

### **Section 15-20A-1**

#### **Short title.**

This chapter shall be known and may be cited as the Alabama Sex Offender Registration and Community Notification Act.

### **Section 15-20A-2**

#### **Legislative findings.**

The Legislature makes all of the following findings:

(1) Registration and notification laws are a vital concern as the number of sex offenders continues to rise. The increasing numbers coupled with the danger of recidivism place society at risk. Registration and notification laws strive to reduce these dangers by increasing public safety and mandating the release of certain information to the public. This release of information creates better awareness and informs the public of the presence of sex offenders in the community, thereby enabling the public to take action to protect themselves. Registration and notification laws aid in public awareness and not only protect the community but serve to deter sex offenders from future crimes through frequent in-person registration. Frequent in-person registration maintains constant contact between sex offenders and law enforcement, providing law enforcement with priceless tools to aid them in their investigations including obtaining information for identifying, monitoring, and tracking sex offenders.

(2) Juvenile sex offenders also pose a risk to the community. Due to juvenile sex offenders offending in their formative years, it is imperative that they receive sex offender treatment. At the completion of sex offender treatment, all juvenile sex offenders must undergo a risk assessment, and a hearing must be held by the court to determine their level of risk to the community and the level of notification that should be provided to best protect the public. Juvenile sex offenders adjudicated delinquent of the most serious offenses who pose a greater threat should be subject to more stringent requirements.

(3) Homeless sex offenders are a group of sex offenders who need to be monitored more frequently for the protection of the public. Homeless sex offenders present a growing concern for law enforcement due to their mobility. As the number of homeless sex offenders increases, locating, tracking, and monitoring these offenders becomes more difficult.

(4) Sexually violent offenders also cause increased concern for law enforcement. These predators are repeat sexual offenders who use physical violence, offend on multiple victims, and prey on children. Due to their likelihood to engage in future sexually violent behavior, they present an extreme threat to the public safety. The Legislature declares that its intent in imposing additional tracking and monitoring requirements on sexually violent predators is to assist law enforcement in carrying out their duties and, most importantly, to protect the public, especially children.

(5) Sex offenders, due to the nature of their offenses, have a reduced expectation of privacy. In balancing the sex offender's rights, and the interest of public safety, the Legislature finds that

releasing certain information to the public furthers the primary governmental interest of protecting vulnerable populations, particularly children. Employment and residence restrictions, together with monitoring and tracking, also further that interest. The Legislature declares that its intent in imposing certain registration, notification, monitoring, and tracking requirements on sex offenders is not to punish sex offenders but to protect the public and, most importantly, promote child safety.

### **Section 15-20A-3**

#### **Applicability.**

(a) This chapter is applicable to every adult sex offender convicted of a sex offense as defined in Section 15-20A-5, without regard to when his or her crime or crimes were committed or his or her duty to register arose.

(b) Any adult sex offender shall be subject to this chapter for life.

(c) This chapter is applicable to juvenile sex offenders who are adjudicated delinquent pursuant to the Alabama Juvenile Justice Act, Sections 12-15-101 to 12-15-601, inclusive, formerly Sections 12-15-1 to 12-15-176, inclusive, Code of Alabama 1975, of a sex offense as defined in Section 15-20A-5.

(d) A juvenile sex offender adjudicated delinquent of a sex offense as defined in Section 15-20A-5 on or after July 1, 2011, shall be subject to this chapter for the duration of time as provided in Section 15-20A-28. A juvenile sex offender adjudicated delinquent of a sex offense as defined in Section 15-20A-5 prior to July 1, 2011, shall be subject to registration and verification pursuant to this chapter for 10 years from the last date of release on the sex offense subjecting the juvenile sex offender to registration, and the juvenile sex offender shall be subject to notification during the registration period if notification was previously ordered by the sentencing court.

(e) This chapter is applicable to youthful offender sex offenders who are adjudicated as a youthful offender pursuant to the Youthful Offender Act, Sections 15-19-1 to 15-19-7, of a sex offense as defined in Section 15-20A-5.

(f) A youthful offender sex offender adjudicated as a youthful offender of a sex offense as defined in Section 15-20A-5 on or after July 1, 2011, shall be subject to this chapter as provided in Section 15-20A-35. A youthful offender sex offender adjudicated as a youthful offender of a sex offense as defined in Section 15-20A-5 prior to July 1, 2011, shall be treated as follows:

(1) If the youthful offender sex offender was not previously adjudicated or convicted of a sex offense, he or she shall be treated as a juvenile sex offender adjudicated prior to July 1, 2011, pursuant to subsection (d).

(2) If the youthful offender sex offender was previously adjudicated or convicted of a sex offense, he or she shall be treated as an adult sex offender pursuant to subsection (b).

**Section 15-20A-4**

**Definitions.**

For purposes of this chapter, the following words shall have the following meanings:

- (1) **ADULT SEX OFFENDER.** An adult convicted of a sex offense.
- (2) **CHILD.** A person who has not attained the age of 12.
- (3) **CHILDCARE FACILITY.** A licensed child daycare center, a licensed childcare facility, or any other childcare service that is exempt from licensing pursuant to Section 38-7-3, provided that the licensed child daycare center, licensed childcare facility, or any other childcare service and location are public record or have been provided to local law enforcement.
- (4) **CONVICTION.** A determination or judgment of guilt following a verdict or finding of guilt as the result of a trial, a plea of guilty, a plea of nolo contendere, or an Alford plea. Conviction includes, but is not limited to, a conviction in a United States territory, a conviction in a federal or military tribunal, including a court martial conducted by the Armed Forces of the United States, a conviction for an offense committed on an Indian reservation or other federal property, a conviction in any state of the United States or a conviction in a foreign country if the foreign country's judicial system is such that it satisfies minimum due process set forth in the guidelines under Section 111(5)(B) of Public Law 109-248. Cases on appeal are deemed convictions until reversed or overturned.
- (5) **EMPLOYMENT.** Employment that is full-time, part-time, self-employment, or employment as an independent contractor or day laborer for any period, whether financially compensated, volunteered, or for the purpose of government or educational benefit.
- (6) **FIXED RESIDENCE.** A building or structure, having a physical address or street number, that adequately provides shelter at which a person resides.
- (7) **HABITUALLY LIVES.** Where a person lives with some regularity on an intermittent or temporary basis.
- (8) **HOMELESS.** A person who has no fixed residence.
- (9) **IMMEDIATE FAMILY MEMBER.** A grandparent, parent, sibling, spouse, child of any age by blood, adoption, or marriage, or grandchild.
- (10) **IMMEDIATELY.** Within three business days.
- (11) **JURISDICTION.** Any state of the United States, any United States territory, the District of Columbia, or any federally recognized Indian tribe.

(12) JUVENILE SEX OFFENDER. An individual who has not attained the age of 18 at the time of the offense and who is adjudicated delinquent of a sex offense.

(13) LOCAL LAW ENFORCEMENT. The sheriff of the county and the chief of police if the location subject to registration is within the corporate limits of any municipality.

(14) MINOR. A person who has not attained the age of 18.

(15) PREDATORY. An act directed at a stranger, a person of casual acquaintance, or with whom no substantial relationship exists, or a person with whom a relationship has been established or promoted for the purpose of victimization of that person or individuals over whom that person has control.

(16) PRIOR CONVICTION. The person has served and has been released or discharged from, or is serving, a separate period of incarceration, commitment, or supervision for the commission of a sex offense, as defined by Section 15-20A-5, prior to, or at the time of, committing another sex offense.

(17) REGISTERING AGENCY. Any law enforcement agency where the sex offender registers required registration information.

(18) RELEASE. Release from a state prison, county jail, municipal jail, mental health facility, release or discharge from the custody of the Department of Youth Services or other juvenile detention, or placement on an appeal bond, probation, parole, or aftercare, placement into any facility or treatment program that allows the sex offender to have unsupervised access to the public, or release from any other facility, custodial or noncustodial, where the sex offender is sentenced or made a ward of that facility by a circuit, district, or juvenile court.

(19) REQUIRED REGISTRATION INFORMATION. Any information required pursuant to Section 15-20A-7.

(20) RESIDENCE. Each fixed residence or other place where a person resides, sleeps, or habitually lives or will reside, sleep, or habitually live. If a person does not reside, sleep, or habitually live in a fixed residence, residence means a description of the locations where the person is stationed regularly, day or night, including any mobile or transitory living quarters or locations that have no specific mailing or street address. Residence shall be construed to refer to the places where a person resides, sleeps, habitually lives, or is stationed with regularity, regardless of whether the person declares or characterizes such place as a residence.

(21) RESPONSIBLE AGENCY. The person or government entity whose duty it is to obtain information from a sex offender and to transmit that information to the Department of Public Safety, police departments, and sheriffs. For a sex offender being released from state prison, the responsible agency is the Department of Corrections. For a sex offender being released from a county jail, the responsible agency is the sheriff of that county. For a sex offender being released from a municipal jail, the responsible agency is the chief of police of that municipality. For a sex offender being placed on probation, including conditional discharge or unconditional discharge,

without any sentence of incarceration, the responsible agency is the sentencing court or designee of the sentencing court. For a juvenile sex offender being released from the Department of Youth Services, the responsible agency is the Department of Youth Services. For a sex offender who is being released from a jurisdiction outside this state and who is to reside in this state, the responsible agency is the sheriff of the county in which the offender intends to establish a residence.

(22) RISK ASSESSMENT. A written report on the assessment of risk for sexually re-offending conducted by a sex offender treatment program or provider approved by the Department of Youth Services. The report shall include, but not be limited to, the following regarding the juvenile sex offender: criminal history, mental status, attitude, previous sexual offender treatment and response to treatment, social factors, conditions of release expected to minimize risk of sexual re-offending, and characteristics of the sex offense.

(23) SCHOOL. A licensed or accredited public, private, or church school that offers instruction in grades K-12. The definition does not include a private residence in which students are taught by parents or tutors or any facility dedicated exclusively to the education of adults unless that facility has a childcare facility as defined in subsection (3).

(24) SENTENCING COURT. The court of adjudication or conviction.

(25) SEX OFFENDER. Includes any adult sex offender, any youthful offender sex offender, and any juvenile sex offender.

(26) SEX OFFENSE INVOLVING A CHILD. A conviction for any sex offense in which the victim was a child or any offense involving child pornography.

(27) SEX OFFENSE INVOLVING A MINOR. A conviction for any sex offense in which the victim was a minor or any offense involving child pornography.

(28) SEXUALLY VIOLENT PREDATOR. A person who has been convicted of a sexually violent offense and who is likely to engage in one or more future sexually violent offenses or is likely to engage in future predatory sex offenses.

(29) STUDENT. A person who is enrolled in or attends, on a full-time or part-time basis, any public or private educational institution, including a secondary school, trade or professional school, or institution of higher education.

(30) TEMPORARY LODGING INFORMATION. Lodging information including, but not limited to, the name and address of any location where the person is staying when away from his or her residence for three or more days and the period of time the person is staying at that location.

(31) YOUTHFUL OFFENDER SEX OFFENDER. An individual adjudicated as a youthful offender for a sex offense who has not yet attained the age of 21 at the time of the offense.

**Section 15-20A-5**

**Sex offenses.**

For the purposes of this chapter, a sex offense includes any of the following offenses:

- (1) Rape in the first degree, as provided by Section 13A-6-61.
- (2) Rape in the second degree, as provided by Section 13A-6-62.
- (3) Sodomy in the first degree, as provided by Section 13A-6-63.
- (4) Sodomy in the second degree, as provided by Section 13A-6-64.
- (5) Sexual misconduct, as provided by Section 13A-6-65, provided that on a first conviction or adjudication the sex offender is only subject to registration and verification pursuant to this chapter. On a second or subsequent conviction or adjudication, if the second or subsequent conviction or adjudication does not arise out of the same set of facts and circumstances as the first conviction or adjudication, the sex offender shall comply with all requirements of this chapter. The sentencing court may exempt from this chapter a juvenile sex offender adjudicated delinquent of sexual misconduct.
- (6) Sexual torture, as provided by Section 13A-6-65.1.
- (7) Sexual abuse in the first degree, as provided by Section 13A-6-66.
- (8) Sexual abuse in the second degree, as provided by Section 13A-6-67.
- (9) Indecent exposure, as provided by Section 13A-6-68, provided that on a first conviction or adjudication the sex offender is only subject to registration and verification pursuant to this chapter. On a second or subsequent conviction or adjudication, if the second or subsequent conviction or adjudication does not arise out of the same set of facts and circumstances as the first conviction or adjudication, the sex offender shall comply with all requirements of this chapter. The sentencing court may exempt from this act a juvenile sex offender adjudicated delinquent of indecent exposure.
- (10) Enticing a child to enter a vehicle, room, house, office, or other place for immoral purposes, as provided by Section 13A-6-69.
- (11) Sexual abuse of a child less than 12 years old, as provided by Section 13A-6-69.1.
- (12) Promoting prostitution in the first degree, as provided by Section 13A-12-111.
- (13) Promoting prostitution in the second degree, as provided by Section 13A-12-112.

- (14) Violation of the Alabama Child Pornography Act, as provided by Section 13A-12-191, 13A-12-192, 13A-12-196, or 13A-12-197.
- (15) Unlawful imprisonment in the first degree, as provided by Section 13A-6-41, if the victim of the offense is a minor.
- (16) Unlawful imprisonment in the second degree, as provided by Section 13A-6-42 if the victim of the offense is a minor.
- (17) Kidnapping in the first degree, as provided by subdivision (4) of subsection (a) of Section 13A-6-43, if the intent of the abduction is to violate or abuse the victim sexually.
- (18) Kidnapping of a minor, except by a parent, guardian, or custodian, as provided by Section 13A-6-43 or 13A-6-44.
- (19) Incest, as provided by Section 13A-13-3.
- (20) Transmitting obscene material to a child by computer, as provided by Section 13A-6-111.
- (21) School employee engaging in a sex act or deviant sexual intercourse with a student, as provided by Section 13A-6-81.
- (22) School employee having sexual contact with a student, as provided by Section 13A-6-82.
- (23) Facilitating solicitation of unlawful sexual conduct with a child, as provided by Section 13A-6-121.
- (24) Electronic solicitation of a child, as provided by Section 13A-6-122.
- (25) Facilitating the on-line solicitation of a child, as provided by Section 13A-6-123.
- (26) Traveling to meet a child for an unlawful sex act, as provided by Section 13A-6-124.
- (27) Facilitating the travel of a child for an unlawful sex act, as provided by Section 13A-6-125.
- (28) Human trafficking in the first degree, as provided by Section 13A-6-152, provided that the offense involves sexual servitude.
- (29) Human trafficking in the second degree, as provided by Section 13A-6-153, provided that the offense involves sexual servitude.
- (30) Custodial sexual misconduct, as provided by Section 14-11-31.
- (31) Any offense which is the same as or equivalent to any offense set forth above as the same existed and was defined under the laws of this state existing at the time of such conviction, specifically including, but not limited to, crime against nature, as provided by Section 13-1-110;

rape, as provided by Sections 13-1-130 and 13-1-131; carnal knowledge of a woman or girl, as provided by Sections 13-1-132 through 13-1-135, or attempting to do so, as provided by Section 13-1-136; indecent molestation of children, as defined and provided by Section 13-1-113; indecent exposure, as provided by Section 13-1-111; incest, as provided by Section 13-8-3; offenses relative to obscene prints and literature, as provided by Sections 13-7-160 through 13-7-175, inclusive; employing, harboring, procuring or using a girl over 10 and under 18 years of age for the purpose of prostitution or sexual intercourse, as provided by Section 13-7-1; seduction, as defined and provided by Section 13-1-112; a male person peeping into a room occupied by a female, as provided by Section 13-6-6; assault with intent to ravish, as provided by Section 13-1-46; and soliciting a child by computer, as provided by Section 13A-6-110.

(32) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in subdivisions (1) to (31), inclusive.

(33) Any crime committed in Alabama or any other state, the District of Columbia, any United States territory, or a federal, military, Indian, or foreign country jurisdiction which, if it had been committed in this state under the current provisions of law, would constitute an offense listed in subdivisions (1) to (32), inclusive.

(34) Any offense specified by Title I of the federal Adam Walsh Child Protection and Safety Act of 2006 (Pub. L. 109-248, the Sex Offender Registration and Notification Act (SORNA)).

(35) Any crime committed in another state, the District of Columbia, any United States territory, or a federal, military, Indian, or foreign country jurisdiction if that jurisdiction also requires that anyone convicted of that crime register as a sex offender in that jurisdiction.

(36) Any offender determined in any jurisdiction to be a sex offender shall be considered a sex offender in this state.

(37) The foregoing notwithstanding, any crime committed in any jurisdiction which, irrespective of the specific description or statutory elements thereof, is in any way characterized or known as rape, carnal knowledge, sodomy, sexual assault, sexual battery, criminal sexual conduct, criminal sexual contact, sexual abuse, continuous sexual abuse, sexual torture, solicitation of a child, enticing or luring a child, child pornography, lewd and lascivious conduct, taking indecent liberties with a child, molestation of a child, criminal sexual misconduct, or video voyeurism.

(38) Any crime not listed in this section wherein the underlying felony is an element of the offense and listed in subdivisions (1) to (37), inclusive.

(39) Any other offense not provided for in this section wherein there is a finding of sexual motivation as provided by Section 15-20A-6.



**Section 15-20A-6**

**Allegation of sexual motivation.**

- (a) The prosecuting attorney may file an allegation of sexual motivation in any criminal case classified as a felony or Class A misdemeanor if sufficient admissible evidence exists that would justify a finding of sexual motivation by a reasonable and objective finder of fact.
- (b) If the prosecuting attorney files an allegation of sexual motivation, the state shall prove beyond a reasonable doubt that the defendant committed the offense with a sexual motivation.
- (c) The court shall make a written finding of fact, to be made part of the record upon conviction or adjudication as a youthful offender, of whether or not a sexual motivation was present at the time of the commission of the offense unless the defendant has a trial by jury.
- (d) If a defendant has a trial by jury, the jury, if it finds the defendant guilty, shall also find a special verdict as to whether or not the defendant committed the crime with a sexual motivation.
- (e) If there is a finding of sexual motivation, the finding shall be made part of the record of conviction or adjudication.
- (f) For purposes of this section, sexual motivation means that one of the purposes for which the defendant committed the crime was for the purpose of the sexual gratification of the defendant.
- (g) This section shall not apply to sex offenses as defined in subdivisions (1) to (38), inclusive, of Section 15-20A-5.

**Section 15-20A-7**

**Registration information - Required.**

- (a) The following registration information, unless otherwise indicated, shall be provided by the sex offender when registering:
  - (1) Name, including any aliases, nicknames, ethnic, or tribal names.
  - (2) Date of birth.
  - (3) Social Security number.
  - (4) Address of each residence.
  - (5) Name and address of any school the sex offender attends or will attend. For purposes of this subdivision, a school includes an educational institution, public or private, including a secondary school, a trade or professional school, or an institution of higher education.

(6) Name and address of any employer where the sex offender works or will work, including any transient or day laborer information.

(7) The license plate number, registration number or identifier, description, and permanent or frequent location where all vehicles are kept for any vehicle used for work or personal use, including land vehicles, aircraft, and watercraft.

(8) Any telephone number used, including land line and cell phone numbers.

(9) Any email addresses or instant message address or identifiers used, including any designations or monikers used for self-identification in Internet communications or postings.

(10) A current photograph.

(11) A physical description of the sex offender including physical appearance, physical characteristics, and identifying marks such as scars and tattoos.

(12) Fingerprints and palm prints.

(13) A DNA sample. The DNA sample may be collected by the probation officer, sheriff, chief of police, or other responsible agency. Prior to collecting a DNA sample, the responsible agency shall determine if a DNA sample has already been collected for the sex offender by checking the Dru Sjodin National Sex Offender Public Registry website, the Alabama Department of Forensic Sciences DNATracker site, or with the Alabama Department of Public Safety. If a DNA sample has not been previously collected for the sex offender, the responsible agency shall coordinate for the collection of a DNA sample with the sheriff of the county in which the registration is occurring. The collection of a DNA sample should be performed using materials recommended or provided by the Alabama Department of Forensic Sciences. The DNA sample shall be immediately forwarded by the entity collecting the sample to the Department of Forensic Sciences.

(14) A photocopy of the valid driver license or identification card.

(15) A photocopy of any and all passport and immigration documents.

(16) Any professional licensing information that authorizes the sex offender to engage in an occupation or carry out a trade or business.

(17) A full criminal history of the sex offender, including dates of all arrests and convictions, status of parole, probation, or supervised release, registration status, and outstanding arrest warrants.

(18) Any other information deemed necessary by the Director of the Department of Public Safety.

(b) The registering agency is not required to obtain any of the following information each time the sex offender verifies his or her required registration information if the registering agency verifies the information has already been collected and has not been changed or altered:

(1) A current photograph.

(2) Fingerprints or palm prints.

(3) A DNA sample.

(4) A photocopy of the valid driver license or identification card.

(5) A photocopy of any and all passport and immigration documents.

(c) The registration information shall be transmitted to the Department of Public Safety in a manner determined by the director of the department and promulgated in rule by the director upon recommendation of an advisory board consisting of representatives of the office of the Attorney General, District Attorneys Association, Chiefs of Police Association, Sheriffs Association, and the Department of Public Safety. The advisory board members shall not receive any compensation or reimbursement for serving on the advisory board.

(d) The required registration information shall include a form explaining all registration and notification duties, including any requirements and restrictions placed on the sex offender. This form shall be signed and dated by the sex offender. If the sex offender fails to sign the form, the designee of the registering agency shall sign the form stating that the requirements have been explained to the sex offender and that the sex offender refused to sign.

(e) All required registration information shall be stored electronically in a manner determined by the Director of the Department of Public Safety and shall be available in a digitized format by the Department of Public Safety to anyone entitled to receive the information as provided in Section 15-20A-42.

(f) Any person who fails to provide the required registration information pursuant to this section shall be guilty of a Class C felony.

#### **Section 15-20A-8**

#### **Registration information - Public registry website.**

(a) All of the following registration information shall be provided on the public registry website maintained by the Department of Public Safety and may be provided on any community notification documents:

(1) Name, including any aliases, nicknames, ethnic, or Tribal names.

(2) Address of each residence.

(3) Address of any school the sex offender attends or will attend. For purposes of this subdivision, a school includes an educational institution, public or private, including a secondary school, a trade or professional school, or an institution of higher education.

(4) Address of any employer where the sex offender works or will work, including any transient or day laborer information.

(5) The license plate number and description of any vehicle used for work or personal use, including land vehicles, aircraft, and watercraft.

(6) A current photograph.

(7) A physical description of the sex offender.

(8) Criminal history of any sex offense for which the sex offender has been adjudicated or convicted.

(9) The text of the criminal provision of any sex offense of which the sex offender has been adjudicated or convicted.

(10) Status of the sex offender, including whether the sex offender has absconded.

(b) None of the following information shall be provided on the public registry website or any other notification documents:

(1) Criminal history of any arrests not resulting in conviction.

(2) Social Security number.

(3) Travel and immigration document numbers.

(4) Victim identity.

(5) Internet identifiers.

(c) Any other required registration information may be included on the website as determined by the Director of the Department of Public Safety.

(d) All information shall immediately be posted on the public registry website upon receipt of the information by the Department of Public Safety.

(e) The website shall include field search capabilities to search for sex offenders by name, city or town, county, zip code, or geographic radius.

(f) The website shall include links to sex offender safety and education resources.

(g) The website shall include instructions on how to seek correction of information that a person contends is erroneous.

(h) The website shall include a warning that information on the site should not be used to unlawfully injure, harass, or commit a crime against any person named in the registry or residing or working at any reported address and that any such action may result in civil or criminal penalties.

#### **Section 15-20A-9**

#### **Adult sex offender - Requirements prior to release.**

(a) At least 30 days prior to release, or immediately upon notice of release if release is less than 30 days, of an adult sex offender from the county jail, municipal jail, Department of Corrections, or any other facility that has incarcerated the adult sex offender, or immediately upon conviction, if the adult sex offender is not incarcerated, the responsible agency shall:

(1) Inform the adult sex offender of his or her duty to register, instruct the adult sex offender to read and sign a form stating that the duty to register has been explained, and obtain the required registration information from the adult sex offender. If the adult sex offender refuses to sign the form, the designee of the responsible agency shall sign the form stating that the requirements have been explained to the adult sex offender and that the adult sex offender refused to sign.

(2) If the adult sex offender declares his or her intent to reside within this state, the responsible agency shall immediately notify and provide the required registration information to the Department of Public Safety, the Attorney General, the district attorney in the county of conviction, and local law enforcement where the adult sex offender intends to reside. The notification shall also include any other information available to the responsible agency which would be necessary to identify and trace the adult sex offender, including, but not limited to, each sex offense history or a copy of the pre-sentence investigation of the sex offense and the release date of the adult sex offender.

(3) If the adult sex offender declares his or her intent to reside outside of the state, the responsible agency shall immediately notify and provide the required registration information to the Department of Public Safety, the Attorney General, the district attorney in the county of conviction, and the designated state law enforcement agency of the state to which the adult sex offender has declared his or her intent to reside. The notification shall also include any other information available to the responsible agency which would be necessary to identify and trace the adult sex offender, including, but not limited to, each sex offense history or a copy of the pre-sentence investigation of the sex offense and the release date of the sex offender.

(4) If an adult sex offender is not able to provide a residence prior to the time of release, then the responsible agency shall notify the sheriff of the county where the last conviction for a sex offense or violation of this chapter took place at least five days prior to the release of the adult sex offender. Upon notice of the release date from the responsible agency, the sheriff of the county of the last conviction for a sex offense or a violation of this chapter shall make

arrangements to have the adult sex offender immediately remanded to his or her custody to register in accordance with Section 15-20A-10 at the time of release.

(5) Any adult sex offender who is due to be released due to the expiration of his or her sentence and who refuses to provide the required registration information shall be treated as follows:

a. If the adult sex offender has not accumulated any incentive time pursuant to Section 14-9-41 or any other law, he or she shall be charged with violating this section. At least five days prior to his or her release date, the Department of Corrections shall notify the sheriff in the county where the last conviction for a sex offense or violation of this chapter took place, which county shall be the proper venue for arrest and prosecution of violation of this section. Upon notice of the release date, the sheriff from the county of the last conviction for a sex offense or violation of this chapter shall make arrangements to have the adult sex offender immediately remanded to his or her custody at the time of release. Any adult sex offender charged with violating this section may only be released on bond on the condition that the adult sex offender is in compliance with this section before being released.

b. If the adult sex offender has accumulated correctional incentive time pursuant to Section 14-9-41 or any other law, the adult sex offender shall be charged with non-compliance with this section and shall not be allowed early release, but instead shall forfeit all correctional incentive time that has accrued pursuant to Section 14-9-41, or other good time allowed by law.

(b) An adult sex offender who fails to comply with this section by failing to provide the required registration information shall be guilty of a Class C felony.

#### **Section 15-20A-10**

#### **Adult sex offender - Registration with local law enforcement; residence restrictions.**

(a)(1) Immediately upon release from incarceration, or immediately upon conviction if the adult sex offender is not incarcerated, the adult sex offender shall appear in person and register all required registration information with local law enforcement in each county in which the adult sex offender resides or intends to reside, accepts or intends to accept employment, and begins or intends to begin school attendance.

(2) An adult sex offender who registers pursuant to subdivision (1) shall have seven days from release to comply with the residence restrictions pursuant to subsection (a) of Section 15-20A-11.

(b) Immediately upon establishing a new residence, accepting employment, or beginning school attendance, the adult sex offender shall appear in person to register with local law enforcement in each county in which the adult sex offender establishes a residence, accepts employment, or begins school attendance.

(c)(1) Immediately upon transferring or terminating any residence, employment, or school attendance, the adult sex offender shall appear in person to notify local law enforcement in each

county in which the adult sex offender is transferring or terminating residence, employment, or school attendance.

(2) Whenever a sex offender transfers his or her residence, as provided in subdivision (1) from one county to another county, the sheriff of the county from which the sex offender is transferring his or her residence shall immediately notify local law enforcement in the county in which the sex offender intends to reside. If a sex offender transfers his or her residence, as provided in subdivision (1) from one county to another jurisdiction, the sheriff of the county from which the sex offender is transferring his or her residence shall immediately notify the chief law enforcement agency in the jurisdiction in which the sex offender intends to reside.

(d) Immediately upon any name change, the adult sex offender shall immediately appear in person to update the information with local law enforcement in each county in which the adult sex offender is required to register.

(e) Upon changing any required registration information the adult sex offender shall immediately appear in person and update the information with local law enforcement in each county in which the adult sex offender resides.

(f) An adult sex offender shall appear in person to verify all required registration information during the adult sex offender's birth month and every three months thereafter, regardless of the month of conviction, for the duration of the adult sex offender's life with local law enforcement in each county in which the adult sex offender resides.

(g) At the time of registration, the adult sex offender shall be provided a form explaining any and all duties and restrictions placed on the adult sex offender. The adult sex offender shall read and sign this form stating that he or she understands the duties and restrictions imposed by this chapter. If the adult sex offender refuses to sign the form, the designee of the registering agency shall sign the form stating that the requirements have been explained to the adult sex offender and that the adult sex offender refused to sign.

(h) For purposes of this section, a school includes an educational institution, public or private, including a secondary school, a trade or professional school, or an institution of higher education.

(i) If an adult sex offender was convicted and required to register prior to July 1, 2011, then the adult sex offender shall begin quarterly registration after his or her next biannual required registration date.

(j) Any person who violates this section shall be guilty of a Class C felony.

#### **Section 15-20A-11**

#### **Adult sex offender - Prohibited residence locations, etc.**

(a) No adult sex offender shall establish a residence, maintain a residence after release or conviction, or establish any other living accommodation within 2,000 feet of the property on which any school or childcare facility is located unless otherwise exempted pursuant to Sections 15-20A-23 and 15-20A-24.

(b) No adult sex offender shall establish a residence, maintain a residence after release or conviction, or establish any other living accommodation within 2,000 feet of the property on which his or her former victim, or an immediate family member of the victim, resides unless otherwise exempted pursuant to Section 15-20A-24.

(c) Changes to property within 2,000 feet of a registered address of an adult sex offender which occur after the adult sex offender establishes residency shall not form the basis for finding that the adult sex offender is in violation of this section.

(d) No adult sex offender shall establish or maintain a residence or any other living accommodation with a minor. For the purpose of this subsection, living accommodation includes, but is not limited to, any overnight visit with a minor. Notwithstanding the foregoing, an adult sex offender may reside with a minor if the adult sex offender is the parent, grandparent, stepparent, sibling, or stepsibling of the minor, unless one of the following conditions applies:

(1) Parental rights of the adult sex offender have been or are in the process of being terminated as provided by law.

(2) The adult sex offender has been convicted of any sex offense in which any of the minor children, grandchildren, stepchildren, siblings, or stepsiblings of the adult sex offender was the victim.

(3) The adult sex offender has been convicted of any sex offense in which a minor was the victim and the minor resided or lived with the adult sex offender at the time of the offense.

(4) The adult sex offender has been convicted of any sex offense involving a child, regardless of whether the adult sex offender was related to or shared a residence with the child victim.

(5) The adult sex offender has been convicted of any sex offense involving forcible compulsion in which the victim was a minor.

(e) Notwithstanding any other provision of law regarding establishment of residence, an adult sex offender shall be deemed to have established a residence in any of the following circumstances:

(1) Wherever an adult sex offender resides for three or more consecutive days.

(2) Wherever an adult sex offender resides following release, regardless of whether the adult sex offender resided at the same location prior to the time of conviction.



(3) Whenever an adult sex offender spends 10 or more aggregate days at a location during a calendar month.

(4) Whenever an adult sex offender vacates or fails to spend three or more consecutive days at his or her residence without previously notifying local law enforcement pursuant to Section 15-20A-15.

(f) An adult sex offender is exempt from subsections (a) and (b) during the time an adult sex offender is admitted to a hospital or is incarcerated in a jail, prison, mental health facility, or any other correctional placement facility wherein the adult sex offender is not allowed unsupervised access to the public.

(g) For the purposes of this section, the 2,000-foot measurement shall be taken in a straight line from nearest property line to nearest property line.

(h) Any person who violates this section shall be guilty of a Class C felony.

#### **Section 15-20A-12**

#### **Adult sex offender - Homelessness.**

(a) An adult sex offender who no longer has a fixed residence shall be considered homeless and shall appear in person and report such change in fixed residence to local law enforcement where he or she is located immediately upon such change in fixed residence.

(b) In addition to complying with the registration and verification requirements pursuant to Section 15-20A-10, a homeless adult sex offender who lacks a fixed residence, or who does not provide an address at a fixed residence at the time of release or registration, shall report in person once every seven days to local law enforcement where he or she resides. The weekly report shall be on a day specified by local law enforcement and shall occur during normal business hours.

(c) A homeless adult sex offender who lacks a fixed address shall comply with the residence restrictions set forth in Section 15-20A-11.

(d)(1) Each time a homeless adult sex offender reports under this section, he or she shall provide all of the following information:

a. Name.

b. Date of birth.

c. Social Security number.

d. A detailed description of the location or locations where he or she has resided during the week.

e. A list of the locations where he or she plans to reside in the upcoming week with as much specificity as possible.

(2) The registering agency is not required to obtain the remaining required registration information from the homeless adult sex offender each time he or she reports to the registering agency unless the homeless adult sex offender has any changes to the remaining required registration information.

(e) If an adult sex offender who was homeless obtains a fixed address in compliance with the provisions of Section 15-20A-11, the adult sex offender shall immediately appear in person to update the information with local law enforcement in each county of residence.

(f) Any person who violates this section shall be guilty of a Class C felony.

### **Section 15-20A-13**

#### **Adult sex offender - Employment restrictions.**

(a) No adult sex offender shall apply for, accept, or maintain employment or vocation or volunteer at any school, childcare facility, mobile vending business that provides services primarily to children, or any other business or organization that provides services primarily to children.

(b) No adult sex offender shall apply for, accept, or maintain employment or volunteer for any employment or vocation within 2,000 feet of the property on which a school or childcare facility is located unless otherwise exempted pursuant to Sections 15-20A-24 and 15-20A-25.

(c) No adult sex offender, after having been convicted of a sex offense involving a child, shall apply for, accept, or maintain employment or vocation or volunteer for any employment or vocation within 500 feet of a playground, park, athletic field or facility, or any other business or facility having a principal purpose of caring for, educating, or entertaining minors.

(d) Changes to property within 2,000 feet of an adult sex offender's place of employment which occur after an adult sex offender accepts employment shall not form the basis for finding that an adult sex offender is in violation of this section.

(e) It shall be unlawful for the owner or operator of any childcare facility or any other organization that provides services primarily to children to knowingly employ or accept volunteer services from an adult sex offender.

(f) For purposes of this section, the 2,000-foot measurement shall be taken in a straight line from nearest property line to nearest property line.

(g) Any person who violates this section shall be guilty of a Class C felony.

**Section 15-20A-14**

**Adult sex offender - Requirements upon entering state.**

(a) Any adult sex offender who enters this state and establishes a residence shall immediately appear in person and register all required registration information with local law enforcement in the county of residence.

(b) Any adult sex offender who enters this state to accept employment, carry on a vocation, or become a student and who has not established a residence in this state shall immediately appear in person and register all required registration information with local law enforcement in the county where the adult sex offender accepts employment, carries on a vocation, or becomes a student.

(c) Whenever an adult sex offender registers pursuant to this section, he or she shall be subject to the requirements of this chapter.

(d) Within 30 days of initial registration, the adult sex offender shall provide each registering agency with a certified copy of his or her conviction; however, an adult sex offender shall be exempt from this subsection if the adult sex offender provides adequate documentation that the certified record is no longer available or has been destroyed.

(e) Any person who violates this section shall be guilty of a Class C felony.

**Section 15-20A-15**

**Adult sex offender - Travel.**

(a) If an adult sex offender intends to temporarily be away from his or her county of residence for a period of three or more consecutive days, the adult sex offender shall report such information in person immediately prior to leaving his or her county of residence for such travel to local law enforcement in each county of residence.

(b) The adult sex offender shall complete a travel permit form immediately prior to travel and provide the dates of travel and temporary lodging information.

(c) If a sex offender intends to travel to another country, he or she shall report in person to local law enforcement in each county of residence at least 21 days prior to such travel. Any information reported to local law enforcement in each county of residence shall immediately be reported to the United States Marshals Service and the Department of Public Safety.

(d) The travel permit shall explain the duties of the adult sex offender regarding travel. The adult sex offender shall sign the travel permit stating that he or she understands the duties required of him or her. If the adult sex offender refuses to sign the travel permit form, the travel permit shall be denied.

(e) The sheriff in each county of residence shall immediately notify local law enforcement in the county or the jurisdiction to which the adult sex offender will be traveling.

(f) Upon return to the county of residence, the adult sex offender shall immediately report to local law enforcement in each county of residence.

(g) All travel permits shall be included with the adult sex offender's required registration information.

(h) Any person who violates this section shall be guilty of a Class C felony.

#### **Section 15-20A-16**

##### **Adult sex offender - Contact with former victims.**

(a) No adult sex offender shall contact, directly or indirectly, in person or through others, by phone, mail, or electronic means, any former victim. No sex offender shall make any harassing communication, directly or indirectly, in person or through others, by phone, mail, or electronic means to the victim or any immediate family member of the victim.

(b) No adult sex offender shall knowingly come within 100 feet of a former victim.

(c) Any person who violates this section shall be guilty of a Class C felony.

#### **Section 15-20A-17**

##### **Adult sex offender - Loitering in certain areas.**

(a) No adult sex offender, after having been convicted of a sex offense involving a minor, shall loiter on or within 500 feet of the property line of any property on which there is a school, childcare facility, playground, park, athletic field or facility, school bus stop, college or university, or any other business or facility having a principal purpose of caring for, educating, or entertaining minors.

(b) Under this section, loiter means to enter or remain on property while having no legitimate purpose or, if a legitimate purpose exists, remaining on that property beyond the time necessary to fulfill that purpose. An adult sex offender does not violate this section unless he or she has first been asked to leave a prohibited location by a person authorized to exclude the adult sex offender from the premises. An authorized person includes, but is not limited to, any law enforcement officer, security officer, any owner or manager of the premises, a principal, teacher, or school bus driver if the premises is a school, childcare facility, or bus stop, a coach, if the premises is an athletic field or facility, or any person designated with that authority.

(c) For purposes of this section, a school bus stop is any location where a motor vehicle owned or operated by or on behalf of a public or private school stops on a regular basis for the purpose of transporting children to and from school.

(d) Any person who violates this section shall be guilty of a Class C felony.

**Section 15-20A-18**

**Adult sex offender - Identification requirements.**

(a) Every adult sex offender who is a resident of this state shall obtain, and always have in his or her possession, a valid driver license or identification card issued by the Department of Public Safety. If any adult sex offender is ineligible to be issued a driver license or official identification card, the Department of Public Safety shall provide the adult sex offender some other form of identification card or documentation that, if it is kept in the possession of the adult sex offender, shall satisfy the requirements of this section. If any adult sex offender is determined to be indigent, an identification card, or other form of identification or documentation that satisfies the requirements of this section, shall be issued to the adult sex offender at no cost. Indigence shall be determined by order of the court prior to each issuance of a driver license or identification card.

(b) The adult sex offender shall immediately obtain a valid driver license or identification card upon his or her initial registration following release, initial registration upon entering the state to become a resident, or immediately following his or her next registration after July 1, 2011.

(c) Whenever the Department of Public Safety issues or renews a driver license or identification card to an adult sex offender, the driver license or identification card shall bear a designation that enables law enforcement officers to identify the licensee as a sex offender.

(d) Upon obtaining or renewing a driver license or identification card bearing a designation that enables law enforcement officers to identify the licensee as a sex offender, the adult sex offender shall relinquish to the Department of Public Safety any other driver license or identification card previously issued to him or her which does not bear any designation enabling law enforcement officers to identify the licensee as a sex offender.

(e) No adult sex offender shall mutilate, mar, change, reproduce, alter, deface, disfigure, or otherwise change the form of any driver license or identification card which is issued to the adult sex offender and which bears any designation enabling law enforcement officers to identify the licensee as a sex offender. An adult sex offender having in his or her possession a driver license or identification card issued to him or her by the Department of Public Safety bearing any designation enabling law enforcement officers to identify the licensee as a sex offender which has been mutilated, marred, changed, reproduced, altered, defaced, disfigured, or otherwise changed shall be prima facie evidence that he or she has violated this section.

(f) Any person who violates this section shall be guilty of a Class C felony.

**Section 15-20A-19**

**Adult sex offender - Sexually violent predator.**

(a) The state, upon conviction and prior to sentencing, may petition the sentencing court to enter an order declaring a person convicted in this state of a sexually violent or predatory offense as a sexually violent predator.

(b) At sentencing, a court may declare a person to be a sexually violent predator. For the purposes of this section, a person is a sexually violent predator if either of the following applies:

(1) The person is a repeat sexually violent offender.

(2) The person commits a sexually violent offense and is likely to engage in one or more sexually violent offenses in the future.

(c) A person is a repeat sexually violent offender for the purposes of this section if the person is convicted of more than one sexually violent offense.

(d) For the purposes of this section, a sexually violent offense is any of the following:

(1) A sex offense committed by forcible compulsion, violence, duress, menace, fear of immediate bodily injury to the victim or another person, or threatening to retaliate in the future against the victim or any other person.

(2) A sex offense involving a child.

(3) Any sex offense involving the enticement or solicitation of a minor for sexual purposes.

(4) Any sex offense that is predatory in nature.

(5) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in subdivisions (1) to (4), inclusive.

(6) Any other offense for which the court makes a specific finding on the record that, based on the circumstances of the case, the person's offense should be considered a sexually violent offense.

(e) Any of the following factors may be considered as evidence tending to indicate that there is a likelihood that the person will engage in the future in one or more sexually violent offenses:

(1) The person has been convicted two or more times, in separate criminal actions, of a sexually violent offense. For purposes of this subdivision, convictions that result from or are connected with the same act or result from offenses committed at the same time are one conviction.

(2) The person has been convicted of a sexually violent offense involving two or more victims regardless of when the acts or convictions occurred.

(3) Available information or evidence suggests that the person chronically commits offenses with a sexual motivation.

(4) The person has committed one or more offenses in which the person has tortured or engaged in ritualistic acts with one or more victims.

(5) The person has committed one or more sex offenses in which one or more victims were physically harmed to the degree that the particular victim's life was in jeopardy.

(6) Any other evidence deemed relevant by the court.

(f) If the state so petitions, it shall present clear and convincing evidence that the sex offender is likely to engage in one or more future sexually violent offenses or is likely to engage in future predatory sex offenses.

(g) Any sex offender determined in any other state to be a sexually violent predator shall be considered a sexually violent predator in this state.

(h) A sexually violent predator, as a condition of the sex offender's release from incarceration, shall be subject to electronic monitoring and be required to pay the costs of such monitoring, as set forth in Section 15-20A-20, for a period of no less than 10 years from the date of the sexually violent predator's release. This requirement shall be imposed by the sentencing court as a part of the sexually violent predator's sentence, as provided in subsection (c) of Section 13A-5-6 and Section 15-20A-20.

#### **Section 15-20A-20**

#### **Adult sex offender - Electronic monitoring.**

(a) The Alabama Criminal Justice Information Center shall implement a system of active and passive electronic monitoring that identifies the location of a monitored person and that can produce upon request reports or records of the person's presence near or within a crime scene or prohibited area, the person's departure from specified geographic limitations, or curfew violations by the offender. The Director of the Criminal Justice Information Center may promulgate any rules as are necessary to implement and administer this system of active electronic monitoring including establishing policies and procedures to notify the person's probation and parole officer or other court-appointed supervising authority when a violation of his or her electronic monitoring restrictions has occurred.

(b) The Board of Pardons and Paroles or a court may require, as a condition of release on parole, probation, community corrections, court referral officer supervision, pretrial release, or any other community-based punishment option, that any person charged or convicted of a sex offense be subject to electronic monitoring as provided in subsection (a).

(c) Any person designated a sexually violent predator pursuant to Section 15-20A-19, upon release from incarceration, shall be subject to electronic monitoring supervised by the Board of Pardons and Paroles, as provided in subsection (a), for a period of no less than 10 years from the date of the sexually violent predator's release. This requirement shall be imposed by the sentencing court as a part of the sentence of the sexually violent predator in accordance with subsection (c) of Section 13A-5-6.

(d) Any person convicted of a Class A felony sex offense involving a child as defined in Section 15-20A-4, upon release from incarceration, shall be subject to electronic monitoring supervised by the Board of Pardons and Paroles, as provided in subsection (a), for a period of no less than 10 years from the date of the sex offender's release. This requirement shall be imposed by the sentencing court as a part of the sex offender's sentence in accordance with subsection (c) of Section 13A-5-6.

(e) Anyone subject to electronic monitoring pursuant to this section, unless he or she is indigent, shall be required to reimburse the supervising entity a reasonable fee to defray supervision costs. The Board of Pardons and Paroles, the sentencing court, or other supervising entity shall determine the amount to be paid based on the financial means and ability to pay of the person, but such amount shall not exceed fifteen dollars (\$15) per day.

(f) The supervising entity shall pay the Criminal Justice Information Center a fee, to be determined by the center, but not exceeding ten dollars (\$10) per day, to defray monitoring equipment and telecommunications costs.

(g) It shall constitute a Class C felony for any person to alter, disable, deactivate, tamper with, remove, damage, or destroy any device used to facilitate electronic monitoring under this section.

(h) The procurement of any product or services necessary for compliance with Act 2005-301, including any system of electronic monitoring, any equipment, and the building of a website, shall be subject to the competitive bid process.

#### **Section 15-20A-21**

#### **Adult sex offender - Community notification.**

(a) Immediately upon the release of an adult sex offender or immediately upon notice of where the adult sex offender plans to establish, or has established a residence, the following procedures shall apply:

(1) In the Cities of Birmingham, Mobile, Huntsville, and Montgomery, the chief of police shall notify all persons who have a legal residence within 1,000 feet of the declared residence of the adult sex offender and all schools and childcare facilities within three miles of the declared residence of the adult sex offender that the adult sex offender will be establishing or has established his or her residence.



(2) In all other cities in Alabama with a resident population of 5,000 or more, the chief of police, or if none, then the sheriff of the county, shall notify all persons who have a legal residence within 1,500 feet of the declared residence of the adult sex offender and all schools and childcare facilities within three miles of the declared residence of the adult sex offender that the adult sex offender will be establishing or has established his or her residence.

(3) In all other municipalities with a resident population of less than 5,000, and in all unincorporated areas, the sheriff of the county in which the adult sex offender intends to reside shall notify all persons who have a legal residence within 2,000 feet of the declared residence of the adult sex offender and all schools and childcare facilities within three miles of the declared residence of the adult sex offender that the adult sex offender will be establishing or has established his or her residence.

(b) A community notification flyer shall be made by regular mail or hand delivered to all legal residences required by this section and include registration information pursuant to Section 15-20A-8. In addition, any other method reasonably expected to provide notification may be utilized, including, but not limited to, posting a copy of the notice in a prominent place at the office of the sheriff and at the police station closest to the declared residence of the released adult sex offender, publicizing the notice in a local newspaper, posting electronically, including the Internet, or other means available.

(c) Nothing in this chapter shall be construed as prohibiting the Director of the Department of Public Safety, a sheriff, or a chief of police from providing community notification under the provisions of this chapter by regular mail, electronically, or by publication or periodically to persons whose legal residence is within the guidelines of this chapter or more than the applicable distance from the residence of an adult sex offender.

#### **Section 15-20A-22**

##### **Adult sex offender - Registration fee.**

(a) An adult sex offender shall pay a registration fee in the amount of ten dollars (\$10) to each registering agency where the adult sex offender resides beginning with the first quarterly registration on or after July 1, 2011, and at each quarterly registration thereafter.

(b) Each time an adult sex offender terminates his or her residence and establishes a new residence, he or she shall pay a registration fee in the amount of ten dollars (\$10) to each registering agency where the adult sex offender establishes a new residence.

(c) If, at the time of registration, the adult sex offender is unable to pay the registration fee, the registering agency may require the adult sex offender to pay the fee in installments not to exceed 90 days. The registering agency shall waive the registration fee if the adult sex offender has an order from the court declaring his or her indigence. In the event the adult sex offender is determined to be indigent, a periodic review of the adult sex offender's indigent status shall be conducted by the court to determine if the offender is no longer indigent. Further, if the offender

is determined to be indigent by the sentencing court, nothing in this chapter shall prohibit the offender from being placed on a payment plan where the entire fee is collected in total.

(d) The fees collected under this section shall be appropriated to the registering agency to defray the costs of sex offender registration, verification, and notification.

(e) Any person who willfully fails to pay the required registration fee at the time of registration, or at the time at which the installment payment is due, shall be guilty of a Class B misdemeanor. Upon a second or subsequent conviction for willful failure to pay the required registration fee, the adult sex offender shall be guilty of a Class A misdemeanor.

### **Section 15-20A-23**

#### **Adult sex offender - Relief from residency restriction.**

(a) A sex offender required to register under this chapter may petition the court for relief from the residency restriction pursuant to subsection (a) of Section 15-20A-11 during the time a sex offender is terminally ill or permanently immobile.

(b) A petition for relief pursuant to this section shall be filed in the circuit court of the county in which the sex offender seeks relief from the residency restriction.

(c) The sex offender shall serve a copy of the petition by certified mail on all of the following:

(1) The prosecuting attorney in the county of adjudication or conviction, if the sex offender was adjudicated or convicted in this state.

(2) The prosecuting attorney of the county where the sex offender seeks relief from the residency restriction.

(3) Local law enforcement where the sex offender was adjudicated or convicted if the sex offender was adjudicated or convicted in this state.

(4) Local law enforcement where the adult sex offender seeks relief from the residency restriction.

(d) The petition and documentation to support the request for relief shall include all of the following:

(1) A certified copy of the adjudication or conviction requiring registration, including a detailed description of the sex offense.

(2) A list of each county, municipality, and jurisdiction where the sex offender is required to register or has ever been required to register.

- (3) The sex offender's criminal record and an affidavit stating that the sex offender has no pending criminal charges.
- (4) Notarized documentation of the sex offender's condition by his or her medical provider.
- (5) A release allowing the prosecuting attorney or the court to obtain any other medical records or documentation relevant to the petition.
- (6) Any other information requested by the court relevant to the petition.
- (e) Upon notification of the petition, the prosecuting attorney shall make reasonable efforts to notify the victim of the crime for which the sex offender is required to register of the petition and the dates and times of any hearings or other proceedings in connection with the petition.
- (f) The court shall hold a hearing within 30 days of the filing of the petition. Upon request of the prosecuting attorney, and for good cause shown, the hearing may be continued to allow the prosecuting attorney to obtain any relevant records pertinent to the hearing. At the hearing the prosecuting attorney and the victim shall have the opportunity to be heard.
- (g) The court may issue an order releasing the sex offender from any of the residency restrictions pursuant to subsection (a) of Section 15-20A-11 if the court finds by clear and convincing evidence that the sex offender does not pose a substantial risk of perpetrating any future dangerous sexual offense or that the sex offender is not likely to reoffend. The court may relieve a sex offender from any residency restrictions indefinitely or for a specific period of time.
- (h) The court shall send a copy of any order releasing a sex offender from any residency restrictions pursuant to subsection (a) of Section 15-20A-11 to the prosecuting attorney and the Department of Public Safety.
- (i) If the court finds that the sex offender still poses a risk, has provided false or misleading information in support of the petition, or failed to serve the petition and supporting documentation upon the parties as provided for in subsection (c), then the petition shall be denied.
- (j) If the petition for release is denied, the sex offender may not file a subsequent petition for at least 12 months from the date of the final order on the previous petition unless good cause is shown and the sex offender's mental or physical condition has severely changed.
- (k) If at any time the sex offender is no longer terminally ill or permanently immobile, the sex offender shall immediately register in person with local law enforcement in each county of residence and update all required registration information.
- (l) No sex offender petitioning the court under this section for an order terminating the sex offender's obligation to comply with the residency restrictions is entitled to publicly funded experts or publicly funded witnesses.

(m) The state may petition the court to reinstate the restrictions pursuant to subsection (a) of Section 15-20A-11 for good cause shown.

(n) Notwithstanding any state or local rule assigning costs and fees for filing and processing civil and criminal cases, a petition filed 30 or more days after sentencing shall be assessed a filing fee in the amount of two hundred dollars (\$200) to be distributed as provided in Section 15-20A-46.

(o) If a sex offender seeks relief from the court pursuant to this section, the enforcement of this chapter shall not be stayed pending a ruling of the court.

(p) A person who provides false or misleading information pursuant to this section shall be guilty of a Class C felony.

#### **Section 15-20A-24**

#### **Adult sex offender - Relief from registration and notification.**

(a) At disposition, sentencing, upon completion of probation, or upon completion of a term of registration ordered by the sentencing court, a sex offender may petition the sentencing court for relief from registration and notification resulting from any of the following offenses, provided that he or she meets the requirements set forth in subsection (b):

(1) Rape in the second degree, as provided by subdivision (1) of subsection (a) of Section 13A-6-62.

(2) Sodomy in the second degree, as provided by subdivision (1) of subsection (a) of Section 13A-6-64.

(3) Sexual abuse in the second degree, as provided by subdivision (2) of subsection (a) of Section 13A-6-67.

(4) Sexual misconduct, as provided by Section 13A-6-65.

(5) Any crime committed in this state or any other jurisdiction which, if had been committed in this state under the current provisions of law, would constitute an offense listed in subdivisions (1) to (4), inclusive.

(6) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in subdivisions (1) to (5), inclusive.

(b) The sex offender shall prove by clear and convincing evidence all of the following to be eligible for relief under this section:

(1) The sex offense did not involve force and was only a crime due to the age of the victim.

(2) At the time of the commission of the sex offense, the victim was 13 years of age or older.

(3) At the time of the commission of the sex offense, the sex offender was not more than four years older than the victim.

(c) The petition for relief shall be filed as follows:

(1) If the sex offender was adjudicated or convicted in this state, the petition for relief shall be filed in the sentencing court.

(2) If the sex offender was adjudicated or convicted in a jurisdiction outside of this state, the petition for relief shall be filed in the appropriate court of this state with similar jurisdiction in the county in which the sex offender resides.

(d)(1) The sex offender shall serve a copy of the petition by certified mail on all of the following:

a. The prosecuting attorney in the county of adjudication or conviction, if the sex offender was adjudicated or convicted in this state.

b. The prosecuting attorney of the county where the sex offender resides.

c. Local law enforcement where the sex offender was adjudicated or convicted, if the sex offender was adjudicated or convicted in this state.

d. Local law enforcement where the adult sex offender resides.

(2) Failure of the sex offender to serve a copy of the petition as required by this subsection shall result in an automatic denial of the petition.

(e) The petition and documentation to support the request for relief shall include all of the following:

(1) The offense that the sex offender was initially charged with and the offense that the sex offender was adjudicated or convicted of, if different.

(2) A certified copy of the adjudication or conviction requiring registration including a detailed description of the sex offense, if the petition is filed upon completion of probation or a term of registration.

(3) Proof of the age of the victim and the age of the sex offender at the time of the commission of the sex offense.

(4) A list of each registering agency in each county and jurisdiction in which the sex offender is required to or has ever been required to register, if the petition is filed upon completion of probation or a term of registration.

(5) The sex offender's criminal record and an affidavit stating that the sex offender has no pending criminal charges.

(6) Any other information requested by the court relevant to the request for relief.

(f) Upon notification of the petition, the prosecuting attorney shall make reasonable efforts to notify the victim of the crime for which the sex offender is required to register of the petition and the dates and times of any hearings or other proceedings in connection with the petition.

(g) The court shall hold a hearing prior to ruling on the petition. At the hearing, the prosecuting attorney and the victim shall have the opportunity to be heard.

(h) In determining whether to grant relief, the court may consider any of the following:

(1) Recommendations from the sex offender's probation officer, including, but not limited to, the recommendations in the presentence investigation report and the sex offender's compliance with supervision requirements.

(2) Recommendations from the prosecuting attorney.

(3) Any written or oral testimony submitted by the victim or the parent, guardian, or custodian of the victim.

(4) The facts and circumstances surrounding the offense.

(5) The relationship of the parties.

(6) The criminal history of the sex offender.

(7) The protection of society.

(8) Any other information deemed relevant by the court.

(i) The court may grant full or partial relief from this chapter. If the court grants relief, the court shall enter an order detailing the relief granted and provide a copy of the order to the prosecuting attorney and the Department of Public Safety.

(j) If the court denies the petition, the sex offender may not petition the court again until 12 months after the date of the order denying the petition.

(k) A sex offender is not eligible for relief under this section if he or she was adjudicated or convicted of a sex offense previous to or subsequent to the offense of which he or she is petitioning the court for relief or has any pending criminal charges for any sex offense.

(l) If a sex offender was adjudicated or convicted of any of the offenses specified in subsection (a) prior to July 1, 2011, and meets the eligibility requirements specified in subsection (b), except as otherwise provided for in subsection (k), the sex offender may petition the court for relief pursuant to this section.

(m) Notwithstanding any state or local law or rule assigning costs and fees for filing and processing civil and criminal cases, a petition filed 30 or more days after sentencing shall be assessed a filing fee in the amount of two hundred dollars (\$200) to be distributed as provided in Section 15-20A-46.

(n) If a sex offender seeks relief from the court pursuant to this section, the enforcement of this chapter shall not be stayed pending a ruling of the court.

(o) Any person who provides false or misleading information pursuant to this section shall be guilty of a Class C felony.

#### **Section 15-20A-25**

#### **Adult sex offender - Relief from employment restriction.**

(a) A sex offender may petition the circuit court in the county where the sex offender seeks to accept or maintain employment for relief from the employment restrictions pursuant to subsection (b) of Section 15-20A-13. A sex offender adjudicated or convicted of any of the following sex offenses shall not be entitled to relief under this section:

(1) Rape in the first degree, as provided by Section 13A-6-61.

(2) Sodomy in the first degree, as provided by Section 13A-6-63.

(3) Sexual abuse in the first degree, as provided by Section 13A-6-66.

(4) Sex abuse of a child less than 12 years old, as provided by Section 13A-6-69.1.

(5) Sexual torture, as provided by Section 13A-6-65.1.

(6) Any sex offense involving a child.

(7) Any solicitation, attempt, or conspiracy to commit any of the offenses listed in subdivisions (1) to (6), inclusive.

(8) Any offense committed in any other jurisdiction which, if it had been committed in this state under the current provisions of law, would constitute an offense listed in subdivisions (1) to (7), inclusive.

(b)(1) The sex offender shall serve a copy of the petition by certified mail on all of the following:

a. The prosecuting attorney in the county of adjudication or conviction, if the sex offender was adjudicated or convicted in this state.

b. The prosecuting attorney of the county in which the sex offender seeks to accept or maintain employment.

c. Local law enforcement where the sex offender was adjudicated or convicted, if the sex offender was adjudicated or convicted in this state.

d. Local law enforcement where the sex offender seeks to accept or maintain employment.

(2) Failure of the sex offender to serve a copy of the petition as required by this subsection shall result in an automatic denial of the petition.

(c) The petition and documentation to support the petition shall include all of the following:

(1) A certified copy of the adjudication or conviction requiring registration, including a detailed description of the sex offense, if the petition is filed after sentencing.

(2) A list of each registering agency in each county and jurisdiction in which the sex offender is required to register or has ever been required to register, if the petition is filed after conviction.

(3) The sex offender's criminal record and an affidavit stating that the sex offender has no pending criminal charges.

(4) The location where the sex offender is employed or intends to obtain employment.

(5) Justification as to why the court should grant relief.

(6) Any other information requested by the court relevant to the petition.

(d) Upon notification of the petition, the prosecuting attorney shall make reasonable efforts to notify the victim of the crime for which the sex offender is required to register of the petition and the dates and times of any hearings or other proceedings in connection with the petition.

(e) The court shall hold a hearing prior to ruling on the petition. At the hearing, the prosecuting attorney and the victim shall have the opportunity to be heard.

(f) The court may consider any of the following factors in determining whether to grant relief:

(1) The nature of the offense.

(2) Past criminal history of the sex offender.

(3) The location where the sex offender is employed or intends to obtain employment.

(4) Any other information deemed relevant by the court.

(g) If the court grants the petition, the court shall enter an order detailing the relief granted and provide a copy of the order to the prosecuting attorney where the petition was filed and to the Department of Public Safety.



(h) A sex offender is not eligible for relief under this section if he or she was adjudicated or convicted of a sex offense previous to or subsequent to the offense of which he or she is petitioning the court for relief or has any pending criminal charges for any sex offense.

(i) The state may petition the court to reinstate the restrictions pursuant to subsection (b) of Section 15-20A-13 for good cause shown.

(j) Notwithstanding any state or local law or rule assigning costs and fees for filing and processing civil and criminal cases, a petition filed 30 or more days after sentencing shall be assessed a filing fee in the amount of two hundred dollars (\$200) to be distributed as provided in Section 15-20A-46.

(k) If a sex offender seeks relief from the court pursuant to this section, the enforcement of this chapter shall not be stayed pending a ruling of the court.

(l) A person who provides false or misleading information pursuant to this section shall be guilty of a Class C felony.

#### **Section 15-20A-26**

#### **Juvenile sex offender - Treatment; risk assessment.**

(a) Upon adjudication of delinquency for a sex offense, a juvenile sex offender shall be required to receive sex offender treatment by a sex offender treatment program or provider approved by the Department of Youth Services.

(b) Upon completion of sex offender treatment, the juvenile sex offender shall be required to undergo a sex offender risk assessment. The treatment provider shall provide a copy of the risk assessment to the sentencing court, the prosecuting attorney, and the juvenile probation officer not less than 60 days prior to the projected release of the juvenile sex offender from a facility where the juvenile sex offender does not have unsupervised access to the public or immediately upon completion of the risk assessment if the juvenile sex offender is not in a facility where the juvenile sex offender does not have unsupervised access to the public.

(c) Upon receiving the risk assessment, the juvenile probation officer shall immediately notify the attorney for the juvenile sex offender and either the parent, guardian, or custodian of the juvenile sex offender of the pending release of the juvenile sex offender and provide them with a copy of the risk assessment.

(d) Within 60 days of receiving the risk assessment, the court shall conduct a hearing to determine the risk of the juvenile sex offender to the community and the level of notification that shall apply.

(e) No juvenile sex offender shall be removed from the supervision of the sentencing court until such time as the juvenile sex offender has completed treatment, the treatment provider has filed a risk assessment with the sentencing court, and the sentencing court has conducted a hearing to

determine the risk of the juvenile sex offender to the community and the level of notification that shall apply.

**Section 15-20A-27**

**Juvenile sex offender - Community notification. THIS SECTION WAS ASSIGNED BY THE CODE COMMISSIONER IN THE 2011 REGULAR SESSION, EFFECTIVE JULY 1, 2011. THIS IS NOT IN THE CURRENT CODE SUPPLEMENT.**

(a) In determining whether to apply notification requirements to a juvenile sex offender, the sentencing court shall consider any of the following factors relevant to the risk of re-offense:

(1) Conditions of release that minimize the risk of re-offense, including, but not limited to, whether the juvenile sex offender is under supervision of probation, parole, or aftercare; receiving counseling, therapy, or treatment; or residing in a home situation that provides guidance and supervision.

(2) Physical conditions that minimize the risk of re-offense, including, but not limited to, advanced age or debilitating illness.

(3) Criminal history factors indicative of high risk of re-offense, including whether the conduct of the juvenile sex offender was found to be characterized by repetitive and compulsive behavior.

(4) Whether psychological or psychiatric profiles indicate a risk of recidivism.

(5) The relationship between the juvenile sex offender and the victim.

(6) The particular facts and circumstances surrounding the offense.

(7) The level of planning and participation in the offense.

(8) Whether the offense involved the use of a weapon, violence, or infliction of serious bodily injury.

(9) The number, date, and nature of prior offenses.

(10) The response to treatment of the juvenile sex offender.

(11) Recent behavior, including behavior while confined or while under supervision in the community.

(12) Recent threats against persons or expressions of intent to commit additional crimes.

(13) The protection of society.

(14) Any other factors deemed relevant by the court.

(b) If the sentencing court determines that the juvenile sex offender shall be subject to notification, the level of notification shall be applied as follows:

(1) If the risk of re-offense is low, notification that the juvenile sex offender will be establishing or has established his or her residence shall be provided by local law enforcement to the principal of the school where the juvenile sex offender will attend after release. This notification shall include the name, actual living address, date of birth of the juvenile sex offender, and a statement of the sex offense for which he or she has been adjudicated delinquent, including the age and gender of the victim. This information shall be considered confidential by the school and be shared only with the teachers and staff with supervision over the juvenile sex offender. Whomever, except as specifically provided herein, directly or indirectly discloses or makes use of or knowingly permits the use of information concerning a juvenile sex offender described in this section, upon conviction thereof, shall be guilty of a Class A misdemeanor within the jurisdiction of the juvenile court.

(2) If the risk of re-offense is moderate, notification that the juvenile sex offender will be establishing, or has established, his or her residence shall be provided by local law enforcement to all schools and childcare facilities within three miles of the declared residence of the juvenile sex offender. A community notification flyer shall be mailed by regular mail or hand delivered to all schools or childcare facilities as required by this subsection. No other method may be used to disseminate this information.

(3) If the risk of re-offense is high, the public shall receive notification as though the juvenile sex offender were an adult sex offender in accordance with Section 15-20A-21.

(c) The sentencing court shall enter an order stating whether the juvenile sex offender shall be subject to notification and the level of notification that shall be applied. The court shall provide a copy of the order to the prosecuting attorney and to the Department of Public Safety.

(d) The determination of notification by the sentencing court shall not be subject to appeal.

#### **Section 15-20A-28**

#### **Juvenile sex offender - Lifetime registration and notification.**

(a) A juvenile adjudicated delinquent of any of the following sex offenses, who was 14 or older at the time of the offense, shall be subject to registration and notification, if applicable, for life:

(1) Rape in the first degree, as provided by Section 13A-6-61.

(2) Sodomy in the first degree, as provided by Section 13A-6-63.

(3) Sexual abuse in the first degree, as provided by Section 13A-6-66.

(4) Sexual torture, as provided by Section 13A-6-65.1.

(5) Any offense committed in any other jurisdiction which, if had been committed in this state under the current provisions of law, would constitute an offense listed in subdivisions (1) to (4), inclusive.

(6) Any offense, committed in this state or any other jurisdiction, comparable to or more severe than aggravated sexual abuse as described in 18 U.S.C. § 2241(a) or (b).

(7) Any attempt or conspiracy to commit any of the offenses listed in subdivisions (1) to (6), inclusive.

(b) A juvenile sex offender subject to lifetime registration may petition the court for relief from registration and notification, if notification was ordered, 25 years after the juvenile sex offender is released from the offense subjecting the juvenile sex offender to registration in accordance with this chapter, pursuant to Section 15-20A-34.

(c) A juvenile sex offender who has been adjudicated delinquent of any sex offense, excluding those listed in subsection (a), shall be subject to this chapter for a period of 10 years from the last date of release from the offense subjecting the juvenile sex offender to registration in accordance with this chapter.

(d) If a juvenile sex offender required to register under this chapter is civilly committed, hospitalized, or re-incarcerated for another offense or, as the result of having violated the terms of probation, parole, or aftercare, fails to register or fails to comply with the requirements of this act, the registration requirements and the remaining period of time for which the juvenile sex offender shall register shall be tolled during the period of commitment, hospitalization, re-incarceration, or noncompliance.

(e) The sentencing court or the juvenile court where the juvenile sex offender resides, if the juvenile sex offender's adjudication of delinquency occurred in another jurisdiction, may give a juvenile sex offender credit for the time the juvenile sex offender was registered in another jurisdiction.

(f) A juvenile sex offender who is subsequently adjudicated as a youthful offender sex offender or convicted of another sex offense during his or her registration period shall be considered solely an adult sex offender.

#### **Section 15-20A-29**

#### **Juvenile sex offender - Requirements prior to release.**

(a) Prior to the release of a juvenile sex offender, the following shall apply:

(1) The responsible agency shall require the juvenile sex offender and the parent, custodian, or guardian of the juvenile sex offender to provide the required registration information.

(2) If the juvenile sex offender or the parent, guardian, or custodian of the juvenile sex offender declares a residence outside of the state, the responsible agency shall immediately notify the Department of Public Safety and the designated state law enforcement agency of the state to which the juvenile sex offender or the parent, guardian, or custodian of the juvenile sex offender has declared the residence. The notification shall include all information available to the responsible agency that would be necessary to identify and trace the juvenile sex offender, including, but not limited to, the risk assessment and a current photograph of the juvenile sex offender.

(3) If the juvenile sex offender or the parent, guardian, or custodian of the juvenile sex offender declares a residence within this state, the responsible agency shall immediately notify the Department of Public Safety, and local law enforcement in each county, in which the juvenile sex offender or the parent, guardian, or custodian of the juvenile sex offender has declared the residence. The notification shall include all information available to the responsible agency that would be necessary to identify and trace the juvenile sex offender, including, but not limited to, the risk assessment and a current photograph of the juvenile sex offender.

(b) When a juvenile sex offender becomes the age of majority, the parent, guardian, or custodian of the juvenile sex offender shall no longer be subject to this section and the juvenile sex offender shall instead be solely responsible for all requirements pursuant to this section.

(c) Any person who violates this section shall be guilty of a Class C felony.

#### **Section 15-20A-30**

#### **Juvenile sex offender - Registration with local law enforcement; residence restrictions.**

(a) Immediately upon release or immediately upon adjudication of delinquency if the juvenile sex offender is not committed, the juvenile sex offender and the parent, custodian, or guardian shall register all required registration information with local law enforcement in each county in which the juvenile sex offender resides or intends to reside.

(b) Whenever a juvenile sex offender establishes a new residence, the juvenile sex offender and the parent, custodian, or guardian of the juvenile sex offender shall immediately appear in person to register all required registration information with local law enforcement in each county of residence.

(c) If the parent, custodian, or guardian of a juvenile sex offender transfers or terminates the residence of the juvenile sex offender, or the custody of the juvenile sex offender is changed to a different parent, custodian, or guardian resulting in a transfer of residence, the original parent, custodian, or guardian with custody shall immediately notify local law enforcement in each county of residence.

(d) Whenever a juvenile sex offender changes any required registration information, the juvenile sex offender and the parent, custodian, or guardian of the juvenile sex offender shall immediately

appear in person to update the required registration information with local law enforcement in each county in which the juvenile sex offender resides.

(e) A juvenile sex offender required to register for life pursuant to Section 15-20A-28 shall appear in person with his or her parent, custodian, or guardian to verify all required registration information during the birth month of the juvenile sex offender and every three months thereafter with the local law enforcement in each county of residence unless the juvenile sex offender has been relieved from registration requirements pursuant to Section 15-20A-34.

(f) A juvenile sex offender required to register for 10 years pursuant to Section 15-20A-28 shall appear in person with his or her parent, custodian, or guardian to verify all required registration information during the birth month of the juvenile sex offender and every year thereafter with local law enforcement in each county of residence unless the juvenile sex offender has been relieved from registration requirements pursuant to Section 15-20A-24.

(g) At the time of registration, the juvenile sex offender shall be provided a form explaining all duties and any restrictions placed on the juvenile sex offender. The juvenile sex offender and the parent, custodian, or guardian of the juvenile sex offender shall read and sign this form stating that he or she understands the duties and restrictions placed on the juvenile sex offender and his or her parent, custodian, or guardian.

(h) When a juvenile sex offender becomes the age of majority, the parent, custodian, or guardian of the juvenile sex offender shall no longer be subject to the requirements of this section, and the juvenile sex offender shall instead be solely responsible for the requirements in this section.

(i) A person who violates this section shall be guilty of a Class C felony.

#### **Section 15-20A-31**

#### **Juvenile sex offender - Employment restrictions.**

(a) During the time a juvenile sex offender is subject to the registration requirements of this chapter, the juvenile sex offender shall not apply for, accept, or maintain employment or vocation, or volunteer for any employment or vocation at any school, childcare facility, or any other business or organization that provides services primarily to children.

(b) It shall be unlawful for the owner or operator of any childcare facility or any other organization that provides services primarily to children to knowingly employ or accept volunteer services from a juvenile sex offender.

(c) Any person who violates this section shall be guilty of a Class C felony.

### **Section 15-20A-32**

#### **Juvenile sex offender - Requirements upon entering state.**

(a) A juvenile sex offender or youthful offender sex offender, or equivalent thereto, who is not currently a resident of this state, shall immediately appear in person and register all required registration information upon establishing a residence, accepting employment, or beginning school attendance in this state with local law enforcement in each county where the juvenile sex offender or youthful offender sex offender resides or intends to reside, accepts employment, or begins school attendance.

(b) Within 30 days of initial registration, the juvenile sex offender or youthful offender sex offender shall provide each registering agency with a certified copy of his or her adjudication; however, a juvenile sex offender or youthful offender sex offender shall be exempt under this subsection if the court of adjudication seals the records and refuses to provide a certified copy or the records have been destroyed by the court.

(c) Whenever a juvenile sex offender enters this state to establish a residence, he or she shall be subject to the requirements of this chapter as it applies to juvenile sex offenders in this state.

(d) Whenever a youthful offender sex offender, or equivalent thereto, enters this state to establish a residence, he or she shall be subject to the requirements of this chapter as it applies to youthful offender sex offenders in this state.

(e) A juvenile sex offender or youthful offender sex offender entering this state to accept employment or begin school attendance, but not to establish a residence, must immediately appear in person and register any subsequent changes to the required registration information with local law enforcement in each county where he or she is required to register.

(f) Any person who violates this section shall be guilty of a Class C felony.

### **Section 15-20A-33**

#### **Juvenile sex offender - Retention of court records.**

Notwithstanding any other provision of law, the court records of juvenile sex offenders are to be retained, either in paper format or electronically, and not to be destroyed for a period of 75 years from the date of adjudication.

### **Section 15-20A-34**

#### **Juvenile sex offender - Relief from lifetime registration requirements.**

(a) A juvenile sex offender subject to lifetime registration pursuant to Section 15-20A-28 may file a petition requesting the court to enter an order relieving the juvenile sex offender of the requirements pursuant to this chapter 25 years after the juvenile sex offender is released from the

custody of the Department of Youth Services or sentenced, if the juvenile sex offender was placed on probation, for the sex offense requiring registration pursuant to this chapter.

(b) The petition shall be filed as follows:

(1) If the juvenile sex offender was adjudicated delinquent of a sex offense in this state, the petition shall be filed in the juvenile court of the county in which the juvenile sex offender was adjudicated delinquent.

(2) If the juvenile sex offender was adjudicated delinquent of a sex offense in a jurisdiction outside of this state, the petition shall be filed in the juvenile court of the county in which the juvenile sex offender resides.

(c)(1) The juvenile sex offender shall serve a copy of the petition by certified mail on all of the following:

a. The prosecuting attorney in the county of adjudication, if the juvenile sex offender was adjudicated delinquent in this state.

b. The prosecuting attorney of the county in which the juvenile sex offender resides.

c. Local law enforcement where the juvenile sex offender was adjudicated delinquent, if the juvenile sex offender was adjudicated delinquent in this state.

d. Local law enforcement where the juvenile sex offender resides.

(2) Failure of the juvenile sex offender to serve a copy of the petition as required by this subsection shall result in an automatic denial of the petition.

(d) The petition and documentation to support the petition shall include all of the following:

(1) A certified copy of the adjudication of delinquency requiring registration.

(2) Documentation of the juvenile sex offender's release date or sentencing date if the juvenile sex offender was placed on probation.

(3) Evidence that the juvenile sex offender has completed a treatment program approved by the Department of Youth Services.

(4) A list of each county and jurisdiction in which the juvenile sex offender is required to register or has ever been required to register.

(5) The juvenile sex offender's criminal record and an affidavit stating that the juvenile sex offender has no pending criminal charges.

(6) Any other information requested by the court relevant to the petition.



(e) Upon notification of the petition, the prosecuting attorney shall make reasonable efforts to notify the victim of the offense for which the juvenile sex offender is required to register of the petition and of the dates and times of any hearings or other proceedings in connection with the petition.

(f) The court shall hold a hearing prior to ruling on the petition. At the hearing, the prosecuting attorney and the victim shall have the opportunity to be heard.

(g) The court may consider any of the following factors to determine whether to grant relief:

(1) Recommendations from the juvenile sex offender's probation officer, including, but not limited to, the recommendations in the predisposition report and the juvenile sex offender's compliance with supervision requirements.

(2) Recommendations from the juvenile sex offender's treatment provider, including, but not limited to, whether the juvenile sex offender successfully completed a treatment program approved by the Department of Youth Services.

(3) Recommendations from the prosecuting attorney.

(4) Any written or oral testimony submitted by the victim or the parent, custodian, or guardian of the victim.

(5) The facts and circumstances surrounding the offense including, but not limited to, the age and number of victims, whether the act was premeditated, and whether the offense involved the use of a weapon, violence, or infliction of serious bodily injury.

(6) Any criminal behavior of the juvenile sex offender before and after the adjudication of delinquency that requires reporting.

(7) The stability of the juvenile sex offender in employment and housing and his or her community and personal support system.

(8) The protection of society.

(9) Any other factors deemed relevant by the court.

(h) If the court is satisfied by clear and convincing evidence that the juvenile sex offender is rehabilitated and does not pose a threat to the safety of the public, the court may grant relief.

(i) The court shall provide a copy of any order granting relief to the prosecuting attorney and to the Department of Public Safety.

(j) Upon receipt of a copy of an order granting relief as provided in this section, the Department of Public Safety shall remove the juvenile sex offender from the public registry website. If the registering agencies maintain a local registry of sex offenders who are registered with their

agencies, the registering agencies shall remove the registration information of the juvenile sex offender from the local sex offender public registry, if notification applied.

(k) If the court denies the petition for relief, the juvenile sex offender shall wait at least 12 months from the date of the order denying the petition before petitioning the court again.

(l) Notwithstanding any state or local law or rule assigning costs and fees for filing and processing civil and criminal cases, the fee for filing the petition for relief shall be two hundred dollars (\$200) to be distributed as provided in Section 15-20A-46.

(m) If a sex offender seeks relief from the court pursuant to this section, the enforcement of this chapter shall not be stayed pending a ruling of the court.

(n) A person who provides false or misleading information pursuant to this section shall be guilty of a Class C felony.

#### **Section 15-20A-35**

#### **Youthful offender treated as juvenile or adult.**

For the purposes of this chapter, a youthful offender sex offender who has not been previously adjudicated or convicted of a sex offense and who has not yet attained the age of 18 shall be considered a juvenile sex offender. A youthful offender sex offender who has been previously adjudicated or convicted of a sex offense as a juvenile sex offender, youthful offender sex offender, or adult sex offender, or who has attained the age of 18 shall be treated as an adult sex offender convicted of a sex offense. A youthful offender sex offender who is treated as a juvenile sex offender for purposes of this chapter may not be released from the jurisdiction of the sentencing court until the youthful offender sex offender has undergone sex offender treatment and a risk assessment as required by Section 15-20A-26.

#### **Section 15-20A-36**

#### **Name change of offender.**

(a) No sex offender shall change his or her name unless the change is incident to a change in the marital status of the sex offender or is necessary to effect the exercise of the religion of the sex offender. Such a change shall be immediately reported to local law enforcement in each county in which the sex offender is required to register. If the sex offender is subject to the notification provisions of this chapter, the reporting of a name change under this section shall invoke notification.

(b) Any person who violates this section shall be guilty of a Class C felony.

**Section 15-20A-37**

**Failure to register; absconding.**

(a) When a county is notified that a sex offender intends to reside, be employed, or attend school in the county and the sex offender fails to appear for registration upon entering that county as required, the county that received the notice shall immediately inform the sheriff of the county that provided the notice that the sex offender failed to appear for registration as required.

(b) When a sex offender fails to register or cannot be located, an effort shall immediately be made by the sheriff in the county in which the sex offender failed to register or is unable to be located to determine whether the sex offender has absconded.

(c) If no determination can be made as to whether the sex offender has absconded, the sheriff of the county in which the sex offender failed to appear for registration shall immediately notify the Department of Public Safety and the United States Marshals Service that the sex offender cannot be located and provide any information available to determine whether the sex offender absconded to the United States Marshals Service.

(d) Once a determination is made that the sex offender has absconded, the following shall occur:

(1) The sheriff of the county in which the sex offender has absconded shall immediately obtain a warrant for the arrest of the sex offender.

(2) The sheriff of the county in which the sex offender has absconded shall immediately notify the United States Marshals Service and the Department of Public Safety.

(3) The Department of Public Safety shall immediately update its public registry website to reflect that the sex offender has absconded.

(4) The Department of Public Safety shall immediately notify the Criminal Justice Information Center, who shall immediately notify the National Criminal Information Center.

(5) The Department of Public Safety shall immediately notify the National Sex Offender Registry to reflect that the sex offender has absconded and enter the information into the National Crime Center Wanted Person File.

**Section 15-20A-38**

**Escape from correctional facility.**

(a) If a sex offender escapes from a state or local correctional facility, juvenile detention facility, or any other facility that would not permit unsupervised access to the public, the responsible agency, within 24 hours, shall notify the Department of Public Safety, local law enforcement who had jurisdiction at the time of adjudication or conviction of the sex offense, the sheriff of the county and each chief of police of every municipality in the county where the sex offender escaped, and the United States Marshals Service.

(b) The responsible agency shall provide each law enforcement agency listed in subsection (a) with the following information:

- (1) The name and aliases of the sex offender.
- (2) The amount of time remaining to be served by the sex offender.
- (3) The nature of the crime for which the sex offender was incarcerated.
- (4) A copy of the fingerprints and current photograph of the sex offender and a summary of the criminal record of the sex offender.

**Section 15-20A-39**

**Harboring, assisting, concealing, or withholding information about a sex offender.**

(a) A person is guilty of the crime of harboring, assisting, concealing, or withholding information about a sex offender if the person has knowledge or reason to believe that a sex offender is required to register and has not complied with the registration requirements of this chapter and the person assists the sex offender in avoiding a law enforcement agency that is seeking to find the sex offender to question the sex offender about, or to arrest the sex offender for, noncompliance with the requirements of this chapter if the person does any of the following:

- (1) Harbors, attempts to harbor, or assists another person in harboring or attempting to harbor the sex offender.
  - (2) Allows a sex offender to reside at his or her residence to avoid registration if the address is not the address the sex offender listed as his or her residence address.
  - (3) Warns a sex offender that a law enforcement agency is attempting to locate the sex offender.
  - (4) Provides the sex offender with money, transportation, weapon, disguise, or other means of avoiding discovery or apprehension.
  - (5) Conceals, attempts to conceal, or assists another in concealing or attempting to conceal the sex offender.
  - (6) Provides information to a law enforcement agency regarding a sex offender which the person knows to be false.
- (b) For the purposes of this section, the term law enforcement agency includes, but is not limited to, the Board of Pardons and Paroles.
- (c) Harboring, assisting, or concealing a sex offender is a Class C felony.

**Section 15-20A-40**

**Public records - Certified copies of adjudication or conviction.**

(a) It is the intent of the Legislature that a duplicate of a certified copy of a public record be admissible and is not dependent on the original custodian of record to gain admissibility. Further, the Legislature finds that the certification by the clerk of the court and the certification by the Department of Public Safety assures reliability and trustworthiness.

(b) The clerk of the court shall forward a certified copy of a sex offender's adjudication or conviction to the Department of Public Safety within 30 days of sentencing of any of the offenses listed in Section 15-20A-5.

(c) Any state, county, or municipal law enforcement agency, the Attorney General, or a district attorney may request a duplicate of the sex offender's adjudication or conviction from the Department of Public Safety.

(d) Upon the request of any of the agencies listed in subsection (c), the custodian of records, or its designee, of the Department of Public Safety shall immediately certify all of the following:

(1) That the Department of Public Safety received the certified copy of the sex offender's conviction or adjudication from the clerk of the court pursuant to subsection (b).

(2) That the original certified copy received from the clerk of the court remains in the possession of the Department of Public Safety.

(3) That no changes or alterations have been made to the original certified copy.

(e) Upon certification by the Department of Public Safety as provided in subsection (d), the Department of Public Safety shall immediately forward the certified documents to the requesting agency.

(f) Notwithstanding any other law or rule of evidence, a certified copy of the record of adjudication or conviction as defined in subsection (b), provided by the Department of Public Safety as provided in subsection (d), shall be proof of the sex offender's adjudication or conviction of a sex offense and shall be admissible into evidence, without further proof, in any court in this state.

(g) For the purpose of this section, the term conviction or adjudication shall mean a final conviction or adjudication, regardless of whether the conviction or adjudication is on appeal.

(h) Any clerk of a court, who fails to report any such conviction or adjudication in his or her court shall be guilty of a Class A misdemeanor.

**Section 15-20A-41**

**Victim assistance.**

(a) After a sex offender's conviction or adjudication, and upon request of the Attorney General's Office, the office of the prosecuting attorney or the clerk of the court shall immediately forward the victim's name and most current address, if available, to the Attorney General's Office of Victim Assistance.

(b) When providing notice of a parole hearing, the Board of Pardons and Paroles shall provide the Attorney General's Office of Victim Assistance with any victim information on victims whose offenders are subject to this chapter.

(c) Upon request of the victim, the Attorney General's Office of Victim Assistance shall send a notice to the victim notifying the victim of the pending release of the sex offender and the location at which the sex offender intends to reside. This request by the victim shall be made electronically or in writing to the Attorney General's Office of Victim Assistance.

(d) It shall be the responsibility of the victim to inform the Attorney General's Office of Victim Assistance of any change to the victim's address or any other pertinent information. If the notice sent by the Attorney General's Office of Victim Assistance is returned as undeliverable, no further action shall be required of the Attorney General's Office of Victim Assistance.

**Section 15-20A-42**

**Collection and dissemination of information by Department of Public Safety.**

(a) Any jurisdiction or agency responsible for registering a sex offender shall immediately forward all required registration information and any changes to the required registration information received to the Department of Public Safety in a manner determined by the director of the department and promulgated in rule by the director upon recommendation of an advisory board consisting of representatives of the office of the Attorney General, District Attorneys Association, Chiefs of Police Association, Sheriffs Association, and the Department of Public Safety. The advisory board members shall not receive any compensation or reimbursement for serving on the advisory board.

(b) Upon notification or discovery of the death of a sex offender, the registering agency shall immediately notify the Department of Public Safety.

(c) The Department of Public Safety shall immediately enter all registration information received into its sex offender database.

(d) All information received by the Department of Public Safety shall be immediately forwarded to the following by the Department of Public Safety:

(1) The Alabama Criminal Justice Information Center, who will in turn provide any information received to the National Criminal Information Center or any other law enforcement agency for any lawful criminal justice purpose.

(2) The Sex Offender Registration and Notification Act Exchange Portal.

(3) The National Sex Offender Registry.

(4) Each county and municipality where the sex offender resides, is an employee, or is a student.

(5) Each county and municipality from or to which a change of residence, employment, or student status occurs.

(6) The campus police in each county or jurisdiction where the sex offender is a student.

(7) The United States Marshals Service, if the sex offender is terminating residence in a jurisdiction to relocate to a foreign country.

(8) The Attorney General's Office of Victim Assistance.

(e) Upon request, all registration information shall be available to all federal, state, county, and municipal law enforcement agencies, prosecuting attorneys, probation officers, and any National Child Protection Act agencies in electronic form.

(f) No existing state laws, including, but not limited to, statutes that would otherwise make juvenile and youthful offender records confidential, shall preclude the disclosure of any information requested by a responsible agency, a law enforcement officer, a criminal justice agency, the Office of the Attorney General, or a prosecuting attorney for purposes of administering, implementing, or enforcing this chapter.

(g) The sheriff of each county shall maintain a register or roster of the names of all persons registered by him or her pursuant to this chapter. The information contained in the register or roster shall be made available, upon request, to all federal, state, county, and municipal law enforcement agencies, prosecuting attorneys, or probation officers for the administration, implementation, or enforcement of this chapter.

#### **Section 15-20A-43**

#### **Registration and notification requirements mandatory.**

Except as provided in Sections 15-20A-23, 15-20A-24, 15-20A-25, and 15-20A-34, the sex offender registration and notification requirements required by this chapter are mandatory and shall not be altered, amended, waived, or suspended by any court. Any order altering, amending, waiving, or suspending sex offender registration and notification requirements, except as provided in Sections 15-20A-23, 15-20A-24, 15-20A-25, and 15-20A-34, shall be null, void, and of no effect.

#### **Section 15-20A-44**

##### **Promulgation of rules.**

- (a) The Director of the Department of Public Safety shall promulgate rules establishing an administrative hearing for persons who are only made subject to this chapter pursuant to subdivision (33) of Section 15-20A-5.
- (b) The Director of the Department of Public Safety shall promulgate rules setting forth a listing of offenses from other jurisdictions that are to be considered criminal sex offenses under subdivision (33) of Section 15-20A-5. Thereafter, any individual convicted of any offense set forth in the listing shall immediately be subject to this chapter and shall not be entitled to an administrative hearing as provided in subsection (a).
- (c) The Director of the Department of Public Safety shall have the authority to promulgate any rules as are necessary to implement and enforce this chapter.

#### **Section 15-20A-46**

##### **Disposition of funds.**

- (a) The two hundred dollar (\$200) filing fee paid by a sex offender who petitions the court for relief pursuant to Section 15-20A-23, 15-20A-24, 15-20A-25, or 15-20A-34 shall be distributed as follows:
- (1) Fifty dollars (\$50) to the Circuit Clerk's Restitution Recovery Fund.
  - (2) Fifty dollars (\$50) to the law enforcement agency providing community notification.
  - (3) Fifty dollars (\$50) to the District Attorney's Fund or the fund prescribed by law for district attorney fees.
  - (4) Fifty dollars (\$50) to Child Advocacy Centers.
- (b) The filing fee shall not be suspended, waived, or remitted.

#### **Section 15-20A-47**

##### **Construction.**

Nothing in this chapter shall be construed as creating a cause of action against the state or any of its agencies, officials, employees, or political subdivisions based on the performance of any duty imposed by this chapter or the failure to perform any duty imposed by this chapter.



**Section 15-20A-48**

**Relation to other laws.**

- (a) For the purposes of Sections 13A-5-2, 13A-5-6, 14-9-41, 15-18-8, 15-22-27.3, or any other section of the Code of Alabama 1975, a criminal sex offense involving a child shall mean a conviction for any sex offense in which the victim was a child under the age of 12 or any offense involving child pornography.
- (b) For the purpose of Section 12-15-107(a)(7), a juvenile probation officer shall notify the state and either the parent, legal guardian, or legal custodian of a juvenile sex offender, or the child's attorney for the juvenile sex offender, of the pending release of the sex offender and provide them with a copy of the risk assessment pursuant to subsection (c) of Section 15-20A-26.
- (c) For the purpose of Section 12-15-116(a)(5), a juvenile court shall have exclusive original jurisdiction to try any individual who is 18 years of age or older and violates any of the juvenile criminal sex offender provisions of subdivision (1) of subsection (b) of Section 15-20A-27.
- (d) For the purpose of Section 13A-5-6(c), an offender is designated a sexually violent predator pursuant to Section 15-20A-19.
- (e) For the purpose of Sections 36-18-24(b)(6) and 36-18-25(c)(1), sexual offenses shall include, but not be limited to, those offenses pursuant to Section 15-20A-5.
- (f) For the purpose of Section 32-6-49.24, a person who is registered as a sex offender or convicted of a crime that requires registration as a sex offender is a person who is required to register as a sex offender pursuant to this chapter. A crime or offense that requires registration as a sex offender shall include, but not be limited to, those offenses pursuant to Section 15-20A-5.
- (g) For the purpose of Sections 38-13-2 and 38-13-4, a sex crime shall also include any offense listed in this chapter pursuant to Section 15-20A-5.