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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

RELATING TO CRIMINAL OFFENSES - SEXUAL OFFENDER REGISTRATION AND
COMMUNITY NOTIFICATION

Introduced By: Representatives Palumbo, DeSimone, Johnston, Carnevale, and Lally

Date Introduced: February 14, 2013

Referred To: House Finance

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 11-37.1 of the General Laws entitled "Sexual Offender Registration
2 and Community Notification" is hereby repealed in its entirety.

3 ~~CHAPTER 11-37.1~~

4 ~~Sexual Offender Registration and Community Notification~~

5 ~~**11-37.1-1. Short title.** -- This chapter shall be known and be cited as the "Sexual
6 Offender Registration and Community Notification Act".~~

7 ~~**11-37.1-2. Definitions.** -- (a) "Aggravated offense" means and includes offenses
8 involving sexual penetration of victims of any age through the use of force or the threat of use of
9 force or offenses involving sexual penetration of victims who are fourteen (14) years of age or
10 under.~~

11 ~~(b) "Board", "board of review", or "sex offender board of review" means the sex
12 offender board of review appointed by governor pursuant to section 11-37.1-6.~~

13 ~~(c) (1) "Conviction" or "convicted" means and includes any instance where:~~

14 ~~(i) A judgment of conviction has been entered against any person for any offense
15 specified in subsection (e) or (k) of this section, regardless of whether an appeal is pending; or~~

16 ~~(ii) There has been a finding of guilty for any offense specified in subsection (e) or (k) of
17 this section, regardless of whether an appeal is pending; or~~

18 ~~(iii) There has been a plea of guilty or nolo contendere for any offense specified in~~

1 ~~subsection (e) or (k) of this section, regardless of whether an appeal is pending; or~~
2 ~~(iv) There has been an admission of sufficient facts or a finding of delinquency for any~~
3 ~~offense specified in subsection (e) or (k) of this section, regardless of whether or not an appeal is~~
4 ~~pending.~~
5 ~~(2) Provided, in the event that a conviction, as defined in this subsection, has been~~
6 ~~overturned, reversed, or otherwise vacated, the person who was the subject of the conviction shall~~
7 ~~no longer be required to register as required by this chapter and any records of a registration shall~~
8 ~~be destroyed. Provided, further that nothing in this section shall be construed to eliminate a~~
9 ~~registration requirement of a person who is again convicted of an offense for which registration is~~
10 ~~required by this chapter.~~
11 ~~(d) [Deleted by P.L. 2003, ch. 162, section 1 and by P.L. 2003, ch. 170, section 1.]~~
12 ~~(e) "Criminal offense against a victim who is a minor" means and includes any of the~~
13 ~~following offenses or any offense in another jurisdiction which is substantially the equivalent of~~
14 ~~the following or for which the person is or would be required to register under 42 U.S.C. section~~
15 ~~14071 or 18 U.S.C. section 4042(e):~~
16 ~~(1) Kidnapping or false imprisonment of a minor, in violation of section 11-26-1.4, 11-~~
17 ~~26-1 or 11-26-2, where the victim of the offense is sixteen (16) years of age or older and under~~
18 ~~the age of eighteen (18) years;~~
19 ~~(2) Enticement of a child in violation of section 11-26-1.5 with the intent to violate~~
20 ~~sections 11-37-6, 11-37-8, 11-37-8.1, 11-37-8.3;~~
21 ~~(3) Any violation of section 11-37-6, 11-37-8, 11-37-8.1, or 11-37-8.3;~~
22 ~~(4) Any violation of section 11-1-10, where the underlying offense is a violation of~~
23 ~~chapter 34 of this title and the victim or person solicited to commit the offense is under the age of~~
24 ~~eighteen (18) years;~~
25 ~~(5) Any violation of section 11-9-1(b) or (c); or~~
26 ~~(6) Any violation of section 11-9-1.3;~~
27 ~~(7) Any violation of section 11-37-1-10;~~
28 ~~(8) Any violation of section 11-37-8.8;~~
29 ~~(9) Any violation of section 11-64-2 where the victim is under the age of eighteen (18)~~
30 ~~years; or~~
31 ~~(10) Murder in violation of section 11-23-1 where the murder was committed in the~~
32 ~~perpetration of, or attempted perpetration of, kidnapping and where the victim of the offense is~~
33 ~~under eighteen (18) years of age.~~
34 ~~(f) "Designated state law enforcement agency" means the attorney general or his or her~~

1 ~~designee.~~

2 ~~(g) "Employed, carries on a vocation" means and includes the definition of "employed,~~
3 ~~carries on a vocation" under 42 U.S.C. section 14071.~~

4 ~~(h) "Institutions of higher education" means any university, two (2) or four (4) year~~
5 ~~college or community college.~~

6 ~~(i) "Mental abnormality" means a congenital or acquired condition of a person that~~
7 ~~affects the emotional or volitional capacity of the person in a manner that predisposes that person~~
8 ~~to the commission of criminal sexual acts to a degree that makes the person a menace to the~~
9 ~~health and safety of other persons.~~

10 ~~(j) "Predator" means a person whose act(s) is (are) or was (were) directed at a stranger,~~
11 ~~or at a person with whom a relationship has been established or promoted for the primary purpose~~
12 ~~of victimization.~~

13 ~~(k) "Sexually violent offense" means and includes any violation of section 11-37-2, 11-~~
14 ~~37-4, 11-37-6, 11-37-8, 11-37-8.1, 11-37-8.3, or 11-5-1 where the specified felony is sexual~~
15 ~~assault, or section 11-23-1 where the murder was committed in the perpetration of, or attempted~~
16 ~~perpetration of, rape or any degree of sexual assault or child molestation, or any offense in~~
17 ~~another jurisdiction which is substantially the equivalent of any offense listed in this subsection or~~
18 ~~for which the person is or would be required to register under 42 U.S.C. section 14071 or 18~~
19 ~~U.S.C. section 4042(e).~~

20 ~~(l) "Sexually violent predator" means a person who has been convicted of a sexually~~
21 ~~violent offense and who has a mental abnormality or personality disorder that makes the person~~
22 ~~likely to engage in predatory sexually violent offenses.~~

23 ~~(m) "Student" means and includes the definition of "student" under 42 U.S.C. section~~
24 ~~14071.~~

25 ~~(n) "Parole board" means the parole board or its designee.~~

26 ~~**11-37.1-3. Registration required -- Persons covered.** (a) Any person who, in this or~~
27 ~~any other jurisdiction: (1) has been convicted of a criminal offense against a victim who is a~~
28 ~~minor, (2) has been convicted of a sexually violent offense, (3) has been determined to be a~~
29 ~~sexually violent predator, (4) has committed an aggravated offense as defined in section 11-37.1-~~
30 ~~2, or (5) is a recidivist, as defined in section 11-37.1-4, shall be required to register his or her~~
31 ~~current address with the local law enforcement agency having jurisdiction over the city or town in~~
32 ~~which the person having the duty to register resides for the time period specified in section 11-~~
33 ~~37.1-4.~~

34 ~~(b) Any person who is: (1) a nonresident worker who has committed an offense that is~~

1 ~~subject to registration in the state of his or her residence and who is employed or carrying on a~~
2 ~~vocation in Rhode Island as defined in section 11-37.1-2(g), or (2) a nonresident student as~~
3 ~~defined by section 11-37.1-2(m) who has committed an offense that is subject to registration in~~
4 ~~the state of his or her residence and who is attending an educational institution in Rhode Island,~~
5 ~~shall be required to register his or her current address and the address of his or her place of~~
6 ~~employment or school attended with the local law enforcement agency having jurisdiction over~~
7 ~~the city or town in which the nonresident worker or student is employed or attending school.~~

8 ~~(c) Any person having a duty to register as a sex offender in subsection (a) of this section~~
9 ~~who is enrolled at, employed at or carrying on a vocation at an institution of higher education~~
10 ~~shall have an additional duty to register the information described in subsection (a) of this section~~
11 ~~with the local law enforcement agency in the city or town where the primary campus of the~~
12 ~~institution of higher education at which the person is enrolled, employed or carrying on a~~
13 ~~vocation who is located for the period of time they are enrolled at, employed at or carrying on a~~
14 ~~vocation at the institution of higher education.~~

15 ~~(d) If a person is registered as a sex offender in another state for an offense which, if~~
16 ~~committed within the jurisdiction of this state, would require the person to register as a sex~~
17 ~~offender, then that person, upon moving to or returning to this state, shall register as a sex~~
18 ~~offender in the same manner as if the offense were committed within Rhode Island.~~

19 ~~**11-37.1-4. Duration of registration -- Frequency of registration.** (a) Annual~~
20 ~~registration. Any person required to register under section 11-37.1-3(a)(1) or (2) shall annually~~
21 ~~register with the local law enforcement agency having jurisdiction over the city or town in which~~
22 ~~the person having the duty to register resides for a period of ten (10) years from the expiration of~~
23 ~~sentence for the offense and shall verify his or her address with the agency on a quarterly basis~~
24 ~~for the first two (2) years of the period unless the person has been determined to be a sexually~~
25 ~~violent predator in accordance with section 11-37.1-6 or unless the person is required to register~~
26 ~~for the life of that person in accordance with the provisions of subsection (c) of this section.~~

27 ~~(b) Sexually violent predators. Any person who has been determined to be a sexually~~
28 ~~violent predator in accordance with the provisions of section 11-37.1-6 shall be required to~~
29 ~~annually register in person with the local law enforcement agency having jurisdiction over the~~
30 ~~city or town in which the person having the duty to register resides for the life of that person and~~
31 ~~to verify his or her address on a quarterly basis for the life of that person.~~

32 ~~(c) Recidivists and aggravated crime offenders. Any person required to register under~~
33 ~~section 11-37.1-3 and who has one or more prior convictions for any offense described in section~~
34 ~~11-37.1-2 or has been convicted of an aggravated offense as defined in section 11-37.1-2 shall~~

1 ~~annually register in person with the local law enforcement agency having jurisdiction over the~~
2 ~~city or town in which the person having the duty to register resides for the life of that person and~~
3 ~~to verify his or her address on a quarterly basis for the life of that person.~~

4 ~~(d) Nonresident workers and students.—Any nonresident person required to register~~
5 ~~pursuant to section 11-37.1-3(b)(1) or (2) shall annually register in person with the local law~~
6 ~~enforcement agency having jurisdiction over the city or town in which the person having the duty~~
7 ~~to register is employed or attends school for the period of time that the person is employed in~~
8 ~~Rhode Island or is attending school in Rhode Island.~~

9 ~~(e) Initial registration; Incarcerated individuals.—All persons required to register under~~
10 ~~this chapter who are sentenced to a period of confinement shall perform their initial registration~~
11 ~~by appearing in person at the local law enforcement agency in the city or town in which the~~
12 ~~person intends to reside within twenty four (24) hours of their release from confinement.~~

13 ~~(f) Initial registration; Non-incarcerated individuals.—All persons required to register~~
14 ~~under this chapter who are convicted in Rhode Island and who are not sentenced to serve a term~~
15 ~~of incarceration or confinement shall perform their initial registration by appearing in person at~~
16 ~~the local law enforcement agency in the city or town in which the person intends to reside within~~
17 ~~twenty four (24) hours of being sentenced.~~

18 ~~(g) Initial registration; Individuals relocating to Rhode Island.—All persons required to~~
19 ~~register under this chapter who are moving their residence to Rhode Island from another~~
20 ~~jurisdiction shall perform their initial registration by appearing in person at the local law~~
21 ~~enforcement agency in the city or town in which the person intends to reside within twenty four~~
22 ~~(24) hours of their arrival in Rhode Island.~~

23 ~~(h) Initial registration; Nonresident workers and students.—All nonresident workers or~~
24 ~~students who are required to register under this chapter shall perform their initial registration by~~
25 ~~appearing in person at the local law enforcement agency in the city or town in which the person is~~
26 ~~employed or is attending school within twenty four (24) hours of their first day of their personal~~
27 ~~attendance at their place of employment or school.~~

28 ~~(i) Tolling provision.—Where, during the period in which any person is required to~~
29 ~~register, a person required to register under this chapter is incarcerated or re-incarcerated for any~~
30 ~~offense or is civilly committed, the person's registration requirements shall be tolled during the~~
31 ~~subsequent incarceration, re-incarceration or commitment.~~

32 ~~(j) Juveniles.—Any juvenile having the duty to register under subsections (b) and (c) of~~
33 ~~this section shall be required to annually register in person with the local law enforcement agency~~
34 ~~having jurisdiction over the city or town in which the juvenile having the duty to register resides~~

1 ~~for fifteen (15) years subsequent to the date of release from confinement or placement in the~~
2 ~~community or probation for such offense or offenses and to verify his or her address on a~~
3 ~~quarterly basis for said fifteen (15) years. However, if a juvenile is adjudicated delinquent under~~
4 ~~section 11-37-8.1 or 11-37-8.3, the court shall assess the totality of the circumstances of the~~
5 ~~offense and if the court makes a finding that the conduct of the parties is criminal only because of~~
6 ~~the age of the victim, the court may have discretion to order the juvenile to register as a sex~~
7 ~~offender as long as the court deems it appropriate to protect the community and to rehabilitate the~~
8 ~~juvenile offender. Registration shall be subject to the provisions of this chapter.~~

9 ~~**11-37.1-5. Registration requirement upon release, parole, or probation.**~~ ~~--- (a) (1)~~

10 ~~Duty of state officials. If a person who is required to register under this chapter is released from~~
11 ~~prison, then the official in charge of the place of confinement or his or her designee shall comply~~
12 ~~with the provisions of subsection (b) of this section;~~

13 ~~(2) If a person who is required to register under this chapter is placed on parole, the~~
14 ~~executive secretary of the parole board shall comply with the provisions of subsection (b) of this~~
15 ~~section;~~

16 ~~(3) If a person who is required to register under this chapter is released on probation or~~
17 ~~placed on home confinement, then the assistant administrator or the division of probation shall~~
18 ~~comply with the provisions of subsection (b) of this section;~~

19 ~~(4) If a person who is required to register under this chapter is released from a juvenile~~
20 ~~correctional facility, either outright or on some form of supervised release, then the person in~~
21 ~~charge of the institution shall comply with the provisions of subsection (b) of this section;~~

22 ~~(5) If a person who is required to register under this chapter is placed on juvenile~~
23 ~~probation, then the person in charge of the program shall comply with the provisions of~~
24 ~~subsection (b) of this section; or~~

25 ~~(6) If a person who is required to register under this chapter has moved into this state~~
26 ~~under the provisions of an interstate compact providing for supervision of the terms of his or her~~
27 ~~release by agents of this state, then the administrator of the interstate compact shall comply with~~
28 ~~the provisions of subsection (b) of this section.~~

29 ~~(b) Notification of registration requirements. The person designated with the~~
30 ~~responsibility for the notification requirements of this chapter shall, prior to the release of any~~
31 ~~person required to register under this chapter:~~

32 ~~(1) Inform the person of the duty to register and obtain the information required for~~
33 ~~registration;~~

34 ~~(2) Inform the person that if the person changes his or her residence address, the person~~

1 ~~shall give the new address to a designated state law enforcement agency in writing within twenty-~~
2 ~~four (24) hours;~~

3 ~~(3) Inform the person that if the person changes residence to another state, the person~~
4 ~~shall register the new address with the law enforcement agency with whom the person last~~
5 ~~registered, and the person is also required to register with a designated law enforcement agency in~~
6 ~~the new state in accordance with the new state's sex offender registration statute;~~

7 ~~(4) Inform the person that if the person works or attends school in another state in which~~
8 ~~he or she does not reside, the person shall register his or her employment address or address of~~
9 ~~the educational institution he or she attends as required by the other state;~~

10 ~~(5) Obtain fingerprints and a photograph of the person if these have not already been~~
11 ~~obtained in connection with the offense that triggers registration; and~~

12 ~~(6) Require the person to read and sign a form approved by the attorney general stating~~
13 ~~that the duty of the person to register under this section has been explained.~~

14 ~~(c) Registration information.— In addition to the requirements of subsection (b) of this~~
15 ~~section, for a person required to register under section 11-37.1-3, then the person responsible for~~
16 ~~the notification required under subsection (b) of this section shall obtain the name of the person,~~
17 ~~identifying factors, anticipated future residence, juvenile and adult offense history, and~~
18 ~~documentation of any treatment received for the mental abnormality or personality disorder of the~~
19 ~~person. For purposes of this subsection, the provisions of chapter 37.3 of title 5 pertaining to~~
20 ~~health care privileges, the provisions of section 9-17-24 pertaining to the privilege of witnesses,~~
21 ~~or the provisions of section 42-72-8 pertaining to confidentiality of records of the department of~~
22 ~~children, youth and families, shall not be effective so as to prevent the transfer of information or~~
23 ~~the testimony of any person possessing any information required by this subsection. Any~~
24 ~~information so obtained may be transferred to the sex offender board of review and may be used~~
25 ~~by them in making a determination of whether or not the person is a sexually violent predator or~~
26 ~~in determining the level of notification under section 11-37.1-12. The information may also be~~
27 ~~used by the sentencing court or by any court reviewing the level of notification determined by the~~
28 ~~sex offender board of review or reviewing any conviction or sentence which requires registration~~
29 ~~under this chapter. Provided, information so obtained shall not be admissible in any other judicial~~
30 ~~proceeding against the subject of the information except to determine a person's status as a~~
31 ~~sexually violent predator or to determine or review the level of notification to the community~~
32 ~~which has been made by a court or the sex offender board of review. Provided, further, that this~~
33 ~~subsection shall not be applicable to any person for whom an appeal is pending for which a final~~
34 ~~judgment of conviction has not been entered, until the time that a final conviction has been~~

1 entered.

2 ~~**11-37.1-6. Community notification.** --- (1) (a) Sex Offender Board of Review.~~ The
3 governor shall appoint eight (8) persons including experts in the field of the behavior and
4 treatment of sexual offenders by reason of training and experience, victim's rights advocates, and
5 law enforcement representatives to the sex offender board of review. At least one member of the
6 sex offender board of review shall be a qualified child/adolescent sex offender treatment
7 specialist. These persons shall serve at the pleasure of the governor or until their successor has
8 been duly qualified and appointed.

9 ~~(b) Duties of the Board.~~ Upon passage of this legislation, the sex offender board of
10 review will utilize a validated risk assessment instrument and other material approved by the
11 parole board to determine the level of risk an offender poses to the community and to assist the
12 sentencing court in determining if that person is a sexually violent predator. If the offender is a
13 juvenile, the Department of Children, Youth & Families shall select and administer a risk
14 instrument appropriate for juveniles and shall submit the results to the sex offender board of
15 review.

16 ~~(c) Duties of other state agencies.~~ Six (6) months prior to release of any person having
17 a duty to register under section 11-37.1-3, or upon sentencing of a person having a duty to
18 register under section 11-37.1-3, if the offender is not incarcerated, the agency having supervisory
19 responsibility and the Interstate Compact Unit of the Rhode Island department of corrections
20 upon acceptance of supervision of a sexual offender from the sending state shall refer the person
21 to the sex offender board of review, together with any reports and documentation that may be
22 helpful to the board, for a determination as to the level of risk an offender poses to the community
23 and to assist the sentencing court in determining if that person is a sexually violent predator.

24 ~~(2) (i) The board shall within thirty (30) days of a referral of a person shall conduct the~~
25 ~~validated risk assessment, review other material provided by the agency having supervisory~~
26 ~~responsibility and assign a risk of re-offense level to the offender. In addition, the board may find~~
27 ~~that, based on the assessment score and other material, that the person may possess a mental~~
28 ~~abnormality or personality disorder that makes the person likely to engage in sexually violent~~
29 ~~predatory offenses. In these cases, the committee shall ask the parole board psychiatrist or if the~~
30 ~~offender is a juvenile, a DCYF psychiatrist to conduct a sex offender evaluation to determine if~~
31 ~~the offender possesses a mental abnormality or personality disorder that affects the emotional or~~
32 ~~volitional capacity of the person in a manner that predisposes that person to the commission of~~
33 ~~criminal sexual acts to a degree that makes the person a menace to the health and safety of other~~
34 ~~persons.~~

1 ~~(ii) Upon receipt of a sex offender evaluation that suggests there is sufficient evidence~~
2 ~~and documentation to suggest that a person may be a sexually violent predator, the sex offender~~
3 ~~board of review shall forward a report to the attorney general for consideration by the court.~~

4 ~~(iii) Upon receipt of a report from the attorney general, the court, after notice to the~~
5 ~~offender and his or her counsel, shall upon consideration of the report and other materials, make a~~
6 ~~determination as to whether or not a person is a sexually violent predator.~~

7 ~~(iv) Effect of determination.—In the event that a determination is made by the court that~~
8 ~~a person is a sexually violent predator, that person shall be required to register and verify his or~~
9 ~~her address in accordance with sections 11-37.1-3, 11-37.1-4 and 11-37.1-8(b).~~

10 ~~(3) No cause of action or liability shall arise or exist against the committee or any~~
11 ~~member or agent of the board as a result of the failure of the board to make any findings required~~
12 ~~by this section within the time period specified by subdivision (2) of this subsection.~~

13 ~~(4) Notwithstanding any other provision of law, the board shall have access to all~~
14 ~~relevant records and information in the possession of any state official or agency having a duty~~
15 ~~under sections 11-37.1-5(a)(1) through (6), relating to the juvenile and adult offenders under~~
16 ~~review by the board, including, but not limited to, police reports; prosecutor's statements of~~
17 ~~probable cause, presentence investigations and reports, complete judgments and sentences,~~
18 ~~current classification referrals, juvenile and adult criminal history records, violation and~~
19 ~~disciplinary reports, all psychological evaluations and psychiatric evaluations, psychiatric~~
20 ~~hospital records, sex offender evaluations and treatment reports, substance abuse evaluations and~~
21 ~~treatment reports to the extent allowed by federal law. Records and information obtained by the~~
22 ~~board of review under this subsection shall remain confidential, provided that the board of review~~
23 ~~may disclose the records and information to the sentencing court in accordance with the~~
24 ~~provisions of this chapter.~~

25 ~~(5) Duties of the director of the department of corrections/director of the department of~~
26 ~~children, youth and families. Not less than sixty (60) days prior to release of any person subject to~~
27 ~~this chapter, the director of the department of corrections or, in the event the person is a juvenile,~~
28 ~~the director of the department of children, youth and families, or their respective designees, shall~~
29 ~~seek verification that the duties of the sex offender board of review and any other state agency~~
30 ~~have been fulfilled as specified in section 11-37.1-6 et seq. In the event that the director of the~~
31 ~~department of corrections or, in the event the person is a juvenile, the director of the department~~
32 ~~of children, youth and families, cannot obtain verification, he or she shall, no less than thirty (30)~~
33 ~~days prior to the release of a person subject to this chapter, file with the presiding judge of the~~
34 ~~superior court or, in the case of a juvenile, the chief judge of the family court, a petition in the~~

1 ~~nature of mandamus, seeking compliance with this chapter. The court shall promptly, but no less~~
2 ~~than ten (10) days from the filing of the petition, hold a hearing on the petition. The court may, in~~
3 ~~its discretion, enter any orders consistent with this chapter to compel compliance, however, the~~
4 ~~court may not delay the release of any person subject to this chapter for the failure of the sex~~
5 ~~offender board of review or any state agency to fulfill its obligations under this chapter.~~

6 ~~**11-37.1-7. Transfer of information to designated state law enforcement agency and**~~
7 ~~**the FBI.**~~ ~~The person required to provide notice in accordance with section 11-37.1-5(b) and the~~
8 ~~local law enforcement agencies required to register persons who have a duty to register in~~
9 ~~accordance with section 11-37.1-4, shall, within three (3) days after receipt of information~~
10 ~~defined in that section, forward it to a designated state law enforcement agency. The state law~~
11 ~~enforcement agency shall immediately enter the information into the appropriate state law~~
12 ~~enforcement record system. The state law enforcement agency shall also immediately transmit the~~
13 ~~conviction data and fingerprints to the Federal Bureau of Investigation.~~

14 ~~**11-37.1-8. Verification of address.**~~ ~~-- (a) For a person required to register under section~~
15 ~~11-37.1-3(a)(1) or (2) on each anniversary of the person's initial registration date during the~~
16 ~~period in which the person is required to register:~~

17 ~~(1) The sex offender community notification unit of the parole board shall mail a non-~~
18 ~~forwardable verification form to the last reported address of the person;~~

19 ~~(2) The person shall mail the verification form to the sex offender community~~
20 ~~notification unit within ten (10) days after receipt of the form;~~

21 ~~(3) The verification form shall be signed by the person, and state that the person still~~
22 ~~resides at the address last reported to the local law enforcement agency having jurisdiction over~~
23 ~~the city or town in which the person having the duty to register resides; and~~

24 ~~(4) If the person fails to mail the verification form to the sex offender community~~
25 ~~notification unit of the parole board within ten (10) days after receipt of the form, the person shall~~
26 ~~be in violation of this chapter unless the person proves that the person has not changed the~~
27 ~~residence address from that which he or she last registered.~~

28 ~~(b) The provisions of subdivisions (1) — (4) of this section shall apply to a person~~
29 ~~required to register under section 11-37.1-3(a)(3), (4), or (5), except that the registration address~~
30 ~~verification shall take place quarterly.~~

31 ~~**11-37.1-9. Notification of local law enforcement agencies of changes in address.**~~ ~~-- (a)~~
32 ~~Duty of local law enforcement agency; Interstate and Intrastate moves.~~ ~~For any person required~~
33 ~~to register under this chapter, the local law enforcement agency having jurisdiction where the~~
34 ~~person is residing, shall, if the person changes residence to another state or within the state, notify~~

1 ~~the law enforcement agency with which the person must register in the new state, if the new state~~
2 ~~has a registration requirement and notify the designated state law enforcement agency.~~

3 ~~(b) Duty of person required to register; Interstate moves.—A person who has been~~
4 ~~convicted of an offense which required registration under this chapter shall register the new~~
5 ~~address with a designated state law enforcement agency in another state to which the person~~
6 ~~moves in accordance with the new state's sex offender registration statute. Prior to the change of~~
7 ~~residence to a new state, the person shall notify the local law enforcement agency within this state~~
8 ~~with which the person is registered of the intended move and of the new address within the new~~
9 ~~state.~~

10 ~~(c) Duty of law enforcement agency; Changes of residence within the state.—For any~~
11 ~~person required to register under this chapter, the local law enforcement agency having~~
12 ~~jurisdiction where the person is residing, shall, if the person changes residence to another city or~~
13 ~~town in Rhode Island, notify the local law enforcement agency with which the person must~~
14 ~~register in the new city or town and notify the state designated law enforcement agency.~~

15 ~~(d) Duty of person required to register; Changes of residence within the state.—A person~~
16 ~~who has been convicted of an offense which requires registration under this chapter and who~~
17 ~~changes his or her residence address to another city or town in Rhode Island, shall notify the local~~
18 ~~law enforcement agency in the city or town from which the person is moving before the person~~
19 ~~establishes residence in the new location, and shall register with the local law enforcement~~
20 ~~agency in the city or town in which the person is moving not later than twenty four (24) hours~~
21 ~~after the person establishes residence in the new city or town. A person who has been convicted~~
22 ~~of an offense which requires registration under this chapter and who changes his or her residence~~
23 ~~within a city or town in Rhode Island shall notify the local law enforcement agency in the city or~~
24 ~~town not later than twenty four (24) hours after the person changes the residence within the city~~
25 ~~or town.~~

26 ~~**11-37.1-10. Penalties.**—(a) Any person who is required to register or verify his or her~~
27 ~~address or give notice of a change of address or residence, who knowingly fails to do so, shall be~~
28 ~~guilty of a felony and upon conviction be imprisoned not more than ten (10) years, or fined not~~
29 ~~more than ten thousand dollars (\$10,000), or both.~~

30 ~~(b) Any person who is required to register or verify his or her address or give notice of a~~
31 ~~change of address or residence, who knowingly fails to do so, shall be in violation of the terms of~~
32 ~~his or her release, regardless of whether or not the term was a special condition of his or her~~
33 ~~release on probation, parole or home confinement or other form of supervised release.~~

34 ~~(c) Any person who is required to register or verify his or her address, who knowingly~~

1 ~~resides within three hundred feet (300') of any school, public or private, shall be guilty of a felony~~
2 ~~and upon conviction may be imprisoned not more than five (5) years, or fined not more than five~~
3 ~~thousand dollars (\$5,000) or both.~~

4 ~~**11-37.1-11. Release of information.** --- (a) Except as otherwise provided by this chapter~~
5 ~~or as provided in subsections (b) or (c) of this section, no information obtained under this chapter~~
6 ~~shall be released or transferred without the written consent of the person or his or her authorized~~
7 ~~representative.~~

8 ~~(b) No consent for release or transfer of information obtained under this chapter shall be~~
9 ~~required in the following instances:~~

10 ~~(1) Information may be disclosed to law enforcement agencies for law enforcement~~
11 ~~purposes;~~

12 ~~(2) Information may be disclosed to government agencies conducting confidential~~
13 ~~background checks;~~

14 ~~(3) The designated law enforcement agency and any local law enforcement agency~~
15 ~~authorized by the state agency may release relevant information that is necessary to protect~~
16 ~~individuals concerning a specific person required to register under this chapter, except that the~~
17 ~~identity of a victim of an offense that requires registration under this section shall not be released;~~

18 ~~(4) Information may be released or disseminated in accordance with the provisions of~~
19 ~~section 11-37.1-12; and~~

20 ~~(5) Information shall be disclosed by the local police department to the general public in~~
21 ~~a city or town for those registered offenders determined to be either a level 2 or level 3 offender~~
22 ~~as determined consistent with parole board guidelines.~~

23 ~~(c) Any local law enforcement agency shall release relevant information collected~~
24 ~~pursuant to section 11-37.1-3(c) to any campus police agency appointed pursuant to section 16-~~
25 ~~15-2 or police for private institutions appointed pursuant to section 12-2-1-1 for any person~~
26 ~~having a duty to register who is enrolled in, employed by or carrying on a vocation at an~~
27 ~~institution of higher education. That agency may release relevant information that is necessary to~~
28 ~~protect individuals concerning a specific person required to register under this chapter, except that~~
29 ~~the identity of a victim of an offense that requires registration under this section shall not be~~
30 ~~released.~~

31 ~~**11-37.1-12. Rules and regulations for community notification.** --- (a) The parole board~~
32 ~~shall promulgate guidelines and procedures for notification required pursuant to the provisions of~~
33 ~~this section.~~

34 ~~(b) The regulations shall provide for three (3) levels of notification depending upon the~~

1 ~~risk of re-offense level of the sex offender determined by the sex offender board of review as~~
2 ~~outlined in section 11-37.1-6(b):~~

3 ~~(1) If risk of re-offense is low, law enforcement agencies and any individuals identified~~
4 ~~in accordance with the parole board guidelines shall be notified;~~

5 ~~(2) If risk of re-offense is moderate, organizations in the community likely to encounter~~
6 ~~the person registered shall be notified in accordance with the parole board's guidelines, in~~
7 ~~addition to the notice required by subdivision (1) of this subsection;~~

8 ~~(3) If risk of re-offense is high, the members of the public likely to encounter the person~~
9 ~~registered shall be notified through means in accordance with the parole board's guidelines~~
10 ~~designed to reach members of the public likely to encounter the person registered, in addition to~~
11 ~~the notice required by subdivisions (1) and (2) of this subsection.~~

12 ~~(4) The sex offender community notification unit is authorized and directed to utilize the~~
13 ~~Rhode Island state police web site and the Rhode Island Unified Court System website for the~~
14 ~~public release of identifying information of level two and level three sex offenders who have been~~
15 ~~convicted, provided that no identifying information of a juvenile shall be listed on the web site.~~

16 ~~(5) Notwithstanding any other provision of law, the sex offender review board shall have~~
17 ~~access to all relevant records and information in the possession of any state official or agency~~
18 ~~having a duty under section 11-37.1-5(a)(1) through (6) relating to juvenile and adult offenders~~
19 ~~under review by the sex offender review board, including, but not limited to, police reports,~~
20 ~~prosecutors statements of probable cause, pre-sentence investigations and reports, complete~~
21 ~~judgments and sentences, current classification referrals, juvenile and adult criminal history~~
22 ~~records, violation and disciplinary reports, all psychological evaluations and psychiatric~~
23 ~~evaluations, psychiatric hospital records, sex offender evaluations and treatment reports,~~
24 ~~substance abuse evaluations and treatment reports to the extent allowed by federal law. Records~~
25 ~~and information obtained by the sex offender review board under this subsection shall remain~~
26 ~~confidential, provided that the parole board may disclose the records and information to the board~~
27 ~~of review, the sentencing court, and/or law enforcement agencies in accordance with the~~
28 ~~provisions of this chapter.~~

29 ~~**11-37.1-13. Notification procedures for tiers two (2) and three (3).** -- If after review of~~
30 ~~the evidence pertaining to a person required to register according to the criteria set forth in section~~
31 ~~11-37.1-12, the board is satisfied that risk of re-offense by the person required to register is either~~
32 ~~moderate or high, the sex offender community notification unit of the parole board shall notify~~
33 ~~the person, in writing, by letter or other documentation:~~

34 ~~(1) That community notification will be made not less than ten (10) business days from~~

1 ~~the date of the letter or other document evidencing an intent to promulgate a community notice in~~
2 ~~accordance with section 11-37.1-12(b), together with the level, form and nature that the~~
3 ~~notification will take;~~

4 ~~(2) That unless an application for review of the action is filed within the time specified~~
5 ~~by the letter or other documentation, which in any case shall not be less than ten (10) business~~
6 ~~days, by the adult offender subject to community notification, with the criminal calendar judge of~~
7 ~~the superior court for the county in which the adult offender who is the subject of notification~~
8 ~~resides or intends to reside upon release, or by the juvenile offender subject to community~~
9 ~~notification over whom the family court exercises jurisdiction, with the clerk of the family court~~
10 ~~for the county in which the juvenile offender resides or intends to reside upon release, whose~~
11 ~~name shall be specified in the letter or other document, requesting a review of the determination~~
12 ~~to promulgate a community notification, that notification will take place;~~

13 ~~(3) That the person has a right to be represented by counsel of their own choosing or by~~
14 ~~an attorney appointed by the court, if the court determines that he or she cannot afford counsel;~~
15 ~~and~~

16 ~~(4) That the filing of an application for review may be accomplished, in the absence of~~
17 ~~counsel, by delivering a letter objecting to the notification and/or its level, form or nature,~~
18 ~~together with a copy of the letter or other documentation describing the proposed community~~
19 ~~notification, addressed to the judge described in the communication to the clerk of the superior~~
20 ~~court in the county in which the adult offender resides or intends to reside upon release, or in the~~
21 ~~case of juvenile offenders over whom the family court exercises jurisdiction, addressed to the~~
22 ~~judge described in the communication to the clerk of the family court in the county in which the~~
23 ~~juvenile offender resides or intends to reside upon release.~~

24 ~~**11-37.1-14. Preliminary proceedings on objection to community notification**~~

25 ~~**Procedures.** -- Upon receipt of a request from a person subject to community notification under~~
26 ~~section 11-37.1-12(b), the superior court, or the family court of the county in which the person~~
27 ~~resides or intends to reside upon release, shall:~~

28 ~~(1) Set a date for hearing and decision on the matter;~~

29 ~~(2) Provide notice of the date for the hearing to both the applicant or his or her counsel~~
30 ~~and to the attorney general;~~

31 ~~(3) Appoint counsel for the applicant if he or she cannot afford one; and~~

32 ~~(4) Direct that the attorney general promptly provide copies of all papers, documents and~~
33 ~~other materials which formed the basis for the determination of the level and manner of~~
34 ~~community notification be provided to the court and the applicant or his or her counsel.~~

1 ~~**11-37.1-15. Application hearing procedures.** -- (a) On the date set for the hearing on~~
2 ~~the review of the application the court shall:~~

3 ~~(1) In camera, review the materials provided in accordance with section 11-37.1-14(4);~~

4 ~~(2) Determine whether and to what extent the production of witnesses and cross~~
5 ~~examination shall be required or permitted depending on the complexities of the matter involved,~~
6 ~~the extent of doubt concerning the correctness of the level, nature and extent of the notification~~
7 ~~proposed; and~~

8 ~~(3) Presume the need for a prompt determination.~~

9 ~~(b) In any application hearing proceeding the rules of evidence shall not apply and the~~
10 ~~court may rely on documentary presentations, including expert opinion on all issues.~~

11 ~~(c) Nothing in this section should be construed to allow the applicant to relitigate the~~
12 ~~adjudication of guilt.~~

13 ~~**11-37.1-16. Application review -- Burden of production and persuasion.** -- (a) In any~~
14 ~~proceeding under this chapter, the state shall have the burden of going forward, which burden~~
15 ~~shall be satisfied by the presentation of a prima facie case that justifies the proposed level of and~~
16 ~~manner of notification.~~

17 ~~(b) For purposes of this section, "prima facie case" means:~~

18 ~~(1) A validated risk assessment tool has been used to determine the risk of re-offense;~~

19 ~~(2) Reasonable means have been used to collect the information used in the validated~~
20 ~~assessment tool.~~

21 ~~(c) Upon presentation of a prima facie case, the court shall affirm the determination of~~
22 ~~the level and nature of the community notification, unless it is persuaded by a preponderance of~~
23 ~~the evidence that the determination on either the level of notification or the manner in which it is~~
24 ~~proposed to be accomplished is not in compliance with this chapter or the guidelines adopted~~
25 ~~pursuant to this chapter.~~

26 ~~Nothing in this section shall be construed to prohibit the release of information~~
27 ~~pertaining to a person who has been convicted of any of the violations of any offense listed in~~
28 ~~section 11-37.1-2, so long as the information has been gathered or obtained through sources other~~
29 ~~than the registration process provided by this chapter. Provided further, that nothing in this~~
30 ~~section shall be deemed to authorize the release of any information pertaining to any victim of~~
31 ~~any offense listed in section 11-37.1-2.~~

32 ~~**11-37.1-17. Immunity for good faith conduct.** -- Any person who performs any act or~~
33 ~~fails to perform any act pursuant to this chapter shall have good faith immunity from any liability,~~
34 ~~civil or criminal, that might be incurred as a result of the performance of or the failure to perform~~

1 ~~any act pursuant to this chapter.~~

2 ~~**11-37.1-18. Continuation of prior duty to register.** --- Any person who pursuant to the~~
3 ~~provisions of former section 11-37-16 had a duty to register under that section after having been~~
4 ~~convicted of any violation of the provisions of chapter 37 of this title, or for a conviction in~~
5 ~~another state of first degree sexual assault which if committed in this state would constitute a~~
6 ~~violation of chapter 37 of this title, shall have the duty to register in accordance with the~~
7 ~~provisions of this chapter. Nothing in this section shall be construed to abrogate any duty to~~
8 ~~register which exists or existed under the provisions of former section 11-37-16.~~

9 ~~**11-37.1-19. Severability.** --- If any provision of this chapter or its application to any~~
10 ~~person or circumstance is held invalid or unconstitutional, the invalidity or unconstitutionality~~
11 ~~shall not affect other provisions or applications of this chapter which can be given effect without~~
12 ~~the invalid or unconstitutional provision or application, and to this end the provisions of this~~
13 ~~chapter are declared to be severable.~~

14 ~~**11-37.1-20. Remand to sex offender board of review.** --- Upon application by the~~
15 ~~attorney general or counsel for the sex offender, the court may remand any case pending~~
16 ~~adjudication of sexually violent predator status back to the sex offender board of review for~~
17 ~~further determination of sexually violent predator status and community notification level~~
18 ~~pursuant to section 11-37.1-6.~~

19 SECTION 2. Title 11 of the General Laws entitled "CRIMINAL OFFENSES" is hereby
20 amended by adding thereto the following chapters:

21 CHAPTER 37.3

22 CRIMINAL OFFENSES – SEXUAL OFFENDER REGISTRATION AND NOTIFICATION

23 ~~**11-37.3-1. Establishment of advisory council.** – (a) An advisory council is hereby~~
24 ~~established to consult with and provide recommendations to the department of public safety~~
25 ~~concerning the rules and regulations to be promulgated pursuant to this chapter in order to~~
26 ~~implement the Sex Offender Registration and Notification Act, Title I of the Adam Walsh Child~~
27 ~~Protection and Safety Act of 2006 P.L. (109-248), 42 U.S.C. section 16911 et seq., as amended.~~
28 ~~The council shall consist of the department of public safety, the attorney general, the department~~
29 ~~of corrections, the parole board’s sex offender community notification unit, the judiciary, the~~
30 ~~Rhode Island police chiefs association, members of local law enforcement, and the public~~
31 ~~defender. The commissioner of the department of public safety shall appoint persons who, by~~
32 ~~experience or training, have a personal interest or professional expertise in law enforcement,~~
33 ~~crime prevention, victim advocacy, criminology, psychology, parole, public education or~~
34 ~~community relations.~~

1 (b) After consultation with members of the advisory council established pursuant to this
2 section and within six (6) months of the appointment of such members, the department of public
3 safety shall promulgate rules and regulations required pursuant to the provisions of this chapter.

4 (c) One year after the effective date of this section, the department of public safety and
5 the council shall conduct a comprehensive review of the guidelines to determine whether any
6 changes or revisions should be promulgated. Upon completion of that review and the submission
7 of any recommendations thereon, the council shall expire.

8 CHAPTER 37.4

9 SEXUAL OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION ACT

10 **11-37.4-1. Short title.** – This chapter shall be known and may be cited as the "Sexual
11 Offender Registration and Community Notification Act."

12 **11-37.4-2. Purpose.** -- The intent of this chapter is to implement the federal Sex Offender
13 Registration and Notification Act ("SORNA"), Title I of Public Law 109-248, and shall be
14 interpreted liberally to comply with the terms and conditions of SORNA as presently written or
15 hereafter amended.

16 **11-37.4-3. Definitions.** -- As used in this chapter:

17 (1) "Abscond" means to not register as required, or to relocate to some unknown place
18 other than the registered place of residence, or to conceal himself or herself in an attempt to avoid
19 registration or verification of registration.

20 (2) "Convicted" or "conviction" means and includes any instance where:

21 (i) A judgment of conviction has been entered against any person for a sex offense,
22 regardless of whether an appeal is pending; or

23 (ii) There has been a finding of guilty for any sex offense, regardless of whether an
24 appeal is pending; or

25 (iii) There has been a plea of guilty or nolo contendere for any sex offense, regardless of
26 whether an appeal is pending; or

27 (iv) There has been an admission of sufficient facts for any sex offense, regardless of
28 whether an appeal is pending; or

29 (v) There has been a finding of delinquency for any sex offense, regardless of whether an
30 appeal is pending, but only if the offender is fourteen (14) years of age or older at the time of the
31 offense and the offense adjudicated was comparable to or more severe than aggravated sexual
32 abuse, as described in 18 U.S.C. section 2241, or was an attempt or conspiracy to commit such an
33 offense; or

34 (vi) Provided, in the event that a conviction, as defined in this subsection, has been

1 overturned, reversed, or otherwise vacated, the person who was the subject of the conviction shall
2 no longer be required to register as required by this chapter and any records of a registration shall
3 be destroyed. Provided, further that nothing in this section shall be construed to eliminate a
4 registration requirement of a person who is again convicted of an offense for which registration is
5 required by this chapter.

6 (3) "Custodial authority" means the victim is:

7 (i) Under the offender's control by force;

8 (ii) Under the offender's control by threat or intimidation of serious violence;

9 (iii) Incapable of appraising the nature of his or her conduct;

10 (iv) Physically incapable of communicating non-consent;

11 (v) Rendered unconscious by the offender; or

12 (vi) Involuntarily drugged by the offender.

13 (4) "Department" means the department of public safety or its designee.

14 (5) "Dru Sjodin National Sex Offender Public Website" ("NSOPW") means the public
15 website maintained by the attorney general of the United States pursuant to 42 U.S.C. section
16 16920.

17 (6) "Employee" means and includes, but is not limited to, an individual who is self-
18 employed or works for any other entity, regardless of compensation.

19 (7) "Foreign convictions" means a conviction obtained outside of the United States.

20 (8) "Habitually lives or sleeps" means living in a place with some regularity, and with
21 reference to where the sex offender actually lives, which could be some place other than a
22 mailing address or primary address but would entail a place where the sex offender lives on an
23 intermittent basis.

24 (9) "Immediate" or "Immediately" means within twenty four (24) hours.

25 (10) "Imprisonment" means incarceration pursuant to a conviction, regardless of the
26 nature of the institution in which the offender serves the sentence. The term includes, but is not
27 limited to, confinement in a state prison as well as in a federal, military, foreign, BIA, private or
28 contract facility, a local or tribal jail, or a juvenile detention facility. Persons under home
29 confinement following conviction of a covered sex offense are required to register pursuant to the
30 provisions of this chapter during their period of home confinement.

31 (11) "Jurisdiction" means any of the fifty (50) states, the District of Columbia, the
32 Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern
33 Marian Islands, the United States Virgin Islands, and any Indian tribe.

34 (12) "Minor" means an individual who has not attained the age of eighteen (18) years.

1 (13) "National Sex Offender Registry ("NSOR")" means the national database maintained
2 by the attorney general of the United States pursuant to 42 U.S.C. section 16919.

3 (14) "Reside(s)" means, with respect to an individual, the location of the individual's
4 home or other place where the individual habitually lives or sleeps.

5 (15) "School" includes, but is not limited to:

6 (i) A child day care center that, on a regular or irregular basis, receives any child under
7 the age of sixteen (16) years, for the purpose of care and/or supervision, not in a home or
8 residence, apart from the child's parent or guardian for any part of a twenty-four (24) hour day
9 irrespective of compensation or reward.

10 (ii) Private nursery schools and other regular programs of educational services to children
11 between the ages of two (2) years eight (8) months and six (6) years of age where the schools and
12 programs operate one or more sessions daily; or

13 (iii) A elementary or secondary school, whether public or private.

14 (16) "Sexual act" means:

15 (i) Sexual intercourse, cunnilingus, fellatio, and anal intercourse, or any other intrusion,
16 however slight, by any part of a person's body or by any object into the genital or anal openings
17 of another person's body, or the victim's own body upon the accused's instruction, but emission of
18 semen is not required; or

19 (ii) The intentional touching, not through clothing, of the genitalia of a person under the
20 age of sixteen (16) with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the
21 sexual desires of another.

22 (17) "Sexual contact" means the intentional touching of the victim's or accused's intimate
23 parts, clothed or unclothed, if that intentional touching can be reasonably construed as intended
24 by the accused to be for the purpose of sexual arousal, gratification, or assault.

25 (18) "Sex offense" means:

26 (i) Those offenses contained in 42 U.S.C. section 16911(5) and those offenses
27 enumerated in section 11-37.4-4 of this chapter or any other covered offense under law.

28 (ii) An offense involving consensual sexual acts or contact is not a sex offense for the
29 purposes of this chapter if the victim was an adult, unless the adult was under custodial authority
30 at the time of the offense, or if the victim was thirteen (13) years of age or older and the offender
31 was not more than four (4) years older than the victim.

32 (19) "Sex offender" means a person who is or ever has been convicted of a sex offense,
33 including, but not limited to:

34 (i) A person already registered or subject to pre-existing sex offender registration

1 requirements under the state's law; or

2 (ii) A person incarcerated or under the supervision of the state, including, but not limited
3 to, serving a suspended sentence, serving a term of probation, or serving a deferred sentence,
4 whether for a covered sex offense or another crime.

5 (20) "Sex Offender Registry" means the registry of sex offenders and notification
6 program maintained by the department.

7 (21) "SMART Office" means the office of sex offender sentencing, monitoring,
8 apprehending, registering, and tracking, which was established within the United States
9 department of justice under the general authority of the attorney general of the United States
10 pursuant to 42 U.S.C. section 16945.

11 (22) "SORNA" means the Sex Offender Registration and Notification Act, Title I of the
12 Adam Walsh Child Protection and Safety Act of 2006 P.L. (109-248), 42 U.S.C. section 16911 et
13 seq., as amended.

14 (23) "State" means the state of Rhode Island.

15 (24) "Student" means a person who enrolls in or attends a private or public education
16 institution, including a secondary school, trade or professional school, or an institution of higher
17 education.

18 (25) "Tier I Sex Offender" means a sex offender that has been convicted of a "Tier I" sex
19 offense as defined in subsection 11-37.4-9(a).

20 (26) "Tier II Sex Offender" means a sex offender that has been convicted of a "Tier II"
21 sex offense as defined in subsection 11-37.4-9(b), or who is subject to the recidivist provisions of
22 subdivision 11-37.3-10(b)(1).

23 (27) "Tier III Sex Offender" means a sex offender that has been convicted of a "Tier III"
24 sex offense as defined in subsection 11-37.4-9(c), or who is subject to the recidivist provisions of
25 subdivision 11-37.3-10(c)(1)

26 **11-37.4-4. Covered offenses.** – Individuals who have been or are convicted of any of the
27 following sex offenses, or convicted of an attempt or conspiracy to commit any of the following
28 sex offenses, are subject to the requirements of this chapter:

29 (1) A conviction for any of the following state offenses:

30 (i) Section 11-37-2 (first degree sexual assault);

31 (ii) Section 11-37-4 (second degree sexual assault);

32 (iii) Section 11-37-8.1 (first degree child molestation sexual assault);

33 (iv) Section 11-37-8.3 (second degree child molestation sexual assault);

34 (v) Section 11-37-8 (assault with intent to commit first degree sexual assault);

- 1 (vi) Section 11-26-1 (kidnapping) where the victim of the offense is sixteen (16) years or
2 older and under the age of eighteen (18) years;
- 3 (vii) Section 11-26-1.4 (kidnapping of a minor);
- 4 (viii) Section 11-26-2 (kidnapping with intent to extort) where the victim of the offense is
5 sixteen (16) years or older and under the age of eighteen (18) years;
- 6 (ix) Section 11-5-1 (assault with intent to commit specified felonies) where the specified
7 felony is sexual assault;
- 8 (x) Section 11-23-1 (murder) where the victim was a minor;
- 9 (xi) Section 11-67-2 (involuntary servitude);
- 10 (xii) Section 11-67-3 (trafficking of persons for forced labor or commercial sexual
11 activity);
- 12 (xiii) Section 11-67-6 (sex trafficking of a minor);
- 13 (xiv) Section 11-26-1.5 (enticement of children) with the intent to violate sections 11-37-
14 6, 11-37-8, 11-37-8.1, or 11-37-8.3;
- 15 (xv) Subsections 11-9-1 (b) and (c) (exploitation for commercial or immoral purposes);
- 16 (xvi) Section 11-9-1.1 (child nudity prohibited in publications);
- 17 (xvii) Section 11-9-1.3 (child pornography prohibited);
- 18 (xviii) Section 11-37-8.8 (indecent solicitation of a minor);
- 19 (xix) Section 11-1-10 (soliciting an incompetent person) where the underlying offense is
20 a violation of chapter 34.1 of this title and the victim or person solicited to commit the offense is
21 a minor;
- 22 (xx) Section 11-37-6 (third degree sexual assault);
- 23 (xxi) Section 11-64-2 (video voyeurism) where the victim of the offense is under the age
24 of eighteen (18) years; or
- 25 (xxii) Section 11-37.4-19 (failure to register).
- 26 (2) A conviction for any of the following offenses and any other offense hereafter
27 included in the definition of "sex offense" at 42 U.S.C. section 16911(5);
- 28 (i) 18 U.S.C. section 1591 (sex trafficking of children);
- 29 (ii) 18 U.S.C. section 1801 (video voyeurism of a minor);
- 30 (iii) 18 U.S.C. section 2241 (aggravated sexual abuse);
- 31 (iv) 18 U.S.C. section 2242 (sexual abuse);
- 32 (v) 18 U.S.C. section 2243 (sexual abuse of a minor or ward);
- 33 (vi) 18 U.S.C. section 2244 (abusive sexual contact);
- 34 (vii) 18 U.S.C. section 2245 (offenses resulting in death);

- 1 [\(viii\) 18 U.S.C. section 2251 \(sexual exploitation of children\);](#)
- 2 [\(xv\) 18 U.S.C. section 2251A \(selling or buying of children\);](#)
- 3 [\(x\) 18 U.S.C. section 2252 \(material involving the sexual exploitation of a minor\);](#)
- 4 [\(xi\) 18 U.S.C. section 2252A \(material containing child pornography\);](#)
- 5 [\(xii\) 18 U.S.C. section 2252B \(misleading domain names on the Internet\);](#)
- 6 [\(xiii\) 18 U.S.C. section 2252C \(misleading words or digital images on the Internet\);](#)
- 7 [\(xiv\) 18 U.S.C. section 2260 \(production of sexually explicit depictions of a minor for](#)
- 8 [import into the United States\);](#)
- 9 [\(xv\) 18 U.S.C. section 2421 \(transportation of a minor for illegal sexual activity\);](#)
- 10 [\(xvi\) 18 U.S.C. section 2422 \(coercion and enticement of a minor for illegal sexual](#)
- 11 [activity\);](#)
- 12 [\(xvii\) 18 U.S.C. section 2423 \(Mann Act\);](#)
- 13 [\(xviii\) 18 U.S.C. section 2424 \(failure to file factual statement about an alien individual\);](#)
- 14 [or](#)
- 15 [\(xix\) 18 U.S.C. section 2425 \(transmitting information about a minor to further criminal](#)
- 16 [sexual conduct\).](#)
- 17 [\(3\) Any conviction for a sex offense involving any conduct listed in this chapter that was](#)
- 18 [obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the](#)
- 19 [laws of any foreign country when the United States state department in its country reports on](#)
- 20 [human rights practices has concluded that an independent judiciary generally or vigorously](#)
- 21 [enforced the right to a fair trial in that country during the year in which the conviction occurred.](#)
- 22 [\(4\) Any conviction for any military offense specified by the secretary of defense under](#)
- 23 [section 115\(a\)\(8\)\(C\)\(i\) of Public Law 105-119, codified at 10 U.S.C. section 951 note.](#)
- 24 [\(5\) Any conviction that required a person to register as a sex offender in another](#)
- 25 [jurisdiction. This includes, but is not limited to, any conviction committed in any jurisdiction that](#)
- 26 [involved or involves;](#)
- 27 [\(i\) Any sexual act;](#)
- 28 [\(ii\) Any sexual contact;](#)
- 29 [\(iii\) Kidnapping of a minor;](#)
- 30 [\(iv\) False imprisonment of a minor;](#)
- 31 [\(v\) Solicitation to engage a minor in sexual acts or contact understood broadly to include](#)
- 32 [any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual](#)
- 33 [acts or contact;](#)
- 34 [\(vi\) Use of a minor in a sexual performance;](#)

- 1 (vii) Solicitation of a minor to practice prostitution;
2 (viii) Possession, production, or distribution of child pornography;
3 (ix) Criminal sexual acts or contact that involves physical contact with a minor or the use
4 of the Internet to facilitate or attempt such contact. This includes offenses whose elements
5 involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases
6 where the victim was a minor at the time of the offense;
7 (x) Any conduct that by its nature is a sex offense against a minor; or
8 (xi) Any offense similar to those outlined in:
9 (A) 18 U.S.C. section 1591 (sex trafficking by force, fraud or coercion);
10 (B) 18 U.S.C. section 1801 (video voyeurism of a minor);
11 (C) 18 U.S.C. section 2241 (aggravated sexual abuse);
12 (D) 18 U.S.C. section 2242 (sexual abuse);
13 (E) 18 U.S.C. section 2244 (abusive sexual contact);
14 (F) 18 U.S.C. section 2422(b) (coercing a minor to engage in prostitution); or
15 (G) 18 U.S.C. section 2423(a) (transporting a minor to engage in illicit conduct).

16 **11-37.4-5. Creation of registries.** – (a) There is hereby established a sex offender
17 registry, which the department shall have the sole responsibility to maintain and operate pursuant
18 to the provisions of this chapter. The sex offender registry shall be maintained in an electronic
19 database by the department and shall be in a form capable of electronic transmission.

20 (b) There is hereby established a public sex offender registry website, which the
21 department shall maintain and operate pursuant to the provisions of this chapter.

22 **11-37.4-6. Registry required.** – Any person who qualifies as a sex offender, as defined
23 in subdivision 11-37.4-3 (19), must register with the department if the sex offender:

- 24 (1) Is incarcerated by the state while completing any sentence for a covered sex offense,
25 regardless of whether it is the same jurisdiction as the jurisdiction of conviction, or intended
26 residence, employment or school attendance;
27 (2) Is convicted by the state for a covered sex offense;
28 (3) Resides within the state;
29 (4) Is employed within the state; or
30 (5) Is a student in any capacity within the state.

31 **11-37.4-7. Timing of registration.** – (a) A sex offender required to register with the state
32 under this chapter shall do so in the following timeframes:

- 33 (1) If convicted by the state but not incarcerated, the sex offender must appear in person
34 to register with the department within twenty-four (24) hours of sentencing for the covered sex

1 offense:

2 (2) If incarcerated by the state, whether or not convicted by the state, for a covered sex
3 offense, the sex offender must register before being released from incarceration; or

4 (3) Within twenty-four (24) hours of establishing a residence, commencing employment,
5 or becoming a student within the state, a sex offender must appear in person to register with the
6 department.

7 (b) Any person who qualifies as a sex offender under 11-37.4-3(19)(i) or (ii) must
8 register with the department. The department shall provide the sex offender notice of the duty to
9 register and shall ensure the registration of aforementioned sex offenders within the following
10 timeframe to be calculated from the effective date of this chapter:

11 (1) For tier I sex offenders, one year;

12 (2) For tier II sex offenders, one hundred and eighty (180) days; and

13 (3) For tier III sex offenders, ninety (90) days.

14 (c) The department shall ensure:

15 (1) That any sex offender incarcerated or sentenced by the state for a covered sex offense
16 completes his or her initial registration with the state;

17 (2) That the sex offender reads, or has read to him/her, and signs a form stating that the
18 duty to register has been explained to him or her and that the sex offender understands the
19 registration and notification requirements;

20 (3) That the sex offender is registered; and

21 (4) That upon entry of the sex offender's information into the registry, the information is
22 immediately forwarded to all other jurisdictions in which the sex offender is required to register
23 due to the sex offender's residency, employment, or student status.

24 **11-37.4-8. Required information.** – (a) A sex offender who is required to register with
25 the state shall provide and the department shall obtain from covered sex offenders who are
26 required to register with the state all of the following information:

27 (1) Relating to the sex offender's name:

28 (i) The sex offender's full primary given name;

29 (ii) Any and all nicknames, aliases, and pseudonyms regardless of the context in which
30 they are used; and

31 (iii) Any and all ethnic or tribal names by which the sex offender is commonly known.
32 This does not include any religious or sacred names not otherwise commonly known.

33 (2) Relating to the sex offender's date of birth:

34 (i) The sex offender's actual date of birth; and

- 1 (ii) Any other date of birth used by the sex offender.
- 2 (3) Relating to the sex offender's social security number:
- 3 (i) A valid social security number for the sex offender; and
- 4 (ii) Any social security number the sex offender has used in the past, valid or otherwise.
- 5 (4) A current digitized photograph of the sex offender. Unless the appearance of a sex
- 6 offender has not changed significantly, a digitized photograph shall be collected:
- 7 (i) Every ninety (90) days for tier III sex offenders; and
- 8 (ii) Every one hundred and eighty (180) days for tier II sex offenders; and
- 9 (iii) Every year for tier I sex offenders.
- 10 (5) An accurate description of the sex offender as follows:
- 11 (i) A physical description;
- 12 (ii) A general description of the sex offender's physical appearance or characteristics; and
- 13 (iii) Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or
- 14 tattoos.
- 15 (6) A photocopy of all of the sex offender's valid driver's licenses issued by any
- 16 jurisdiction.
- 17 (7) A photocopy of any identification card used by the sex offender.
- 18 (8) A photocopy of any passports used by the sex offender.
- 19 (9) A photocopy of any and all immigration documents used by the sex offender.
- 20 (10) Relating to the sex offender's residence:
- 21 (i) The address of each residence at which the sex offender resides or will reside; and
- 22 (ii) Any location or description that identifies where the sex offender habitually lives or
- 23 sleeps regardless of whether it pertains to a permanent residence or location otherwise identifiable
- 24 by a street or address.
- 25 (11) Relating to the sex offender's telephone numbers:
- 26 (i) Any and all landline telephone numbers;
- 27 (ii) Any and all cellular telephone numbers; and
- 28 (iii) Any and all telephone numbers and any other designations used by the sex offender
- 29 for the purposes of routing or self-identification in telephonic communications.
- 30 (12) Relating to the sex offender's Internet related activity:
- 31 (i) Any and all email addresses used by the sex offender;
- 32 (ii) Any and all Instant Message addresses and identifiers;
- 33 (iii) Any and all other designations or monitors used for self-identification in Internet
- 34 communications or postings; and

1 (iv) Any and all designations used by the sex offender for the purpose of routing or self
2 identification for the purposes of Internet communications or postings.

3 (13) Relating to all vehicles owned or operated by the sex offender for work or personal
4 use including land vehicles, aircraft, and watercraft:

5 (i) License plate numbers;

6 (ii) Registration numbers or identifiers;

7 (iii) General description of the vehicle to include color, make, model, and year; and

8 (iv) Any permanent or frequent location where any covered vehicle is kept.

9 (14) Relating to the sex offender's employment, any and all places where the sex offender
10 is employed in any means including volunteer and unpaid positions:

11 (i) The name of the sex offender's employer;

12 (ii) The address of the sex offender's employer; and

13 (iii) Similar information related to any transient or day labor employment.

14 (15) All licensing information that authorizes the sex offender to engage in an occupation
15 or carry out a trade or business.

16 (16) Relating to the sex offender's school:

17 (i) The name of each school at which the sex offender is or will be a student; and

18 (ii) The address of each school where the sex offender is or will be a student.

19 (17) Relating to the sex offender's criminal history:

20 (i) The date of all arrests;

21 (ii) The date of all convictions;

22 (iii) The sex offender's status of parole, probation, or supervised release;

23 (iv) The sex offender's registration status; and

24 (v) Any outstanding arrest warrants.

25 (18) Fingerprints and palm prints of the sex offender in a digitized format. The
26 department shall submit the sex offender's fingerprints to IAFIS and the sex offender's palmprints
27 to the FBI Central Database, Next Generation Identification Program.

28 (19) If the sex offender's DNA is not already contained in the Combined DNA Index
29 System (CODIS), the sex offender shall provide the department a sample of his/her DNA. Any
30 DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis
31 and entry of the resulting DNA profile into CODIS.

32 (20) The department shall obtain the text of each provision of law defining the criminal
33 offense(s) for which the sex offender is registered.

34 (21) When the sex offender will be absent from his/her residence for seven (7) days or

1 more:

2 (i) Identifying information of the temporary lodging locations including addresses and
3 names; and

4 (ii) The dates the sex offender will be staying at each temporary lodging location.

5 (22) In the event the sex offender will be traveling outside of the United States, the sex
6 offender must notify the department at least twenty-one (21) days in advance of the travel date
7 and provide any necessary information regarding his/her international travel. Upon notification of
8 a sex offender's intention to travel internationally, the department shall immediately notify and
9 provide the sex offender's travel information to INTERPOL.

10 (23) A signed copy of the sex offenders notice of registration and notification obligations
11 as provided in subdivision 11-37.4-7(c)(2).

12 (b) The department shall maintain all information obtained under this chapter in a
13 digitized format.

14 **11-37.4-9. Tiered offenses. – (a) A tier I offense includes:**

15 (1) Any sex offense for which a person has been convicted that is not a tier II or tier III
16 offense;

17 (2) A conviction for any of the following state offenses:

18 (i) Section 11-64-2 (video voyeurism) where the victim of the offense is under the age of
19 eighteen (18) years; or

20 (ii) Section 11-37.4-18 (failure to register);

21 (3) A conviction for any of the following federal offenses:

22 (i) 18 U.S.C. section 1801 (video voyeurism of a minor);

23 (ii) 18 U.S.C. section 2252 (receipt or possession of child pornography);

24 (iii) 18 U.S.C. section 2252A (receipt or possession of child pornography);

25 (iv) 18 U.S.C. section 2252B (misleading domain names on the Internet);

26 (v) 18 U.S.C. section 2252C (misleading words or digital images on the Internet);

27 (vi) 18 U.S.C. section 2423(b) (travel with the intent to engage in illicit conduct)

28 (vii) 18 U.S.C. section 2423(c) (engaging in illicit conduct in foreign places);

29 (viii) 18 U.S.C. section 2424 (failure to file factual statement about an alien individual);

30 or

31 (ix) 18 U.S.C. section 2425 (transmitting information about a minor to further criminal
32 sexual conduct);

33 (4) Any offense for which a person has been convicted by any jurisdiction, local
34 government, or qualifying foreign country pursuant to section 11-37.4-4 that involves the false

1 imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child
2 pornography; or

3 (5) Any military offense specified by the Secretary of Defense under section
4 115(a)(8)(C)(i) of Public Law 105-119, codified at 10 U.S.C. section 951 note, that is similar to
5 those offenses outlined in subsections (1), (2), (3), or (4).

6 (b) A tier II offense includes any one of the following:

7 (1) Unless otherwise covered by subsection (c), any sex offense where the offender has at
8 least one prior conviction for a tier I offense, or has become a tier I sex offender;

9 (2) A conviction for any of the following state offenses:

10 (i) Section 11-37-4 (second degree sexual assault) where the victim is seventeen (17)
11 years of age or older;

12 (ii) Section 11-67-2 (involuntary servitude);

13 (iii) Section 11-67-3 (trafficking of persons for forced labor or commercial sexual
14 activity);

15 (iv) Section 11-67-6 (sex trafficking of a minor);

16 (v) Section 11-26-1.5 (enticement of children) with the intent to violate section 11-37-6,
17 11-37-8, 11-37-8.1, 11-37-8.3;

18 (vi) Subsections 11-9-1(b) and (c) (exploitation for commercial or immoral purposes);

19 (vii) Section 11-9-1.1 (child nudity prohibited in publications);

20 (viii) Section 11-9-1.3 (child pornography prohibited)

21 (ix) Section 11-37-8.8 (indecent solicitation of a minor); or

22 (x) Section 11-1-10 (soliciting an incompetent person) where the underlying offense is a
23 violation of chapter 34.1 of this title and the victim or person solicited to commit the offense is
24 under the age of eighteen (18);

25 (3) A conviction for any of the following federal offenses:

26 (i) 18 U.S.C. section 1591 (sex trafficking by force, fraud, or coercion);

27 (ii) 18 U.S.C. section 2243 (sexual abuse of a minor or ward);

28 (iii) 18 U.S.C. section 2244 (abusive sexual contact, where the victim is thirteen (13)
29 years of age or older);

30 (iv) 18 U.S.C. section 2251 (sexual exploitation of children);

31 (v) 18 U.S.C. section 2251A (selling or buying of children);

32 (vi) 18 U.S.C. section 2252 (material involving the sexual exploitation of a minor);

33 (vii) 18 U.S.C. section 2252A (production or distribution of material containing child
34 pornography);

1 (viii) 18 U.S.C. section 2260 (production of sexually explicit depictions of a minor for
2 import into the United States);

3 (ix) 18 U.S.C. section 2421 (transportation of a minor for illegal sexual activity);
4 (x) 18 U.S.C. section 2422(a) (coercion to engage in prostitution);
5 (xi) 18 U.S.C. section 2422(b) (coercing a minor to engage in prostitution); or
6 (xii) 18 U.S.C. section 2423(a) (transporting a minor to engage in illicit conduct);
7 (4) Any sex offense against a minor for which a person has been convicted, or an attempt
8 or conspiracy to commit such an offense, that involves:

9 (i) The use of minors in prostitution, including solicitations;
10 (ii) Enticing a minor to engage in criminal sexual activity;
11 (iii) Sexual contact with a minor thirteen (13) years of age or older, whether directly or
12 indirectly through the clothing, that involves the intimate parts of the body;

13 (iv) The use of a minor in a sexual performance; or
14 (v) The production or distribution of child pornography.

15 (5) Any military offense specified by the Secretary of Defense under section
16 115(a)(8)(C)(i) of public law 105-119, codified at 10 U.S.C. section 951 note, that is similar to
17 those offenses outlined in subsections (1), (2), (3), or (4).

18 (c) A tier III offense includes any one of the following:

19 (1) A sex offense where the offender has at least one prior conviction for a tier II sex
20 offense, or has previously become a tier II sex offender;

21 (2) A conviction for any of the following state offenses:

22 (i) Section 11-37-2 (first degree sexual assault);
23 (ii) Section 11-37-4 (second degree sexual assault) where the victim is sixteen (16) years
24 of age or younger;

25 (iii) Section 11-37-6 (third degree sexual assault);
26 (iv) Section 11-37-8.1 (first degree child molestation sexual assault);
27 (v) Section 11-37-8.3 (second degree child molestation sexual assault);
28 (vi) Section 11-37-8 (assault with intent to commit first degree sexual assault);
29 (vii) Section 11-26-1 (kidnapping) where the victim of the offense is sixteen (16) years or
30 older and under the age of eighteen (18) years;

31 (viii) Section 11-26-1.4 (kidnapping of a minor);
32 (ix) Section 11-26-2 (kidnapping with intent to extort) where the victim of the offense is
33 sixteen (16) years or older and under the age of eighteen (18) years;

34 (x) Section 11-5-1 (assault with intent to commit specified felonies) where the specified

1 felony is sexual assault; or
2 (xi) Section 11-23-1 (murder) where the victim was a minor;
3 (3) A conviction for any of the following federal offenses:
4 (i) 18 U.S.C. section 2241 (aggravated sexual abuse);
5 (ii) 18 U.S.C. section 2242 (sexual abuse); or
6 (iii) Where the victim is twelve (12) years of age or younger, 18 U.S.C. section 2244
7 (abusive sexual contact);
8 (4) Any sex offense that involves:
9 (i) Non-parental kidnapping of a minor;
10 (ii) A sexual act; or
11 (iii) Sexual contact with a minor twelve (12) years of age or younger, including offenses
12 that cover sexual touching of or contact with the intimate parts of the body, either directly or
13 through the clothing;
14 (5) Any military offense specified by the Secretary of Defense under section
15 115(a)(8)(C)(i) of public law 105-119, codified at 10 U.S.C. section 951 note, that is similar to
16 those offenses outlined in subsections (1), (2), (3), or (4).
17 **11-37.4-10. Duration of registration and frequency of verification. – (a) A sex**
18 **offender who is required to register shall, at a minimum, appear in person at the department for**
19 **purposes of verification and keeping his or her registration current in accordance with the**
20 **following time frames:**
21 (1) For tier I offenders, once every year for fifteen (15) years from the expiration of his or
22 her sentence for the covered sex offense;
23 (2) For tier II offenders, once every one hundred eighty (180) days for twenty-five (25)
24 years from the expiration of his or her sentence for the covered sex offense; and
25 (3) For tier III offenders, once every ninety (90) days for the rest of their lives.
26 (b) At each in-person verification:
27 (1) The sex offender shall permit the department to take a photograph of the offender;
28 (2) The sex offender shall review existing information for accuracy and correct any
29 inaccurate information; and
30 (3) If any new information or change in information is obtained at the in-person
31 verification, the department shall immediately notify all other jurisdictions in which the sex
32 offender is required to register the information or change in information.
33 (c) Where, during the period in which the sex offender is required to register, the sex
34 offender required to register under this chapter is incarcerated or re-incarcerated for any offense

1 or is civilly committed, the sex offender's registration requirements shall be tolled during the
2 subsequent incarceration, re-incarceration or commitment. The sex offenders' duty to register
3 shall resume upon release in accordance with 11-37.4-7(a)(2).

4 **11-37.4-11. Reduction of registration periods.** – (a) A sex offender may have his or her
5 period of registration reduced as follows:

6 (1) A tier I offender may have his or her period of registration reduced to ten (10) years if
7 he or she has maintained a clean record for ten (10) consecutive years; or

8 (2) A tier III offender may have his or her period of registration reduced to twenty-five
9 (25) years if he or she was adjudicated delinquent of an offense as a juvenile that required tier III
10 registration and he or she has maintained a clean record for twenty-five (25) consecutive years.

11 (b) A sex offender may file a motion for a reduction of his or her registration period by
12 filing a motion in the court where the conviction for the covered sex offense took place in
13 accordance with the time frames in subsection (a).

14 (c) A sex offender filing a motion for a reduction of his or her registration period shall
15 give notice of the hearing date set by the court to the department and the department of attorney
16 general at least ten (10) days prior to that date.

17 (d) The court, after a hearing at which all relevant testimony and information shall be
18 considered may in its discretion order the reduction of the registration period of the sex offender
19 filing the motion if it finds that the sex offender has kept a clean record in accordance with the
20 time frames in subsection (a).

21 (e) For the purposes of this section, a sex offender has a clean record if:

22 (1) He or she has not been convicted of any offense for which imprisonment for more
23 than one year may be imposed;

24 (2) He or she has not been convicted of any sex offense;

25 (3) He or she has successfully completed, without revocation, any period of supervised
26 release, probation, or parole; and

27 (4) He or she has successfully completed an appropriate sex offender treatment program
28 certified by the state, another jurisdiction, or by the attorney general of the United States.

29 (f) If the court grants the motion, it shall send a copy of the order to the department and
30 the department of attorney general.

31 **11-37.4-12. Keeping registration current.** – (a) All sex offenders required to register
32 with the state shall immediately appear in person at the department to update any changes to their
33 name, residence, employment, or school attendance, including termination of residency,
34 employment or school attendance.

1 (b) All sex offenders required to register with the state shall immediately notify the
2 department of any changes to their temporary lodging information, vehicle information, Internet
3 identifiers, or telephone numbers. In the event of a change in temporary lodging, the sex offender
4 and the department shall immediately notify the jurisdiction in which the sex offender will be
5 temporarily staying.

6 (c) With regard to changes in a sex offender's registration information, the department
7 shall immediately notify:

8 (1) All jurisdictions where a sex offender was required to register prior to the updated
9 information being given;

10 (2) All jurisdictions where a sex offender intends to reside, work, or attend school;

11 (3) All jurisdictions where the sex offender is either registered or required to register;

12 (4) Specifically, with respect to information relating to a sex offender's intent to
13 commence residence, school, or employment outside of the United States, any jurisdiction where
14 the sex offender is either registered or required to register, and the U.S. marshals service; and

15 (5) The NSOR.

16 **11-37.4-13. Public sex offender registry website.** – (a) The department shall use and
17 maintain a public sex offender registry website.

18 (b) The registry website shall have the capability of conducting searches by name,
19 county, city, and/or town; and zip code and/or geographic radius.

20 (c) The registry website shall include:

21 (1) Links to sex offender safety and education resources;

22 (2) Instructions on how a person can seek correction of information that the individual
23 contends is erroneous;

24 (3) A warning that the information contained on the website should not be used to
25 unlawfully injure, harass, or commit a crime against any individual named in the registry or
26 residing or working at any reported addresses and that any such action could result in civil or
27 criminal penalties; and

28 (4) All field search capabilities needed for full participation in the Dru Sjodin National
29 Sex Offender Public website and shall participate in that website as provided by the attorney
30 general of the United States.

31 **11-37.4-14. Required and prohibited website information.** – (a) The following
32 information shall be made available to the public on the sex offender registry website:

33 (1) Notice that an offender is in violation of his or her registration requirements or cannot
34 be located if the sex offender has absconded;

- 1 (2) All sex offenses for which the sex offender has been convicted;
- 2 (3) The sex offense(s) for which the offender is currently registered;
- 3 (4) The address of the sex offender's employer(s);
- 4 (5) The name of the sex offender including all aliases;
- 5 (6) A current photograph of the sex offender;
- 6 (7) A physical description of the sex offender;
- 7 (8) The residential address and, if relevant, a description of a location where the sex
- 8 offender habitually lives or sleeps;
- 9 (9) All addresses of schools attended by the sex offender; and
- 10 (10) The sex offender's vehicle license plate number along with a description of the
- 11 vehicle.
- 12 (b) The following information shall not be available to the public on the sex offender
- 13 registry website:
- 14 (1) Any arrest that did not result in conviction;
- 15 (2) The sex offender's social security number;
- 16 (3) Any travel and immigration documents;
- 17 (4) The identity of the victim;
- 18 (5) Internet identifiers (as defined in 42 U.S.C. section 16911); and
- 19 (6) Any information of a sex offender who was adjudicated delinquent of a sex offense.
- 20 (c) For sex offenders who are under a witness protection program, the department may
- 21 honor the request of the United States marshals service or other agency responsible for witness
- 22 protection by not including the original identity of the offender on the publicly accessible sex
- 23 offender registry website.
- 24 **11-37.4-15. Community notification. – (a) Whenever a sex offender initially registers or**
- 25 **updates his or her information with the state, the department shall immediately notify:**
- 26 (1) Any and all other registration jurisdictions where the sex offender is registered due to
- 27 the sex offender's residency, school attendance, or employment;
- 28 (2) The FBI or other federal agencies as designated by the United States attorney general
- 29 in order that the information may be updated on NSOR or other relevant databases;
- 30 (3) Any agency, department, or program within the state that is responsible for criminal
- 31 investigation, prosecution, child welfare or sex offender supervision functions; and
- 32 (4) National Child Protection Act agencies, which includes any agency responsible for
- 33 conducting employment-related background checks under section 3 of the National Child
- 34 Protection Act of 1993, 42 U.S.C. section 5119a.

1 (b) The department shall ensure there is an automated community notification process in
2 place that ensures the following:

3 (1) Upon a sex offender's initial registration or update of information with the state, the
4 state's public sex offender registry website is immediately updated; and

5 (2) The state's public sex offender registry has a function that enables the general public
6 to request an email notice that will notify them when a sex offender commences residence,
7 employment, or school attendance within the state, within a specified zip code, or within a certain
8 geographic radius. This email notice shall include the sex offender's identity so that the public
9 can access the public registry for the new information.

10 (c) The notification requirements of subdivisions (a)(4) and (b)(2) do not apply to sex
11 offenders who were adjudicated delinquent of a sex offense.

12 (d) Notwithstanding the aforementioned notification requirements, the department and
13 local law enforcement agencies where the sex offender resides, is employed or attends school,
14 may utilize other forms of community notification consistent with the provisions and intent of this
15 chapter.

16 **11-37.4-16. Failure to appear for registration.** – (a) In the event a sex offender fails to
17 register or fails to verify or update their registration information with the state, the department
18 shall immediately inform the local law enforcement agency of the city or town where the sex
19 offender resides, is employed or attends school and/or the jurisdiction that provided notification
20 that the sex offender was to commence residency, employment, or school attendance with the
21 state, that the sex offender failed to appear for registration or failed to update his or her
22 registration information.

23 (b) Upon notification by the state, the local law enforcement agency where the sex
24 offender resides, is employed or attends school, shall:

25 (1) Make an effort to determine if the sex offender is actually residing, employed or
26 attending school within their city or town; and

27 (2) Seek a warrant for the sex offender's arrest for failing to register or verify or update
28 their registration in compliance with this chapter. The U.S. marshals service or FBI may be
29 contacted in an attempt to obtain a federal warrant for the sex offender's arrest.

30 (c) The department shall update the registry to reflect that the sex offender is not in
31 compliance with his or her duty to register.

32 **11-37.4-17. Absconding.** – (a) If the department receives information that a sex offender
33 has absconded or local law enforcement cannot determine whether the sex offender is actually
34 residing, employed or attending school in a city or town using the measures outlined in subsection

1 11-37.4-17 (b), the department, with the assistance of local law enforcement, shall make an effort
2 to determine if the sex offender has actually absconded.

3 (b) If the information indicating the possible absconding came through notice from
4 another jurisdiction or federal authorities, they shall be informed that the sex offender has failed
5 to appear and register.

6 (c) If an absconded sex offender cannot be located then the department shall take the
7 following steps:

8 (1) Update the registry to reflect the sex offender has absconded or is otherwise not
9 capable of being located;

10 (2) Notify the local law enforcement agency where the sex offender resides, so the local
11 law enforcement agency can seek a warrant for the sex offender's arrest.

12 (3) Notify the U.S. marshals service or FBI so they may attempt, if necessary, to obtain a
13 federal warrant for the sex offender's arrest;

14 (4) Update the NSOR to reflect the sex offender's status as an absconder, or is otherwise
15 not capable of being located; and

16 (5) Enter the sex offender into the National Crime Information Center Wanted Person
17 file.

18 **11-37.4-18. Crimes and civil sanctions.** – (a) Any person who is required to register
19 under this chapter who knowingly fails to comply with any of the provisions provided herein
20 shall be guilty of a felony and subject to imprisonment for not more than ten (10) years, or fined
21 not more than ten thousand dollars (\$10,000), or both.

22 (b) Any person who is required to register under this chapter who knowingly fails to
23 comply with any of the provisions provided herein shall be in violation of the terms of his or her
24 release, regardless of whether or not the term was a special condition of his or her release on
25 probation, parole or home confinement or other form of supervised release.

26 (c) Any person who is required to register or verify his or her address, who knowingly
27 resides within three hundred feet (300') of any school, public or private, shall be guilty of a felony
28 and upon conviction may be imprisoned for not more than five (5) years, or fined not more than
29 five thousand dollars (\$5,000) or both.

30 **11-37.4-19. Hindrance of sex offender registration.** – (a) It shall be unlawful to
31 knowingly harbor or knowingly attempt to harbor, or knowingly assist another person in
32 harboring or attempting to harbor a sex offender who is in violation of this chapter or knowingly
33 assists a sex offender in eluding a law enforcement agency that is seeking to find the sex offender
34 to question the sex offender about, or to arrest the sex offender for noncompliance with the

1 requirements of this chapter; or provides information to a law enforcement agency regarding a
2 sex offender which the person knows to be false.

3 (b) Those found in violation of subsection (a) shall be guilty of a felony and subject to
4 imprisonment for not more than ten (10) years, or fined not more than ten thousand dollars
5 (\$10,000), or both.

6 **11-37.4-20. No subrogation of local law enforcement.** – Notwithstanding the provisions
7 of this chapter, local law enforcement agencies within the state shall have the authority provided
8 by law to enforce the provisions of this chapter, including, but not limited to, residency
9 verification checks. Local law enforcement agencies shall be under no duty to register sex
10 offenders as provided by this chapter.

11 **11-37.4-21. Rules and regulations for community notification.** – (a) The department
12 shall promulgate rules and regulations to implement the provisions required in this chapter.

13 **11-37.4-22. Immunity.** – Any person acting under good faith pursuant to this chapter
14 shall be immune from any civil liability arising out of such actions.

15 **11-37.4-23. Severability.** – If any provision of this chapter or its application to any
16 person or circumstance is held invalid or unconstitutional, the invalidity or unconstitutionality
17 shall not affect other provisions or applications of this chapter which can be given effect without
18 the invalid or unconstitutional provision or application, and to this end the provisions of this
19 chapter are declared to be severable.

20 SECTION 3. Section 2 shall take effect upon passage. Sections 1 and 3 shall take effect
21 on July 1, 2014, and shall apply to all persons who are or have been convicted of a sex offense
22 and are required to register as a sex offender as provided by this act.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL OFFENSES - SEXUAL OFFENDER REGISTRATION AND
COMMUNITY NOTIFICATION

1 This act would repeal the state sexual offender registration and community notification,
2 and would adopt the federal sex offender registration and notification act (SORNA) (Title 1 of
3 public law 109-248) in its place.

4 Section 2 would take effect upon passage. Sections 1 and 3 would take effect on July 1,
5 2014 and would apply to all persons who are convicted of a sex offense and are required to
6 register as a sex offender as provided by this act.

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