenders for purposes of routing or self-identification in Internet communications or postings 	<input type="checkbox"/>			
Name, including:				
<ul style="list-style-type: none"> Primary, given name 	<input type="checkbox"/>			
<ul style="list-style-type: none"> Nicknames, aliases, pseudonyms generally, regardless of context in which it is used 	<input type="checkbox"/>			
<ul style="list-style-type: none"> Ethnic or Tribal names by which they are commonly known 	<input type="checkbox"/>			
Palm Prints:				
<ul style="list-style-type: none"> Palm Prints taken and submitted to the FBI Central Database (Next Generation Identification Program) 	<input type="checkbox"/>			
Passports and Immigration Documents, including:				
<ul style="list-style-type: none"> Digitized copies of passports 	<input type="checkbox"/>			
<ul style="list-style-type: none"> Digitized copies of immigration documents 	<input type="checkbox"/>			



SORNA Requirement	Digitized	Y/N	Statute Citation or Regulation Page #	Notes
Phone Numbers, including:				
• Telephone numbers and any other designations used by sex offenders for purposes of routing or self-identification in telephonic communications	<input type="checkbox"/>			
• Land line telephone numbers	<input type="checkbox"/>			
• Cell phone telephone numbers	<input type="checkbox"/>			
• Photograph collected unless appearance has not changed significantly, on the following schedule:	<input type="checkbox"/>			
○ Tier I Offender: Once every Year	<input type="checkbox"/>			
○ Tier II Offender: Once every 6 Months	<input type="checkbox"/>			
○ Tier III Offender: Once every 90 Days	<input type="checkbox"/>			
Physical Description, including:				
• Physical description of the sex offender	<input type="checkbox"/>			
• General description of physical appearance or characteristics	<input type="checkbox"/>			
• Any identifying marks, such as scars or tattoos, etc.	<input type="checkbox"/>			
Professional Licensing Information:				
• Concerning all licensing of the registrant that authorizes the registrant to engage in an occupation or carry out a trade or business	<input type="checkbox"/>			
Registration Forms: forms signed by sex offenders acknowledging that they were advised of their registration obligations	<input type="checkbox"/>			
Resident Address, including:				
• Address of each residence at which the sex offender resides or will reside	<input type="checkbox"/>			
• If no permanent residence, location or description that identifies where the sex offender "habitually lives"	<input type="checkbox"/>			

U.S. Department of Justice

Office of Justice Programs

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART)



SORNA Requirement	Digitized	Y/N	Statute Citation or Regulation Page #	Notes
School Name and Address	<input type="checkbox"/>			
Social Security Number				
• Valid social security number	<input type="checkbox"/>			
• Purported social security number(s)	<input type="checkbox"/>			
Temporary lodging information, including:				
• Identifying information (location) of temporary location(s)	<input type="checkbox"/>			
• Dates of travel	<input type="checkbox"/>			
Text of Registration Offense: The text of the provision of law defining the offense for which the sex offender is registered	<input type="checkbox"/>			
Vehicle Information of all vehicles owned or operated by the offender, whether for work or personal use, including:				
• License plate number	<input type="checkbox"/>			
• Registration number or identifier	<input type="checkbox"/>			
• Land Vehicles	<input type="checkbox"/>			
• Aircraft	<input type="checkbox"/>			
• Watercraft	<input type="checkbox"/>			
• Description of all vehicles identified above	<input type="checkbox"/>			
• Permanent or frequent location where all vehicles are kept	<input type="checkbox"/>			



V. WHERE REGISTRATION IS REQUIRED

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
All sex offenders convicted in the jurisdiction are required to initially register.			
All sex offenders who complete their sentence of incarceration in the jurisdiction are required to initially register.			
All sex offenders who reside in the jurisdiction are required to register.			
All sex offenders who are employees in the jurisdiction are required to register. "Employee" includes an individual who is self-employed or works for any other entity, whether compensated or not.			
All sex offenders who are students in the jurisdiction are required to register. "Student" is an individual who enrolls in or attends an educational institution, including (whether public or private) a secondary school, trade or professional school, and institution of higher education.			



VI. INITIAL REGISTRATION: TIMING AND NOTICE

A sex offender is required to register at particular times, depending on whether he or she is incarcerated within the jurisdiction, sentenced within the jurisdiction, or arriving from another jurisdiction.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
When a sex offender is incarcerated within the jurisdiction, registration must occur before release from “imprisonment” for the registration offense. Imprisonment refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence.			
When a sex offender is sentenced within the jurisdiction, but not incarcerated, registration must occur within three business days of sentencing for the registration offense.			
When an offender is convicted and/or sentenced in another state, territory, tribe, or country, or in a federal or military court, and chooses to reside, work, or attend school in a jurisdiction. Registration must occur within three business days of the sex offender establishing residence, employment, or school attendance within the jurisdiction.			
Duties of a Jurisdiction When an Offender Initially Registers:			
<ul style="list-style-type: none"> Inform the sex offender of his or her duties under SORNA 			
<ul style="list-style-type: none"> Explain the SORNA duties to sex offender 			
<ul style="list-style-type: none"> Require the sex offender to read and sign a form stating that the duty to register has been explained and that the sex offender understands the registration requirement 			
<ul style="list-style-type: none"> Ensure that the sex offender is registered 			



VII. INITIAL REGISTRATION: RETROACTIVE CLASSES OF OFFENDERS

SORNA, by its terms, applies to all sex offenders, regardless of when they were convicted. Jurisdictions are required to recapture (i.e., appropriately classify and register) certain offenders, including those who previously may have not been required to register, but who would be required to register under the jurisdiction’s new SORNA-implementing legislation.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Procedure in place to recapture three categories of sex offenders:			
<ul style="list-style-type: none"> Currently incarcerated or under supervision, either for the predicate sex offense or for some other crime 			
<ul style="list-style-type: none"> Already registered or subject to a pre-existing sex offender registration requirement under the jurisdiction’s law 			
<ul style="list-style-type: none"> Reenter the jurisdiction’s criminal justice system because of a conviction for some other felony crime (whether or not it is a sex offense) 			
The initial registration of these recaptured offenders must take place within a certain amount of time (from date of implementation of SORNA in the jurisdiction), depending on the tier classification of the sex offender:			
<ul style="list-style-type: none"> Tier I Offenders: Within One Year 			
<ul style="list-style-type: none"> Tier II Offenders: Within 6 Months 			
<ul style="list-style-type: none"> Tier III Offenders: Within 3 Months 			



VIII. KEEPING THE REGISTRATION CURRENT

The duties of a sex offender to a registration jurisdiction will depend on whether the jurisdiction is the:

- Residence Jurisdiction (the jurisdiction in which the offender resides), the
- Employment Jurisdiction (the jurisdiction in which the offender is an employee), or the
- School Jurisdiction (the jurisdiction in which the offender is a student)

This section addresses the duties of a sex offender to each of the preceding types of jurisdictions regarding the sex offender's duty to keep their registration current.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Residence Jurisdiction — Immediately appear in-person to update any of the following information:			
• Name			
• Residence			
• Employment			
• School Attendance			
• Termination of residence			
Immediately update any changes to the following information (an in-person appearance is not required):			
• Email addresses			
• Instant Message addresses			
• Any other designations used in internet communications, postings, or telephone communications			
• Vehicle Information			
• Temporary Lodging Information			
• Upon receipt of this information, the jurisdiction must immediately notify the jurisdiction in which the offender will be temporarily staying			
Duties of the Residence Jurisdiction When An Offender Intends to Relocate to Another Country:			
• Immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information			
• Immediately notify the U.S. Marshals Service			
• Immediately update NCIC/NSOR			



SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Information			
Employer Jurisdiction — When an offender is employed in a jurisdiction, but neither resides nor attends school there, that offender must immediately appear in-person to update any of the following information:			
• Employment-related information in that jurisdiction			
• Termination of employment in that jurisdiction			
School Jurisdiction — When an offender attends school in a jurisdiction, but neither resides nor works there, that offender must immediately appear in-person to update any of the following information:			
• School-related information in that jurisdiction			
• Termination of school in that jurisdiction			

Special Issue: International Travel

Sex offenders must inform their residence jurisdictions 21 days in advance if they intend to travel outside of the United States, and that jurisdictions that are so informed must notify the U.S. Marshals Service and update the sex offender's registration information in the national databases.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Duties of the Residence Jurisdiction When An Offender Intends to Travel to Another Country:			
• Offender must report intent 21 days in advance of travel.			
• Immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information			
• Immediately notify the U.S. Marshals Service			
• Immediately update NCIC/NSOR Information			



IX. VERIFICATION/APPEARANCE REQUIREMENTS

Sex offenders must register for a duration of time, and make in-person appearances at an interval that is driven by the tier of their sex offense.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Tier I Offenders must register:			
• Once a year			
• For 15 years			
Tier II Offenders must register:			
• Every 6 Months			
• For 25 years			
Tier III Offenders must register:			
• Every 3 Months			
• For life			
At the sex offender’s regularly-scheduled in-person appearance, the following must occur:			
• A current photograph must be allowed to be taken			
• The sex offender must review the existing registration information for accuracy			

Reduction of Registration Periods

There are only two classes of sex offenders that SORNA permits to have a reduced registration period, provided certain requirements are met. The first is any Tier I offender, and the second is any Tier III offender who is required to register because of a juvenile adjudication.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Tier I Offender — An offender’s registration and notification requirement may be terminated if the following conditions are met:			
• The sex offender has had ten years with a “clean record”:			
• Not being convicted of any offense for which imprisonment for more than 1 year may be imposed;			
• Not being convicted of any sex offense;			
• Successful (without revocation)			



SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
completion of any periods of supervised release, probation, and parole;			
<ul style="list-style-type: none"> Successful completion of an appropriate sex offender treatment program certified by a jurisdiction or by the Attorney General. (42 USC §16915(b)(1)) 			
<p>Tier III Offender — An offender’s registration and notification requirement may be terminated if the following conditions are met:</p>			
<ul style="list-style-type: none"> The sex offender is required to register based on a juvenile delinquency adjudication for an offense which required Tier III registration 			
<ul style="list-style-type: none"> The sex offender has had twenty-five years with a “clean record” 			
<ul style="list-style-type: none"> Not being convicted of any offense for which imprisonment for more than 1 year may be imposed; 			
<ul style="list-style-type: none"> Not being convicted of any sex offense; 			
<ul style="list-style-type: none"> Successful (without revocation) completion of any of supervised release, probation, and parole; 			
<ul style="list-style-type: none"> Successful completion of an appropriate sex offender treatment program certified by a jurisdiction or by the Attorney General. (42 USC §16915(b)(1)) 			



X. REGISTRY WEBSITE REQUIREMENTS

Every jurisdiction will need to maintain a public sex offender registry website, as specified below. This website must contain the information detailed below on each sex offender in the registry. Information about a tier I sex offender convicted of an offense other than a “specified offense against a minor” as defined in 42 U.S.C. §16911(7) may be excluded from a jurisdiction’s public sex offender registry website.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
The jurisdiction must participate fully in the National Sex Offender Public Website, including taking the necessary steps to enable all field search capabilities required by NSOPW, including but not limited to:			
• Name;			
• County, City or Town;			
• Zip Code			
• Geographic Radius			
Links to sex offender safety and education resources			
Instructions on how to seek correction of information that an individual contends is erroneous.			
A warning that information on the site “should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported address...and that any such action could result in civil or criminal penalties.”			
Website Search-field capability:			
• Name			
• County, City and/or Town			
• Zip Code			
• Geographic Radius			
Items that must be displayed on public registry website:			
• Absconder: when the offender is in violation or cannot be located, the website must note this fact			
• Criminal History: any other sex offense for which the sex offender has been convicted			
• Current Offense: the sex offense for			



SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
which the offender is registered			
• Employer address			
• Name, including all aliases			
• Photograph (current)			
• Physical description			
• Resident Address, including any information about where the offender "habitually lives"			
• School address			
• Vehicle(s) information, including: • license plate number(s); and • vehicle description(s)			
Information That Is NOT Permitted to be Displayed on Public Websites:			
• Victim Identity			
• Criminal History: any arrests not resulting in conviction			
• Social Security Number			
• Travel and Immigration Document Numbers			
• Internet Identifiers			

Special Issue: Witness Protection

Jurisdictions are permitted and encouraged to make provision in their laws and procedures to accommodate consideration of the security of such individuals and to honor requests from the United States Marshals Service and other agencies responsible for witness protection in order to ensure that their original identities are not compromised.



XI. COMMUNITY NOTIFICATION

Community Notification is a distinct requirement of SORNA, apart from the maintenance of a sex offender registry and a public sex offender registry website. In certain cases, jurisdictions will be required to disseminate information about sex offenders to agencies and individuals in the community, as indicated below.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Law Enforcement Notification — Whenever a sex offender initially registers in a jurisdiction, or updates their registration information in a jurisdiction, the jurisdiction must immediately notify the specific agencies and monitor the SORNA Exchange Portal for inter-jurisdictional changes.			
<ul style="list-style-type: none"> Monitor or utilize the SORNA Exchange Portal for inter-jurisdictional change of residence, employment or student status. 			
<ul style="list-style-type: none"> Notify each jurisdiction where the sex offender resides, is an employee, or is a student, and each jurisdiction from or to which a change of residence, employment, or student status occurs. 			
<ul style="list-style-type: none"> Update NCIC/NSOR 			
<ul style="list-style-type: none"> Notify Police Departments 			
<ul style="list-style-type: none"> Notify Sheriffs' Offices 			
<ul style="list-style-type: none"> Notify Prosecutor's Offices 			
<ul style="list-style-type: none"> Notify Probation Agencies 			
<ul style="list-style-type: none"> Notify any other agencies with criminal investigation, prosecution, or sex offender supervision functions 			
<ul style="list-style-type: none"> Notify any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a) 			
General Community Notification — Whenever a sex offender initially registers in a jurisdiction, or updates their registration information in a jurisdiction, and a jurisdiction follows the procedures			



SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
outlined below, it will be sufficient to comply with the general community notification portion of SORNA:			
<ul style="list-style-type: none"> An automated notification system⁴ is adopted by the jurisdiction that incorporates the following features: 			
<ul style="list-style-type: none"> Any initial registration, and any changes in a sex offender's registration information, are posted to the jurisdiction's public registry website within three business days 			
<ul style="list-style-type: none"> An email notification (including a sex offender's identity) is made available to the general public whenever a sex offender commences: <ul style="list-style-type: none"> Residence Employment School attendance Within a certain zip code or geographic radius 			

XII. FAILURE TO REGISTER AS A SEX OFFENDER: STATE PENALTY

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Each jurisdiction, other than a Federally recognized Indian tribe, shall provide a criminal penalty that includes a maximum term of imprisonment that is greater than 1 year for the failure of a sex offender to comply with the requirements of their registration and notification requirements in a jurisdiction.			

⁴ Jurisdictions are not required to adopt an automated notification system in order to implement this general community notification portion of SORNA. If a jurisdiction chooses not to do so, however, it will still be held to SORNA's baseline requirements. Please contact the SMART office for assistance in determining which alternate procedures would substantially implement this portion of SORNA.



XIII. WHEN SEX OFFENDER FAILS TO APPEAR FOR REGISTRATION

When a jurisdiction is notified that a sex offender intends to reside, be employed, or attend school in their jurisdiction, and that offender fails to appear for registration as required, the jurisdiction receiving that notice must take the following actions.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
Inform the jurisdiction that provided the notification (that the offender was to commence employment, residence, and/or school in the new jurisdiction) that the sex offender failed to appear for registration.			

XIV. WHEN A JURISDICTION HAS INFORMATION THAT A SEX OFFENDER MAY HAVE ABSCONDED

When a jurisdiction has information that a sex offender may have absconded, certain actions must be taken.

SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
An effort must be made to determine whether the sex offender has actually absconded			
If no determination can be made, then a law enforcement agency with jurisdiction to investigate the matter must be notified			
If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, the authorities that provided the notification must be informed that the sex offender has failed to appear and register			
If an absconded sex offender cannot be located, then the jurisdiction must take the following steps:			
The information in the registry must be revised to reflect that the sex offender is an absconder or unlocatable			
A warrant must be sought for the sex offender's arrest, if the legal requirements for doing so are satisfied			
The United States Marshals Service, which			

U.S. Department of Justice

Office of Justice Programs

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART)



SORNA Requirement	Y/N	Statute Citation or Regulation Page #	Notes
is the lead federal agency for investigating sex offender registration violations, must be notified			
The jurisdiction must update NCIC/NSOR to reflect the sex offender's status as an absconder or unlocatable			
The jurisdiction must enter the sex offender into the National Crime Information Center Wanted Person File (assuming issuance of a warrant meeting the requirement for entry into that file)			