

1 SB362
2 148965-5
3 By Senators Figures, Fielding, Smith, Brewbaker, Ward, Orr,
4 Smitherman, Ross, Sanders, Beasley, Coleman, Irons, Dunn,
5 Bedford, Holley and Singleton
6 RFD: Judiciary
7 First Read: 14-MAR-13

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8 SYNOPSIS: This bill would make technical revisions to
9 the Alabama Sex Offender Registration and Community
10 Notification Act and would update internal
11 citations in various sections of the Code of
12 Alabama 1975 to reflect the appropriate section
13 under current law.

14 This bill would clarify that a petition for
15 relief from registration, employment, or living
16 restrictions must be filed in the civil division of
17 the circuit court.

18 The bill would provide a penalty for a sex
19 offender who absconds and fails to register in the
20 county where the sex offender declared intent to
21 reside.

22 This bill would require a sex offender to
23 provide to law enforcement a list of all Internet
24 providers used by the sex offender.

25 Amendment 621 of the Constitution of Alabama
26 of 1901, now appearing as Section 111.05 of the
27 Official Recompilation of the Constitution of

1 Alabama of 1901, as amended, prohibits a general
2 law whose purpose or effect would be to require a
3 new or increased expenditure of local funds from
4 becoming effective with regard to a local
5 governmental entity without enactment by a 2/3 vote
6 unless: it comes within one of a number of
7 specified exceptions; it is approved by the
8 affected entity; or the Legislature appropriates
9 funds, or provides a local source of revenue, to
10 the entity for the purpose.

11 The purpose or effect of this bill would be
12 to require a new or increased expenditure of local
13 funds within the meaning of the amendment. However,
14 the bill does not require approval of a local
15 governmental entity or enactment by a 2/3 vote to
16 become effective because it comes within one of the
17 specified exceptions contained in the amendment.

18
19 A BILL

20 TO BE ENTITLED

21 AN ACT

22
23 Relating to sex offender registration, to amend
24 Sections 12-15-107, 12-15-116, 13A-5-2, 13A-5-6, 14-9-41,
25 15-18-8, 15-19-7, 15-20A-4, 15-20A-5, 15-20A-6, 15-20A-7,
26 15-20A-9, 15-20A-11, 15-20A-14, 15-20A-16, 15-20A-18,
27 15-20A-21, 15-20A-22, 15-20A-23, 15-20A-24, 15-20A-25,

1 15-20A-26, 15-20A-28, 15-20A-29, 15-20A-32, 15-20A-34,
2 15-20A-35, 15-20A-37, 15-20A-39, 15-20A-40, 15-20A-43,
3 15-20A-45, 15-20A-46, 15-22-27.3, 32-6-49.24, 36-18-24, and
4 36-18-25 and Sections 38-13-2 and 38-13-4, as last amended by
5 Act 2012-55, 2012 Regular Session, Code of Alabama 1975, to
6 make technical revisions to the Alabama Sex Offender
7 Registration and Community Notification Act; to update
8 internal citations to reflect the appropriate section of the
9 current registration and community notification law; to
10 clarify that petitions for relief from registration,
11 employment, or living restrictions must be filed in the civil
12 division of the circuit court; to provide a penalty for a sex
13 offender who absconds and fails to register with the county
14 where he or she declared intent to reside; and to require a
15 sex offender to provide law enforcement with a list of all
16 Internet providers used by the sex offender; and in connection
17 therewith to have as its purpose or effect the requirement of
18 a new or increased expenditure of local funds within the
19 meaning of Amendment 621 of the Constitution of Alabama of
20 1901, now appearing as Section 111.05 of the Official
21 Recompilation of the Constitution of Alabama of 1901, as
22 amended.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 12-15-107, 12-15-116, 13A-5-2,
25 13A-5-6, 14-9-41, 15-18-8, 15-19-7, 15-20A-4, 15-20A-5,
26 15-20A-6, 15-20A-7, 15-20A-9, 15-20A-11, 15-20A-14, 15-20A-16,
27 15-20A-18, 15-20A-21, 15-20A-22, 15-20A-23, 15-20A-24,

1 15-20A-25, 15-20A-26, 15-20A-28, 15-20A-29, 15-20A-32,
2 15-20A-34, 15-20A-35, 15-20A-37, 15-20A-39, 15-20A-40,
3 15-20A-43, 15-20A-45, 15-20A-46, 15-22-27.3, 32-6-49.24,
4 36-18-24, and 36-18-25 and Sections 38-13-2 and 38-13-4, as
5 last amended by Act 2012-55, 2012 Regular Session, Code of
6 Alabama 1975, are amended to read as follows:

7 "§12-15-107.

8 "(a) For the purpose of carrying out the objectives
9 and purposes of this chapter and subject to the limitations of
10 this chapter or imposed by the juvenile court, a juvenile
11 probation officer shall perform the following duties:

12 "(1) Make investigations, reports, and
13 recommendations to the juvenile court.

14 "(2) Serve as a juvenile court intake officer when
15 designated by the juvenile court judge.

16 "(3) Supervise and assist a child placed on
17 probation or aftercare by order of the juvenile court or other
18 authority of law until the terms of probation or aftercare
19 expire or are otherwise terminated.

20 "(4) Make appropriate referrals to other private or
21 public departments or agencies of the community if their
22 assistance appears to be needed or desirable.

23 "(5) Make predisposition studies and submit reports
24 and recommendations to the juvenile court as required by this
25 chapter.

26 "(6) Collect and compile statistical data and file
27 reports as may be required by the Administrative Director of

1 Courts pursuant to subdivision (1) of Section 12-5-10. The
2 reports may include, but shall not be limited to, statistical
3 data, case studies, and research materials.

4 "(7) Notify the state and either the parent, legal
5 guardian, or legal custodian of a juvenile ~~criminal~~ sex
6 offender, or the child's attorney for the juvenile ~~criminal~~
7 sex offender, of the pending release of the juvenile sex
8 offender and provide them with a copy of the risk assessment
9 pursuant to subsection ~~(b)~~ (c) of Section ~~15-20-28~~ 15-20A-26.

10 "(8) Perform other functions as are designated by
11 this chapter or directed by the juvenile court.

12 "(b) For the purposes of this chapter, a juvenile
13 probation officer with the approval of the juvenile court,
14 shall have the power to take into custody and place in shelter
15 or detention, subject to Section 12-15-208, a child who is on
16 probation or aftercare under his or her supervision when the
17 juvenile probation officer has reasonable cause to believe
18 that the child has violated the conditions of his or her
19 probation or aftercare, or that he or she may flee from the
20 jurisdiction of the juvenile court. A juvenile probation
21 officer does not have the powers of a law enforcement officer.

22 "§12-15-116.

23 "(a) A juvenile court shall have exclusive original
24 jurisdiction to try any individual committing any of the
25 following offenses while 18 years of age or older:

1 "(1) Contributing to the delinquency, in need of
2 supervision, or dependency of a child in violation of Section
3 12-15-111.

4 "(2) Opposing or interfering with a juvenile
5 probation officer or a representative of the Department of
6 Human Resources in violation of Section 12-15-112.

7 "(3) Violating any of the confidentiality provisions
8 of Sections 12-15-133, 12-15-134, 12-15-135, or 12-15-217.

9 "(4) Nonsupport in violation of Section 13A-13-4.

10 "(5) Violating any of the juvenile ~~criminal~~ sex
11 offender provisions of Section ~~15-20-28(g)(1)~~ 15-20A-27(b)(1).

12 "(6) Violating any of the provisions of the
13 compulsory school attendance laws in Section 16-28-12.

14 "(b) All criminal cases before the juvenile court
15 shall be governed by the laws relating thereto and shall be
16 initiated by complaint made before a judge or magistrate
17 according to criminal procedure.

18 "§13A-5-2.

19 "(a) Every person convicted of a felony shall be
20 sentenced by the court to imprisonment for a term authorized
21 by Sections 13A-5-6, 13A-5-9, and 13A-5-10.

22 "(b) In addition to imprisonment, every person
23 convicted of a felony may be sentenced by the court to pay a
24 fine authorized by Section 13A-5-11.

25 "(c) Every person convicted of a misdemeanor or
26 violation shall be sentenced by the court to:

1 "(1) Imprisonment for a term authorized by Section
2 13A-5-7; or

3 "(2) Pay a fine authorized by Section 13A-5-12; or

4 "(3) Both such imprisonment and fine.

5 "(d) Every person convicted of a felony,
6 misdemeanor, or violation, except for the commission of a
7 ~~criminal~~ sex offense involving a child as defined in Section
8 ~~15-20-21(5)~~ 15-20A-4(26), may be placed on probation as
9 authorized by law.

10 "(e) This article does not deprive a court of
11 authority conferred by law to forfeit property, dissolve a
12 corporation, suspend or cancel a license or permit, remove a
13 person from office, cite for contempt, or impose any other
14 lawful civil penalty. Such a judgment, order, or decree may be
15 included as part of the sentence.

16 "(f) Every person convicted of murder shall be
17 sentenced by the court to imprisonment for a term, or to death
18 or to life imprisonment without parole as authorized by
19 subsection (c) of Section 13A-6-2.

20 "§13A-5-6.

21 "(a) Sentences for felonies shall be for a definite
22 term of imprisonment, which imprisonment includes hard labor,
23 within the following limitations:

24 "(1) For a Class A felony, for life or not more than
25 99 years or less than 10 years.

26 "(2) For a Class B felony, not more than 20 years or
27 less than 2 years.

1 "(3) For a Class C felony, not more than 10 years or
2 less than 1 year and 1 day.

3 "(4) For a Class A felony in which a firearm or
4 deadly weapon was used or attempted to be used in the
5 commission of the felony, or a Class A felony ~~criminal~~ sex
6 offense involving a child as defined in Section ~~15-20-21(5)~~
7 15-20A-4(26), not less than 20 years.

8 "(5) For a Class B or C felony in which a firearm or
9 deadly weapon was used or attempted to be used in the
10 commission of the felony, or a Class B felony ~~criminal~~ sex
11 offense involving a child as defined in Section ~~15-20-21(5)~~
12 15-20A-4(26), not less than 10 years.

13 "(b) The actual time of release within the
14 limitations established by subsection (a) of this section
15 shall be determined under procedures established elsewhere by
16 law.

17 "(c) In addition to any penalties heretofore or
18 hereafter provided by law, in all cases where an offender is
19 designated as a sexually violent predator pursuant to Section
20 ~~15-20-25.3~~ 15-20A-19, or where an offender is convicted of a
21 Class A felony ~~criminal~~ sex offense involving a child as
22 defined in Section ~~15-20-21(5)~~ 15-20A-4(26), and is sentenced
23 to a county jail or the Alabama Department of Corrections, the
24 sentencing judge shall impose an additional penalty of not
25 less than 10 years of post-release supervision to be served
26 upon the defendant's release from incarceration.

1 "(d) In addition to any penalties heretofore or
2 hereafter provided by law, in all cases where an offender is
3 convicted of a sex offense pursuant to Section 13A-6-61,
4 13A-6-63, or 13A-6-65.1, when the defendant was 21 years of
5 age or older and the victim was six years of age or less at
6 the time the offense was committed, the defendant shall be
7 sentenced to life imprisonment without the possibility of
8 parole.

9 "§14-9-41.

10 "(a) Each prisoner who shall hereafter be convicted
11 of any offense against the laws of the State of Alabama and is
12 confined, in execution of the judgment or sentence upon any
13 conviction, in the penitentiary or at hard labor for the
14 county or in any municipal jail for a definite or
15 indeterminate term, other than for life, whose record of
16 conduct shows that he has faithfully observed the rules for a
17 period of time to be specified by this article may be entitled
18 to earn a deduction from the term of his sentence as follows:

19 "(1) Seventy-five days for each 30 days actually
20 served while the prisoner is classified as a Class I prisoner.

21 "(2) Forty days for each 30 days actually served
22 while the prisoner is a Class II prisoner.

23 "(3) Twenty days for each 30 days actually served
24 while the prisoner is a Class III prisoner.

25 "(4) No good time shall accrue during the period the
26 prisoner is classified as a Class IV prisoner.

1 "(b) Within 90 days after May 19, 1980, the
2 Commissioner of the Department of Corrections shall establish
3 and publish in appropriate directives certain criteria not in
4 conflict with this article for Class I, II, III, and IV
5 prisoner classifications. Such classifications shall encompass
6 consideration of the prisoner's behavior, discipline, and work
7 practices and job responsibilities.

8 "(c) (1) Class I is set aside for those prisoners who
9 are considered to be trustworthy in every respect and who, by
10 virtue of their work habits, conduct, and attitude of
11 cooperation have proven their trustworthiness. An example of a
12 Class I inmate would be one who could work without constant
13 supervision by a security officer.

14 "(2) Class II is that category of prisoners whose
15 jobs will be under the supervision of a correctional employee
16 at all times. Any inmate shall remain in this classification
17 for a minimum period of six months before being eligible for
18 Class I.

19 "(3) Class III is for prisoners with special
20 assignments. They may not receive any of the privileges of
21 Class I and Class II inmates. Any inmate shall remain in this
22 classification for a minimum period of three months before
23 being eligible for Class II.

24 "(4) Class IV is for prisoners not yet classified
25 and for those who are able to work and refuse, or who commit
26 disciplinary infractions of such a nature which do not warrant
27 a higher classification, or inmates who do not abide by the

1 rules of the institution. Inmates who are classified in this
2 earning class receive no correctional incentive time. This
3 class is generally referred to as "flat time" or
4 "day-for-day." Any inmate shall remain in this classification
5 for a minimum period of 30 days before being eligible for
6 Class III.

7 "(5) No inmate may reach any class without first
8 having gone through and meeting the requirements of all lower
9 classifications.

10 "(d) As a prisoner gains a higher classification
11 status he shall not be granted retroactive incentive credit
12 based on the higher classification he has reached, but shall
13 be granted incentive credit based solely on the classification
14 in which he was serving at the time the incentive credit was
15 earned. Nothing in this article shall be interpreted as
16 authorizing an inmate incentive credits based on the highest
17 classification he attains for any period of time in which he
18 was serving in a lower classification or from the date of his
19 sentence.

20 "(e) Provided, however, no person may receive the
21 benefits of correctional incentive time if he or she has been
22 convicted of a Class A felony or has been sentenced to life,
23 or death, or who has received a sentence for more than 15
24 years in the state penitentiary or in the county jail at hard
25 labor or in any municipal jail. No person may receive the
26 benefits of correctional incentive time if he or she has been
27 convicted of a ~~criminal~~ sex offense involving a child as

1 defined in Section ~~15-20-21(5)~~ 15-20A-4(26). No person may be
2 placed in Class I if he or she has been convicted of an
3 assault where the victims of such assault suffered the
4 permanent loss or use or permanent partial loss or use of any
5 bodily organ or appendage. No person may be placed in Class I
6 if he or she has been convicted of a crime involving the
7 perpetration of sexual abuse upon the person of a child under
8 the age of 17 years.

9 "The court sentencing a person shall note upon the
10 transcript to accompany such prisoner the fact that he or she
11 has been sentenced as a result of a crime that forbids his or
12 her being classified as a Class I prisoner.

13 "(f) (1) If during the term of imprisonment a
14 prisoner commits an offense or violates a rule of the
15 Department of Corrections, all or any part of his correctional
16 incentive time accrued pursuant to this section shall be
17 forfeited.

18 "(2) The Commissioner of the Department of
19 Corrections shall have the power to restore to any prisoner
20 who has heretofore, or who may hereafter, forfeit the
21 deductions allowed him or her for good behavior, work habits
22 and cooperation, or good conduct, by violating any existing
23 law or prison rule or regulation such portion of his deduction
24 for good conduct or good behavior as may be proper in his
25 judgment, upon recommendation and evidence submitted to him by
26 the warden in charge.

1 "(g) (1) When a prisoner is serving two or more terms
2 of imprisonment and the sentences run consecutively, then all
3 such sentences shall be combined for the purpose of computing
4 deductions for correctional incentive time and release date;
5 however, the actual deduction from sentence for correctional
6 incentive time provided by this section shall apply only to
7 sentences to be served.

8 "(2) When a prisoner is serving two or more
9 sentences which run concurrently, the sentence which results
10 in the longer period of incarceration yet remaining shall be
11 considered the term to which such prisoner is sentenced for
12 the purpose of computing his release date and correctional
13 incentive time under the provisions of this article. When
14 computing the deductions allowed in this section on
15 indeterminate sentences the maximum sentence shall be the
16 basis for the computation. The provisions of this section
17 shall be administered by the chief administrative officer of
18 the penal institution as it applies to prisoners in any state
19 penal institution, by the sheriff of the county as it applies
20 to prisoners in any county jail and by the chief of police as
21 it applies to prisoners in any municipal jail.

22 "(h) Deductions for good behavior, work habits and
23 cooperation, or good conduct shall be interpreted to give
24 authorized good time retroactively, to those offenders
25 convicted of crimes committed after May 19, 1980, except those
26 convicted of crimes of the unlawful sale or distribution of
27 controlled substances as enumerated in Title 13A and in former

1 Chapter 2 of Title 20, and for any sexual offenses as
2 enumerated in Chapter 6, Title 13A, provided however that the
3 Commissioner of the Department of Corrections shall have the
4 prison records of all inmates, who become eligible under this
5 article, reviewed and shall disqualify any such inmate from
6 being awarded good time under this article at his discretion.

7 "§15-18-8.

8 "(a) When a defendant is convicted of an offense,
9 other than a ~~criminal~~ sex offense involving a child as defined
10 in Section ~~15-20-21(5)~~ 15-20A-4(26), which constitutes a Class
11 A or B felony and receives a sentence of 20 years or less in
12 any court having jurisdiction to try offenses against the
13 State of Alabama and the judge presiding over the case is
14 satisfied that the ends of justice and the best interests of
15 the public as well as the defendant will be served thereby, he
16 or she may order:

17 "(1) That the convicted defendant be confined in a
18 prison, jail-type institution, or treatment institution for a
19 period not exceeding three years in cases where the imposed
20 sentence is not more than 15 years, and that the execution of
21 the remainder of the sentence be suspended notwithstanding any
22 provision of the law to the contrary and that the defendant be
23 placed on probation for such period and upon such terms as the
24 court deems best. In cases involving an imposed sentence of
25 greater than 15 years, but not more than 20 years, the
26 sentencing judge may order that the convicted defendant be
27 confined in a prison, jail-type institution, or treatment

1 institution for a period not exceeding five years, but not
2 less than three years, during which the offender shall not be
3 eligible for parole or release because of deduction from
4 sentence for good behavior under the Alabama Correctional
5 Incentive Time Act, and that the remainder of the sentence be
6 suspended notwithstanding any provision of the law to the
7 contrary and that the defendant be placed on probation for the
8 period upon the terms as the court deems best.

9 "(2) That the convicted defendant may be confined,
10 upon consultation with the Commissioner of the Alabama
11 Department of Corrections (hereinafter called department) in a
12 disciplinary, rehabilitation, conservation camp program
13 (hereinafter called program) of the department. The convicted
14 defendant shall be received into the department in accordance
15 with applicable department rules and regulations and may be
16 placed in the program after completion of this initial
17 reception. The program shall be not less than 90 days nor more
18 than 180 days in duration and shall be operated in accordance
19 with department rules and regulations and as otherwise
20 provided for by law. The commissioner of the department or his
21 or her designee shall report to the sentencing court of each
22 convicted defendant whether or not the convicted defendant
23 completes or does not complete the program with any additional
24 information that the commissioner or his or her designee shall
25 wish to provide the court. Upon receipt of this report, the
26 sentencing court may, upon its own order, suspend the
27 remainder of the sentence and place the convicted defendant on

1 probation as provided herein or order the convicted defendant
2 to be confined to a prison, jail-type institution, or
3 treatment institution for a period not to exceed three years
4 and that the execution of the remainder of the sentence be
5 suspended and the defendant be placed on probation for such
6 period and upon such terms as the court deems best. If the
7 sentencing court imposes additional confinement, as outlined
8 above, credit shall be given for the actual time spent by the
9 convicted defendant in the program. Conviction of an offense
10 or prior offense of murder, rape first degree, kidnapping
11 first degree, sodomy first degree, enticing a child to enter
12 vehicle, house, etc., for immoral purposes, arson first
13 degree, robbery first degree, and sentencing of life without
14 parole will not be eligible for this program. It shall be the
15 duty of the Joint Prison Committee as established by Sections
16 29-2-20 to 29-2-22, inclusive, to annually review the
17 operation of the program and report their findings to the
18 Alabama Legislature.

19 " (b) Probation may not be granted for a ~~criminal~~ sex
20 offense involving a child as defined in Section ~~15-20-21(5)~~
21 15-20A-4(26), which constitutes a Class A or B felony.
22 Otherwise, probation may be granted whether the offense is
23 punishable by fine or imprisonment or both. If an offense is
24 punishable by both fine and imprisonment, the court may impose
25 a fine and place the defendant on probation as to
26 imprisonment. Probation may be limited to one or more counts

1 or indictments, but, in the absence of express limitation,
2 shall extend to the entire sentence and judgment.

3 "(c) Regardless of whether the defendant has begun
4 serving the minimum period of confinement ordered under the
5 provisions of subsection (a), the court shall retain
6 jurisdiction and authority throughout that period to suspend
7 that portion of the minimum sentence that remains and place
8 the defendant on probation, notwithstanding any provision of
9 the law to the contrary and the court may revoke or modify any
10 condition of probation or may change the period of probation.

11 "(d) While incarcerated or on probation and among
12 the conditions thereof, the defendant may be required:

13 "(1) To pay a fine in one or several sums;

14 "(2) To make restitution or reparation to aggrieved
15 parties for actual damages or loss caused by the offense for
16 which conviction was had; and

17 "(3) To provide for the support of any persons for
18 whose support he or she is legally responsible.

19 "(e) The defendant's liability for any fine or other
20 punishment imposed as to which probation is granted shall be
21 fully discharged by the fulfillment of the terms and
22 conditions of probation.

23 "(f) During any term of probation, the defendant
24 shall report to the probation authorities at such time and
25 place as directed by the judge imposing sentence.

26 "(g) No defendant serving a minimum period of
27 confinement ordered under the provisions of subsection (a)

1 shall be entitled to parole or to deductions from his or her
2 sentence under the Alabama Correctional Incentive Time Act,
3 during the minimum period of confinement so ordered; provided,
4 however, that this subsection shall not be construed to
5 prohibit application of the Alabama Correctional Incentive
6 Time Act to any period of confinement which may be required
7 after the defendant has served such minimum period.

8 "§15-19-7.

9 "(a) No determination made under the provisions of
10 this chapter shall disqualify any youth for public office or
11 public employment, operate as a forfeiture of any right or
12 privilege or make him ineligible to receive any license
13 granted by public authority, and such determination shall not
14 be deemed a conviction of crime; provided, however, that if he
15 is subsequently convicted of crime, the prior adjudication as
16 youthful offender shall be considered.

17 "(b) The fingerprints and photographs and other
18 records of a person adjudged a youthful offender shall not be
19 open to public inspection unless the person adjudged a
20 youthful offender is treated as an adult sex offender
21 according to Section 15-20A-35; provided, however, that the
22 court may, in its discretion, permit the inspection of papers
23 or records.

24 "§15-20A-4.

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

1 "(1) ADULT SEX OFFENDER. ~~An adult~~ A person convicted
2 of a sex offense.

3 "(2) CHILD. A person who has not attained the age of
4 12.

5 "(3) CHILDCARE FACILITY. A licensed child daycare
6 center, a licensed childcare facility, or any other childcare
7 service that is exempt from licensing pursuant to Section
8 38-7-3, provided that the licensed child daycare center,
9 licensed childcare facility, or any other childcare service
10 and location are public record or have been provided to local
11 law enforcement.

12 "(4) CONVICTION. ~~A determination or judgment of~~
13 ~~guilt following a~~ A verdict or finding of guilt as the result
14 of a trial, a plea of guilty, a plea of nolo contendere, or an
15 Alford plea regardless of whether adjudication was withheld.
16 Conviction includes, but is not limited to, a conviction in a
17 United States territory, a conviction in a federal or military
18 tribunal, including a court martial conducted by the Armed
19 Forces of the United States, a conviction for an offense
20 committed on an Indian reservation or other federal property,
21 a conviction in any state of the United States or a conviction
22 in a foreign country if the foreign country's judicial system
23 is such that it satisfies minimum due process set forth in the
24 guidelines under Section 111(5) (B) of Public Law 109-248.
25 Cases on appeal are deemed convictions until reversed or
26 overturned.

1 "(5) EMPLOYMENT. Employment that is full-time,
2 part-time, self-employment, or employment as an independent
3 contractor or day laborer for any period, whether financially
4 compensated, volunteered, or for the purpose of government or
5 educational benefit.

6 "(6) FIXED RESIDENCE. A building or structure,
7 having a physical address or street number, that adequately
8 provides shelter at which a person resides.

9 "(7) HABITUALLY LIVES. Where a person lives with
10 some regularity on an intermittent or temporary basis.

11 "(8) HOMELESS. A person who has no fixed residence.

12 "(9) IMMEDIATE FAMILY MEMBER. A grandparent, parent,
13 sibling, spouse, child of any age by blood, adoption, or
14 marriage, or grandchild.

15 "(10) IMMEDIATELY. Within three business days.

16 "(11) JURISDICTION. Any state of the United States,
17 any United States territory, the District of Columbia, or any
18 federally recognized Indian tribe.

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

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

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

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

7 "(16) PRIOR CONVICTION. The person has served and
8 has been released or discharged from, or is serving, a
9 separate period of incarceration, commitment, or supervision
10 for the commission of a sex offense, as defined by Section
11 15-20A-5, prior to, or at the time of, committing another sex
12 offense.

13 "(17) REGISTERING AGENCY. Any ~~law enforcement~~ agency
14 ~~where~~ with whom the sex offender registers required
15 registration information.

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

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

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

13 "(21) RESPONSIBLE AGENCY. The person or government
14 entity whose duty it is to obtain information from a sex
15 offender and to transmit that information to the Department of
16 Public Safety, police departments, and sheriffs. For a sex
17 offender being released from state prison, the responsible
18 agency is the Department of Corrections. For a sex offender
19 being released from a county jail, the responsible agency is
20 the sheriff of that county. For a sex offender being released
21 from a municipal jail, the responsible agency is the chief of
22 police of that municipality. For a sex offender being placed
23 on probation, including conditional discharge or unconditional
24 discharge, without any sentence of incarceration, the
25 responsible agency is the sentencing court or designee of the
26 sentencing court. For a juvenile sex offender being released
27 from the Department of Youth Services, the responsible agency

1 is the Department of Youth Services. For a sex offender who is
2 being released from a jurisdiction outside this state and who
3 is to reside in this state, the responsible agency is the
4 sheriff of the county in which the offender intends to
5 establish a residence.

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

15 "(23) SCHOOL. A licensed or accredited public,
16 private, or church school that offers instruction in grades
17 K-12. The definition does not include a private residence in
18 which students are taught by parents or tutors or any facility
19 dedicated exclusively to the education of adults unless that
20 facility has a childcare facility as defined in subsection
21 (3).

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

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

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

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

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

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

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

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

24 "§15-20A-5.

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

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

3 "(2) Rape in the second degree, as provided by
4 Section 13A-6-62.

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

7 "(4) Sodomy in the second degree, as provided by
8 Section 13A-6-64.

9 "(5) Sexual misconduct, as provided by Section
10 13A-6-65, provided that on a first conviction or adjudication
11 the sex offender is only subject to registration and
12 verification pursuant to this chapter. On a second or
13 subsequent conviction or adjudication, if the second or
14 subsequent conviction or adjudication does not arise out of
15 the same set of facts and circumstances as the first
16 conviction or adjudication, the sex offender shall comply with
17 all requirements of this chapter. The sentencing court may
18 exempt from this chapter a juvenile sex offender adjudicated
19 delinquent of sexual misconduct.

20 "(6) Sexual torture, as provided by Section
21 13A-6-65.1.

22 "(7) Sexual abuse in the first degree, as provided
23 by Section 13A-6-66.

24 "(8) Sexual abuse in the second degree, as provided
25 by Section 13A-6-67.

26 "(9) Indecent exposure, as provided by Section
27 13A-6-68, provided that on a first conviction or adjudication

1 the sex offender is only subject to registration and
2 verification pursuant to this chapter. On a second or
3 subsequent conviction or adjudication, if the second or
4 subsequent conviction or adjudication does not arise out of
5 the same set of facts and circumstances as the first
6 conviction or adjudication, the sex offender shall comply with
7 all requirements of this chapter. The sentencing court may
8 exempt from this act a juvenile sex offender adjudicated
9 delinquent of indecent exposure.

10 "(10) Enticing a child to enter a vehicle, room,
11 house, office, or other place for immoral purposes, as
12 provided by Section 13A-6-69.

13 "(11) Sexual abuse of a child less than 12 years
14 old, as provided by Section 13A-6-69.1.

15 "(12) Promoting prostitution in the first degree, as
16 provided by Section 13A-12-111.

17 "(13) Promoting prostitution in the second degree,
18 as provided by Section 13A-12-112.

19 "(14) Violation of the Alabama Child Pornography
20 Act, as provided by Section 13A-12-191, 13A-12-192,
21 13A-12-196, or 13A-12-197.

22 "(15) Unlawful imprisonment in the first degree, as
23 provided by Section 13A-6-41, if the victim of the offense is
24 a minor, and the record of adjudication or conviction reflects
25 the intent of the unlawful imprisonment was to abuse the minor
26 sexually.

1 "(16) Unlawful imprisonment in the second degree, as
2 provided by Section 13A-6-42, if the victim of the offense is
3 a minor, and the record of adjudication or conviction reflects
4 the intent of the unlawful imprisonment was to abuse the minor
5 sexually.

6 "(17) Kidnapping in the first degree, as provided by
7 subdivision (4) of subsection (a) of Section 13A-6-43, if the
8 intent of the abduction is to violate or abuse the victim
9 sexually.

10 "(18) Kidnapping of a minor, except by a parent,
11 guardian, or custodian, as provided by Section 13A-6-43 or
12 13A-6-44.

13 "(19) Incest, as provided by Section 13A-13-3.

14 "(20) Transmitting obscene material to a child by
15 computer, as provided by Section 13A-6-111.

16 "(21) School employee engaging in a sex act or
17 deviant sexual intercourse with a student, as provided by
18 Section 13A-6-81.

19 "(22) School employee having sexual contact with a
20 student, as provided by Section 13A-6-82.

21 "(23) Facilitating solicitation of unlawful sexual
22 conduct with a child, as provided by Section 13A-6-121.

23 "(24) Electronic solicitation of a child, as
24 provided by Section 13A-6-122.

25 "(25) Facilitating the on-line solicitation of a
26 child, as provided by Section 13A-6-123.

1 "(26) Traveling to meet a child for an unlawful sex
2 act, as provided by Section 13A-6-124.

3 "(27) Facilitating the travel of a child for an
4 unlawful sex act, as provided by Section 13A-6-125.

5 "(28) Human trafficking in the first degree, as
6 provided by Section 13A-6-152, provided that the offense
7 involves sexual servitude.

8 "(29) Human trafficking in the second degree, as
9 provided by Section 13A-6-153, provided that the offense
10 involves sexual servitude.

11 "(30) Custodial sexual misconduct, as provided by
12 Section 14-11-31.

13 "(31) Any offense which is the same as or equivalent
14 to any offense set forth above as the same existed and was
15 defined under the laws of this state existing at the time of
16 such conviction, specifically including, but not limited to,
17 crime against nature, as provided by Section 13-1-110; rape,
18 as provided by Sections 13-1-130 and 13-1-131; carnal
19 knowledge of a woman or girl, as provided by Sections 13-1-132
20 through 13-1-135, or attempting to do so, as provided by
21 Section 13-1-136; indecent molestation of children, as defined
22 and provided by Section 13-1-113; indecent exposure, as
23 provided by Section 13-1-111; incest, as provided by Section
24 13-8-3; offenses relative to obscene prints and literature, as
25 provided by Sections 13-7-160 through 13-7-175, inclusive;
26 employing, harboring, procuring or using a girl over 10 and
27 under 18 years of age for the purpose of prostitution or

1 sexual intercourse, as provided by Section 13-7-1; seduction,
2 as defined and provided by Section 13-1-112; a male person
3 peeping into a room occupied by a female, as provided by
4 Section 13-6-6; assault with intent to ravish, as provided by
5 Section 13-1-46; and soliciting a child by computer, as
6 provided by Section 13A-6-110.

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

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

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

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

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

1 "(37) The foregoing notwithstanding, any crime
2 committed in any jurisdiction which, irrespective of the
3 specific description or statutory elements thereof, is in any
4 way characterized or known as rape, carnal knowledge, sodomy,
5 sexual assault, sexual battery, criminal sexual conduct,
6 criminal sexual contact, sexual abuse, continuous sexual
7 abuse, sexual torture, solicitation of a child, enticing or
8 luring a child, child pornography, lewd and lascivious
9 conduct, taking indecent liberties with a child, molestation
10 of a child, criminal sexual misconduct, ~~or~~ video voyeurism, or
11 there has been a finding of sexual motivation.

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

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

18 "§15-20A-6.

19 "(a) (1) The indictment, count in the indictment,
20 information, complaint or warrant charging the offense may
21 include a specification of sexual motivation or the
22 prosecuting attorney may file an allegation of sexual
23 motivation in any criminal case classified as a felony or
24 Class A misdemeanor if sufficient admissible evidence exists
25 that would justify a finding of sexual motivation by a
26 reasonable and objective finder of fact.

1 "(2) If a specification is included in the
2 indictment, count in the indictment, information, complaint,
3 or warrant charging the offense the specification shall be
4 stated at the end of the body of the indictment, count in the
5 indictment, information, complaint or warrant and shall be in
6 substantially the following form: "SPECIFICATION or
7 SPECIFICATION TO THE FIRST COUNT. The Grand Jurors (or insert
8 appropriate name) further find and specify that the offender
9 committed the offense with a sexual motivation."

10 "(3) If the prosecuting attorney files an allegation
11 of sexual motivation, it shall be filed within a reasonable
12 time after indictment to give sufficient notice to the
13 defendant.

14 "(b) If the indictment, count of the indictment,
15 information, complaint or warrant charging the offense
16 includes a specification of sexual motivation or if the
17 prosecuting attorney files an allegation of sexual motivation,
18 the state shall prove beyond a reasonable doubt that the
19 defendant committed the offense with a sexual motivation.

20 "(c) The court shall make a written finding of fact,
21 to be made part of the record upon conviction or adjudication
22 as a youthful offender, of whether or not a sexual motivation
23 was present at the time of the commission of the offense
24 unless the defendant has a trial by jury.

25 "(d) If a defendant has a trial by jury, the jury,
26 if it finds the defendant guilty, shall also find a special

1 verdict as to whether or not the defendant committed the crime
2 with a sexual motivation.

3 "(e) If there is a finding of sexual motivation, the
4 finding shall be made part of the record of conviction or
5 adjudication.

6 "(f) For purposes of this section, sexual motivation
7 means that one of the purposes for which the defendant
8 committed the crime was for the purpose of the sexual
9 gratification of the defendant.

10 "(g) This section shall not apply to sex offenses as
11 defined in subdivisions (1) to (38), inclusive, of Section
12 15-20A-5.

13 "§15-20A-7.

14 "(a) The following registration information, unless
15 otherwise indicated, shall be provided by the sex offender
16 when registering:

17 "(1) Name, including any aliases, nicknames, ethnic,
18 or tribal names.

19 "(2) Date of birth.

20 "(3) Social Security number.

21 "(4) Address of each residence.

22 "(5) Name and address of any school the sex offender
23 attends or will attend. For purposes of this subdivision, a
24 school includes an educational institution, public or private,
25 including a secondary school, a trade or professional school,
26 or an institution of higher education.

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

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

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

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

15 "(10) A current photograph.

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

19 "(12) Fingerprints and palm prints.

20 "(13) A DNA sample. The DNA sample may be collected
21 by the probation officer, sheriff, chief of police, or other
22 responsible agency. Prior to collecting a DNA sample, the
23 responsible agency shall determine if a DNA sample has already
24 been collected for the sex offender by checking the Dru Sjodin
25 National Sex Offender Public Registry website, the Alabama
26 Department of Forensic Sciences DNATracker site, or with the
27 Alabama Department of Public Safety. If a DNA sample has not

1 been previously collected for the sex offender, the
2 responsible agency shall coordinate for the collection of a
3 DNA sample with the sheriff of the county in which the
4 registration is occurring. The collection of a DNA sample
5 should be performed using materials recommended or provided by
6 the Alabama Department of Forensic Sciences. The DNA sample
7 shall be immediately forwarded by the entity collecting the
8 sample to the Department of Forensic Sciences.

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

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

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

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

20 "(18) A list of any and all Internet service
21 providers used by the sex offender

22 "~~(18)~~ (19) Any other information deemed necessary by
23 the Director of the Department of Public Safety.

24 "(b) The registering agency is not required to
25 obtain any of the following information each time the sex
26 offender verifies his or her required registration information

1 if the registering agency verifies the information has already
2 been collected and has not been changed or altered:

3 "(1) A current photograph.

4 "(2) Fingerprints or palm prints.

5 "(3) A DNA sample.

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

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

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

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

1 "(e) All required registration information shall be
2 stored electronically in a manner determined by the Director
3 of the Department of Public Safety and shall be available in a
4 digitized format by the Department of Public Safety to anyone
5 entitled to receive the information as provided in Section
6 15-20A-42.

7 "(f) Any person who fails to provide the required
8 registration information, or provides false information,
9 pursuant to this section shall be guilty of a Class C felony.

10 "§15-20A-9.

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

18 "(1) ~~Inform~~ The responsible agency shall inform the
19 adult sex offender of his or her duty to register and,
20 instruct the adult sex offender to read and sign a form
21 stating that the duty to register has been explained, ~~and~~
22 obtain. The adult sex offender shall sign the form stating
23 that the duty to register has been explained and shall provide
24 the required registration information ~~from the adult sex~~
25 ~~offender.~~ If the adult sex offender refuses to sign the form,
26 the designee of the responsible agency shall sign the form

1 stating that the requirements have been explained to the adult
2 sex offender and that the adult sex offender refused to sign.

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

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

1 "(4) If an adult sex offender is not able to provide
2 a residence prior to the time of release, then the responsible
3 agency shall notify the sheriff of the county where the last
4 conviction for a sex offense or violation of this chapter took
5 place at least five days prior to the release of the adult sex
6 offender. Upon notice of the release date from the responsible
7 agency, the sheriff of the county of the last conviction for a
8 sex offense or a violation of this chapter shall make
9 arrangements to have the adult sex offender immediately
10 remanded to his or her custody to register in accordance with
11 Section 15-20A-10 at the time of release.

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

16 "a. If the adult sex offender has not accumulated
17 any incentive time pursuant to Section 14-9-41 or any other
18 law, he or she shall be charged with violating this section.
19 At least five days prior to his or her release date, the
20 Department of Corrections shall notify the sheriff in the
21 county where the last conviction for a sex offense or
22 violation of this chapter took place, which county shall be
23 the proper venue for arrest and prosecution of violation of
24 this section. Upon notice of the release date, the sheriff
25 from the county of the last conviction for a sex offense or
26 violation of this chapter shall make arrangements to have the
27 adult sex offender immediately remanded to his or her custody

1 at the time of release. Any adult sex offender charged with
2 violating this section may only be released on bond on the
3 condition that the adult sex offender is in compliance with
4 this section before being released.

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

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

15 "§15-20A-11.

16 "(a) No adult sex offender shall establish a
17 residence, maintain a residence after release or conviction,
18 or establish any other living accommodation within 2,000 feet
19 of the property on which any school or childcare facility is
20 located unless otherwise exempted pursuant to Sections
21 15-20A-23 and 15-20A-24.

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

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

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

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

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

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

26 "(4) The adult sex offender has been convicted of
27 any sex offense involving a child, regardless of whether the

1 adult sex offender was related to or shared a residence with
2 the child victim.

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

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

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

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

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

18 "(4) Whenever an adult sex offender vacates his or
19 her residence or fails to spend three or more consecutive days
20 at his or her residence without ~~previously notifying local law~~
21 ~~enforcement~~ obtaining a travel permit pursuant to Section
22 15-20A-15.

23 "(f) An adult sex offender is exempt from
24 subsections (a) and (b) during the time an adult sex offender
25 is admitted to a hospital or is incarcerated in a jail,
26 prison, mental health facility, or any other correctional

1 placement facility wherein the adult sex offender is not
2 allowed unsupervised access to the public.

3 "(g) For the purposes of this section, the
4 2,000-foot measurement shall be taken in a straight line from
5 nearest property line to nearest property line.

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

8 "§15-20A-14.

9 "(a) Any adult sex offender who declares he or she
10 is entering the state to establish a residence or who enters
11 this state ~~and establishes~~ to establish a residence shall
12 immediately appear in person and register all required
13 registration information with local law enforcement in the
14 county ~~of residence~~ where the adult sex offender intends to
15 establish or establishes a residence.

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

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

26 "(d) Within 30 days of initial registration, the
27 adult sex offender shall provide each registering agency with

1 a certified copy of his or her sex offense conviction;
2 however, an adult sex offender shall be exempt from this
3 subsection if the adult sex offender provides adequate
4 documentation that the certified record is no longer available
5 or has been destroyed.

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

8 "§15-20A-16.

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

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

17 "(c) Notwithstanding subsections (a) and (b), a
18 petition to exclude an adult sex offender from the
19 requirements of this section may be filed in accordance with
20 the requirements of Section 15-20A-24(c). The court shall
21 conduct a hearing and may exclude an adult sex offender from
22 the provisions of this section provided that:

23 "(1) The victim appears in court at the time of the
24 hearing and requests the exemption in writing.

25 "(2) The victim is over the age of 19 at the time of
26 the request.

1 "(3) The sex offense is an offense included in
2 Sections 13A-6-62, 13A-6-64, 13A-6-65, or 13A-6-67, of if the
3 crime was committed in this state or any other jurisdiction
4 which, if had been committed in this state under the current
5 provisions of law, would constitute an offense listed in
6 Sections 13A-6-62, 13A-6-64, 13A-6-65, or 13A-6-67.

7 "(4) The district attorney or prosecuting attorney
8 shall be notified of the hearing and shall have the right to
9 be present and heard.

10 "(d) Notwithstanding any state or local law or rule
11 assigning costs and fees for filing and processing civil and
12 criminal cases a petition filed shall be assessed a filing fee
13 in the amount of two hundred dollars (\$200) to be distributed
14 as provided in Section 15-20A-46.

15 ~~"(c)~~(e) Any person who violates this section shall
16 be guilty of a Class C felony.

17 "§15-20A-18.

18 "(a) Every adult sex offender who is a resident of
19 this state shall obtain, and always have in his or her
20 possession, a valid driver license or identification card
21 issued by the Department of Public Safety. If any adult sex
22 offender is ineligible to be issued a driver license or
23 official identification card, the Department of Public Safety
24 shall provide the adult sex offender some other form of
25 identification card or documentation that, if it is kept in
26 the possession of the adult sex offender, shall satisfy the
27 requirements of this section. If any adult sex offender is

1 determined to be indigent, an identification card, or other
2 form of identification or documentation that satisfies the
3 requirements of this section, shall be issued to the adult sex
4 offender at no cost. Indigence shall be determined by order of
5 the court prior to each issuance of a driver license or
6 identification card.

7 "(b) The adult sex offender shall ~~immediately~~ obtain
8 a valid driver license or identification card ~~upon~~ within 14
9 days of his or her initial registration following release,
10 initial registration upon entering the state to become a
11 resident, or immediately following his or her next
12 registration after July 1, 2011.

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

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

26 "(e) No adult sex offender shall mutilate, mar,
27 change, reproduce, alter, deface, disfigure, or otherwise

1 change the form of any driver license or identification card
2 which is issued to the adult sex offender and which bears any
3 designation enabling law enforcement officers to identify the
4 licensee as a sex offender. An adult sex offender having in
5 his or her possession a driver license or identification card
6 issued to him or her by the Department of Public Safety
7 bearing any designation enabling law enforcement officers to
8 identify the licensee as a sex offender which has been
9 mutilated, marred, changed, reproduced, altered, defaced,
10 disfigured, or otherwise changed shall be prima facie evidence
11 that he or she has violated this section.

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

14 "§15-20A-21.

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

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

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

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

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

1 newspaper, posting electronically, including the Internet, or
2 other means available.

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

11 "(d) When an adult sex offender declares that he or
12 she is homeless, notification shall be provided by posting a
13 copy of the notice in a prominent place at the office of the
14 sheriff and at the police station closest to the declared
15 residence of the released adult sex offender, publicizing the
16 notice in a local newspaper, or posting the notice
17 electronically, including the Internet or other means
18 available.

19 "§15-20A-22.

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

25 "(b) Each time an adult sex offender terminates his
26 or her residence and establishes a new residence, he or she
27 shall pay a registration fee in the amount of ten dollars

1 (\$10) to each registering agency where the adult sex offender
2 establishes a new residence.

3 "(c) If, at the time of registration, the adult sex
4 offender is unable to pay the registration fee, the
5 registering agency may require the adult sex offender to pay
6 the fee in installments not to exceed 90 days. The registering
7 agency shall waive the registration fee if the adult sex
8 offender has an order from the court declaring his or her
9 indigence. In the event the adult sex offender is determined
10 to be indigent, a periodic review of the adult sex offender's
11 indigent status shall be conducted by the court to determine
12 if the offender is no longer indigent. Further, if the
13 offender is determined to be indigent by the sentencing court,
14 nothing in this chapter shall prohibit the offender from being
15 placed on a payment plan where the entire fee is collected in
16 total.

17 "(d) (1) The fees collected under this section shall
18 be appropriated to the registering agency to defray the costs
19 of sex offender registration, verification, and notification.

20 "(2) Any and all registration fees collected by the
21 sheriff, or his or her designee, shall be deposited in any
22 bank, selected by the sheriff, into a fund known as the
23 Sheriff's Sex Offender Fund and shall be used at the
24 discretion of the sheriff for any law enforcement purpose
25 related to sex offender registration, notification, tracking
26 or apprehension.

1 "(3) The monies provided in this section and the use
2 of the funds shall in no way diminish or take the place of any
3 other reimbursement or other source of income established for
4 the sheriff or the operation of his or her office.

5 "(4) Any and all registration fees collected by a
6 chief of police, or his or her designee, shall be deposited
7 into the municipal general fund and made available to the
8 affected law enforcement agency or department upon requisition
9 of the chief law enforcement official of such agency or
10 department and shall be used for any lawful purpose related to
11 sex offender registration, notification, tracking or
12 apprehension.

13 "(5) The monies provided in this section and the use
14 of the funds shall in no way diminish or take the place of any
15 other reimbursement or other source of income established for
16 the chief of police or the operation of his or her office.

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

24 "§15-20A-23.

25 "(a) A sex offender required to register under this
26 chapter may petition the court for relief from the residency
27 restriction pursuant to subsection (a) of Section 15-20A-11

1 during the time a sex offender is terminally ill or
2 permanently immobile.

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

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

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

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

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

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

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

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

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

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

4 "(4) Notarized documentation of the sex offender's
5 condition by his or her medical provider.

6 "(5) A release allowing the prosecuting attorney or
7 the court to obtain any other medical records or documentation
8 relevant to the petition.

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

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

16 "(f) The court shall hold a hearing within 30 days
17 of the filing of the petition. Upon request of the prosecuting
18 attorney, and for good cause shown, the hearing may be
19 continued to allow the prosecuting attorney to obtain any
20 relevant records pertinent to the hearing. At the hearing the
21 prosecuting attorney and the victim shall have the opportunity
22 to be heard.

23 "(g) The court may issue an order releasing the sex
24 offender from any of the residency restrictions pursuant to
25 subsection (a) of Section 15-20A-11 if the court finds by
26 clear and convincing evidence that the sex offender does not
27 pose a substantial risk of perpetrating any future dangerous

1 sexual offense or that the sex offender is not likely to
2 reoffend. The court may relieve a sex offender from any
3 residency restrictions indefinitely or for a specific period
4 of time.

5 "(h) The court shall send a copy of any order
6 releasing a sex offender from any residency restrictions
7 pursuant to subsection (a) of Section 15-20A-11 to the
8 prosecuting attorney and the Department of Public Safety.

9 "(i) If the court finds that the sex offender still
10 poses a risk, has provided false or misleading information in
11 support of the petition, or failed to serve the petition and
12 supporting documentation upon the parties as provided for in
13 subsection (c), then the petition shall be denied.

14 "(j) If the petition for release is denied, the sex
15 offender may not file a subsequent petition for at least 12
16 months from the date of the final order on the previous
17 petition unless good cause is shown and the sex offender's
18 mental or physical condition has severely changed.

19 "(k) If at any time the sex offender is no longer
20 terminally ill or permanently immobile, the sex offender shall
21 immediately register in person with local law enforcement in
22 each county of residence and update all required registration
23 information.

24 "(l) No sex offender petitioning the court under
25 this section for an order terminating the sex offender's
26 obligation to comply with the residency restrictions is

1 entitled to publicly funded experts or publicly funded
2 witnesses.

3 "(m) The state may petition the court to reinstate
4 the restrictions pursuant to subsection (a) of Section
5 15-20A-11 for good cause shown.

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

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

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

18 "§15-20A-24.

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

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

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

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

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

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

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

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

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

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

21 "(3) At the time of the commission of the sex
22 offense, the sex offender was ~~not more than~~ less four than
23 five years older than the victim.

24 "(c) ~~The~~ If the petition for relief is filed after
25 sentencing or disposition, the petition for relief shall be
26 filed as follows:

1 "(1) If the adult or youthful offender sex offender
2 was adjudicated or convicted in this state, the petition for
3 relief shall be filed in the ~~sentencing court~~ civil division
4 of the circuit court where the adult or youthful offender sex
5 offender was adjudicated or convicted.

6 "(2) If the adult or youthful offender sex offender
7 was adjudicated or convicted in a jurisdiction outside of this
8 state, the petition for relief shall be filed in the
9 ~~appropriate court of this state with similar jurisdiction~~
10 civil division of the circuit court in the county in which the
11 adult or youthful offender sex offender resides.

12 "(3) If the juvenile sex offender was adjudicated in
13 this state, the petition for relief shall be filed in the
14 juvenile court.

15 "(4) If the juvenile sex offender was adjudicated in
16 a jurisdiction outside of this state, the petition for relief
17 shall be filed in the juvenile court in the county in which
18 the juvenile sex offender resides.

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

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

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

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

4 "d. Local law enforcement where the adult sex
5 offender resides.

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

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

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

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

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

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

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

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

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

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

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

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

17 "(2) Recommendations from the prosecuting attorney.

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

20 "(4) The facts and circumstances surrounding the
21 offense.

22 "(5) The relationship of the parties.

23 "(6) The criminal history of the sex offender.

24 "(7) The protection of society.

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

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

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

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

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

20 "(m) Notwithstanding any state or local law or rule
21 assigning costs and fees for filing and processing civil and
22 criminal cases, except when this relief is sought at the time
23 of sentencing or disposition, a petition ~~filed 30 or more days~~
24 ~~after sentencing~~ shall be assessed a filing fee in the amount
25 of two hundred dollars (\$200) to be distributed as provided in
26 Section 15-20A-46.

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

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

7 "§15-20A-25.

8 "(a) A sex offender may petition at sentencing, or
9 if after sentencing, a sex offender may file a petition in the
10 civil division of the circuit court in the county where the
11 sex offender seeks to accept or maintain employment for relief
12 from the employment restrictions pursuant to subsection (b) of
13 Section 15-20A-13. A sex offender adjudicated or convicted of
14 any of the following sex offenses shall not be entitled to
15 relief under this section:

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

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

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

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

24 "(5) Sexual torture, as provided by Section
25 13A-6-65.1.

26 "(6) Any sex offense involving a child.

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

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

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

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

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

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

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

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

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

25 "(1) A certified copy of the adjudication or
26 conviction requiring registration, including a detailed

1 description of the sex offense, if the petition is filed after
2 sentencing.

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

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

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

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

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

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

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

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

26 "(1) The nature of the offense.

27 "(2) Past criminal history of the sex offender.

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

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

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

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

14 "(i) The state may petition the court to reinstate
15 the restrictions pursuant to subsection (b) of Section
16 15-20A-13 for good cause shown.

17 "(j) Notwithstanding any state or local law or rule
18 assigning costs and fees for filing and processing civil and
19 criminal cases, except when this relief is sought at the time
20 of sentencing, a petition ~~filed 30 or more days after~~
21 ~~sentencing~~ shall be assessed a filing fee in the amount of two
22 hundred dollars (\$200) to be distributed as provided in
23 Section 15-20A-46.

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

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

4 "§15-20A-26.

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

9 "(b) Upon completion of sex offender treatment, the
10 juvenile sex offender shall be required to undergo a sex
11 offender risk assessment. The treatment provider shall provide
12 a copy of the risk assessment to the sentencing court, the
13 prosecuting attorney, and the juvenile probation ~~officer~~
14 office not less than 60 days prior to the projected release of
15 the juvenile sex offender from a facility where the juvenile
16 sex offender does not have unsupervised access to the public
17 or immediately upon completion of the risk assessment if the
18 juvenile sex offender is not in a facility where the juvenile
19 sex offender does not have unsupervised access to the public.

20 "(c) Upon receiving the risk assessment, the
21 juvenile probation ~~officer~~ office shall ~~immediately notify~~
22 provide a copy of the risk assessment to the state and either
23 the attorney for the juvenile sex offender and either or the
24 parent, guardian, or custodian of the juvenile sex offender ~~of~~
25 ~~the pending release of the juvenile sex offender and provide~~
26 ~~them with a copy of the risk assessment.~~ In addition, the
27 juvenile probation office shall immediately notify the

1 attorney for the juvenile sex offender and either the parent,
2 guardian, or custodian of the pending release of the juvenile
3 sex offender from a facility where the juvenile sex offender
4 does not have unsupervised access to the public.

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

9 "(e) No juvenile sex offender shall be removed from
10 the supervision of the sentencing court until such time as the
11 juvenile sex offender has completed treatment, the treatment
12 provider has filed a risk assessment with the sentencing
13 court, and the sentencing court has conducted a hearing to
14 determine the risk of the juvenile sex offender to the
15 community and the level of notification that shall apply.

16 "§15-20A-28.

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

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

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

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

1 "(4) Sexual torture, as provided by Section
2 13A-6-65.1.

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

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

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

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

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

26 "(d) If a juvenile sex offender required to register
27 under this chapter is civilly committed, hospitalized, or

1 re-incarcerated for another offense or, as the result of
2 having violated the terms of probation, parole, or aftercare,
3 fails to register or fails to comply with the requirements of
4 this act, the registration requirements and the remaining
5 period of time for which the juvenile sex offender shall
6 register shall be tolled during the period of commitment,
7 hospitalization, re-incarceration, or noncompliance.

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

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

18 "§15-20A-29.

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

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

25 "(2) If the juvenile sex offender or the parent,
26 guardian, or custodian of the juvenile sex offender declares a
27 residence outside of the state, the responsible agency shall

1 immediately notify the Department of Public Safety and the
2 designated state law enforcement agency of the state to which
3 the juvenile sex offender or the parent, guardian, or
4 custodian of the juvenile sex offender has declared the
5 residence. The notification shall include all information
6 available to the responsible agency that would be necessary to
7 identify and trace the juvenile sex offender, including, but
8 not limited to, the risk assessment and a current photograph
9 of the juvenile sex offender.

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

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

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

3 "§15-20A-32.

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

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

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

25 "(d) Whenever a youthful offender sex offender, or
26 equivalent thereto, enters this state to establish a
27 residence, he or she shall be subject to the requirements of

1 this chapter as it applies to youthful offender sex offenders
2 in this state.

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

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

12 "§15-20A-34.

13 "(a) A juvenile sex offender subject to lifetime
14 registration pursuant to Section 15-20A-28 may file a petition
15 requesting the sentencing juvenile court to enter an order
16 relieving the juvenile sex offender of the requirements
17 pursuant to this chapter 25 years after the juvenile sex
18 offender is released from the custody of the Department of
19 Youth Services or sentenced, if the juvenile sex offender was
20 placed on probation, for the sex offense requiring
21 registration pursuant to this chapter.

22 "(b) The petition shall be filed as follows:

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

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

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

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

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

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

15 "d. Local law enforcement where the juvenile sex
16 offender resides.

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

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

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

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

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

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

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

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

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

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

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

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

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

6 "(3) Recommendations from the prosecuting attorney.

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

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

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

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

20 "(8) The protection of society.

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

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

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

4 "(j) Upon receipt of a copy of an order granting
5 relief as provided in this section, the Department of Public
6 Safety shall remove the juvenile sex offender from the public
7 registry website. If the registering agencies maintain a local
8 registry of sex offenders who are registered with their
9 agencies, the registering agencies shall remove the
10 registration information of the juvenile sex offender from the
11 local sex offender public registry, if notification applied.

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

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

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

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

27 "§15-20A-35.

1 "For the purposes of this chapter, a youthful
2 offender sex offender who has not been previously adjudicated
3 or convicted of a sex offense and who has not yet attained the
4 age of 18 at the time of the offense shall be considered a
5 juvenile sex offender. A youthful offender sex offender who
6 has been previously adjudicated or convicted of a sex offense
7 as a juvenile sex offender, youthful offender sex offender, or
8 adult sex offender, or who has attained the age of 18 at the
9 time of the offense shall be treated as an adult sex offender
10 convicted of a sex offense. A youthful offender sex offender
11 who is treated as a juvenile sex offender for purposes of this
12 chapter may not be released from the jurisdiction of the
13 sentencing court until the youthful offender sex offender has
14 undergone sex offender treatment and a risk assessment as
15 required by Section 15-20A-26.

16 "§15-20A-37.

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

24 "(b) When a sex offender fails to register or cannot
25 be located, an effort shall immediately be made by the sheriff
26 in the county in which the sex offender failed to register or

1 is unable to be located to determine whether the sex offender
2 has absconded.

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

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

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

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

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

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

26 "(5) The Department of Public Safety shall
27 immediately notify the National Sex Offender Registry to

1 reflect that the sex offender has absconded and enter the
2 information into the National Crime Center Wanted Person File.

3 "(e) A sex offender who failed to appear for
4 registration after declaring his or her intent to reside, be
5 employed, or attend school in a county without notifying local
6 law enforcement that he or she will no longer establish a
7 residence, maintain employment, or attend school, shall be
8 guilty of a Class C felony.

9 "§15-20A-39.

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

20 "(1) Harbors, attempts to harbor, or assists another
21 person in harboring or attempting to harbor the sex offender.

22 "(2) Allows a sex offender to reside at his or her
23 residence to avoid registration if the address is not the
24 address the sex offender listed as his or her residence
25 address.

26 "(3) Warns a sex offender that a law enforcement
27 agency is attempting to locate the sex offender.

1 "(4) Provides the sex offender with money,
2 transportation, weapon, disguise, or other means of avoiding
3 discovery or apprehension.

4 "(5) Conceals, attempts to conceal, or assists
5 another in concealing or attempting to conceal the sex
6 offender.

7 "(6) Provides information to a law enforcement
8 agency regarding a sex offender which the person knows to be
9 false.

10 "(b) For the purposes of this section, the term law
11 enforcement agency includes, but is not limited to, the Board
12 of Pardons and Paroles and juvenile probation officers.

13 "(c) Harboring, assisting, or concealing a sex
14 offender is a Class C felony.

15 "§15-20A-40.

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

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

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

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

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

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

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

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

22 "(f) Notwithstanding any other law or rule of
23 evidence, a certified copy of the record of adjudication or
24 conviction as defined in subsection (b), provided by the
25 Department of Public Safety as provided in subsection (d),
26 shall be proof of the sex offender's adjudication or

1 conviction of a sex offense and shall be admissible into
2 evidence, without further proof, in any court in this state.

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

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

11 "§15-20A-43.

12 "Except as provided in Sections 15-20A-5, 15-20A-16,
13 15-20A-23, 15-20A-24, 15-20A-25, and 15-20A-34 or the former
14 15-20-21(4)(a), the sex offender registration and notification
15 requirements required by this chapter are mandatory and shall
16 not be altered, amended, waived, or suspended by any court.
17 Any order altering, amending, waiving, or suspending sex
18 offender registration and notification requirements, except as
19 provided in Sections 15-20A-5, 15-20A-16, 15-20A-23,
20 15-20A-24, 15-20A-25, and 15-20A-34 or the former
21 15-20-21(4)(a), shall be null, void, and of no effect.

22 "§15-20A-45.

23 "(a) A sex offender who is convicted of any offense
24 specified in this chapter, in addition to any imprisonment or
25 fine, or both, and in addition to any other fees, costs, and
26 assessments, imposed for the commission of the underlying

1 offense, shall be punished by a fine of two hundred fifty
2 dollars (\$250).

3 "(b) The fines collected in subsection (a) shall be
4 distributed as follows:

5 (1) Fifty dollars (\$50) to the Highway Traffic
6 Safety Fund in the Department of Public Safety.

7 "(2) Twenty-five dollars (\$25) to the Circuit
8 Clerk's Restitution Recovery Fund.

9 "(3) Twenty-five dollars (\$25) to the State General
10 Fund.

11 "(4) Fifty dollars (\$50) to the District Attorney's
12 Fund or the fund prescribed by law for district attorney fees.

13 "(5) Fifty dollars (\$50) to the Office of
14 Prosecution Services for the Alabama Computer Forensics Labs.

15 "(6) Fifty dollars (\$50) to the ~~local~~ law
16 enforcement agency ~~providing notification~~ who requested the
17 warrant subject to the following:-

18 "a. If the warrant was requested by the sheriff, or
19 his or her designee, any and all monies collected under this
20 subsection shall be deposited by the sheriff of the county in
21 any bank selected by the sheriff into a fund known as the
22 Sheriff's Sex Offender Fund and shall be used at the
23 discretion of the sheriff for any law enforcement purpose
24 related to sex offender registration, notification, tracking
25 or apprehension.

26 "b. The monies provided in this subdivision and the
27 use of the funds shall in no way diminish or take the place of

1 any other reimbursement or other source of income established
2 for the sheriff or the operation of his or her office.

3 "c. If the warrant was requested by a municipality,
4 any proceeds from this subdivision shall be deposited into the
5 municipal general fund and made available to the affected law
6 enforcement agency or department upon requisition of the chief
7 law enforcement official of such agency or department and
8 shall be used for any lawful purpose related to sex offender
9 registration notification, tracking or apprehension. The
10 monies provided in this paragraph shall in no way diminish or
11 take the place of any other reimbursement or other source of
12 income established for the chief of police for the operation
13 of his or her office.

14 "(c) Fines ordered pursuant to this section shall
15 not be waived, suspended, or remitted.

16 "§15-20A-46.

17 "(a) The two hundred dollar (\$200) filing fee paid
18 by a sex offender who petitions the court for relief pursuant
19 to Sections 15-20A-23, 15-20A-24, 15-20A-25, or 15-20A-34
20 shall be distributed as follows:

21 "(1) Fifty dollars (\$50) to the Circuit Clerk's
22 Restitution Recovery Fund.

23 "(2) Fifty dollars (\$50) to the ~~law enforcement~~
24 ~~agency providing community notification~~ sheriff of the county
25 subject to the following:-

26 "a. Any and all monies collected under this
27 subdivision shall be deposited by the sheriff of the county in

1 any bank selected by the sheriff into a fund known as the
2 Sheriff's Sex Offender Fund and shall be used at the
3 discretion of the sheriff for any law enforcement purpose
4 related to sex offender registration, notification, tracking
5 or apprehension.

6 "b. The monies provided in this subdivision and the
7 use of the funds shall in no way diminish or take the place of
8 any other reimbursement or other source of income established
9 for the sheriff or the operation of his or her office.

10 "(3) Fifty dollars (\$50) to the District Attorney's
11 Fund or the fund prescribed by law for district attorney fees.

12 "(4) Fifty dollars (\$50) to ~~Child~~ Alabama Network of
13 Children's Advocacy Centers.

14 "(b) The filing fee shall not be ~~suspended, waived,~~
15 ~~or~~ remitted.

16 "§15-22-27.3.

17 "Any person convicted of a ~~criminal~~ sex offense
18 involving a child as defined in subdivision ~~(5)~~ (26) of
19 Section ~~15-20-21~~ 15-20A-4 which constitutes a Class A or B
20 felony shall not be eligible for parole.

21 "§32-6-49.24.

22 "(a) (1) Effective July 10, 2010, except as otherwise
23 provided by this subsection, a person convicted of a crime
24 that requires registration as a sex offender under Chapter 20A
25 of Title 15, formerly Article 2 of Chapter 20 of Title 15 is
26 prohibited from driving a commercial motor vehicle that

1 requires a commercial driver license with a P or an S
2 endorsement.

3 "(2) If a person who is registered as a sex offender
4 pursuant to Chapter 20A of Title 15, formerly Article 2 of
5 Chapter 20 of Title 15 on July 10, 2010, has a valid
6 commercial driver license with a P or an S endorsement that
7 was issued on or before July 10, 2010, then the person is not
8 disqualified under this subsection until that license expires,
9 provided the person does not commit a subsequent offense that
10 requires registration as a sex offender under Chapter 20A of
11 Title 15, formerly Article 2 of Chapter 20 of Title 15.

12 "(b) The department shall revoke the commercial
13 driver license with a P or an S endorsement of any person
14 convicted of any offense on or after July 10, 2010, that
15 requires registration as a sex offender under Chapter 20A of
16 Title 15, formerly Article 2 of Chapter 20 of Title 15.

17 "(c) (1) Effective July 10, 2010, the department
18 shall not issue or renew a commercial driver license with a P
19 or an S endorsement to any person who is required to register
20 as a sex offender under Chapter 20A of Title 15, formerly
21 Article 2 of Chapter 20 of Title 15.

22 "(2) The department shall not issue a commercial
23 driver license with a P or an S endorsement to an applicant
24 until the department has searched both the statewide registry
25 and the National Sex Offender Public Registry to determine if
26 the person is currently registered as a sex offender in this
27 state or another state.

1 "(3) If the department finds that the person is
2 currently registered as a sex offender in either this state or
3 another state, the department shall not issue a commercial
4 driver license with a P or an S endorsement to the person.

5 "(4) If the department is unable to access either
6 the statewide registry or all information of other states
7 contained in the National Sex Offender Public Registry, but
8 the person is otherwise qualified to obtain a commercial
9 driver license with a P or an S endorsement, then the
10 department shall issue the commercial driver license with the
11 P or S endorsement, but shall first require the person to sign
12 an affidavit stating that the person does not appear on either
13 the statewide registry or the National Sex Offender Public
14 Registry. The department shall search the statewide registry
15 and the National Sex Offender Public Registry for the person
16 within a reasonable time after access to the statewide
17 registry or the National Sex Offender Public Registry is
18 restored. If the person does appear in either registry, the
19 person is in violation of this section, and the department
20 shall immediately cancel the commercial driver license and
21 shall promptly notify the district attorney of the circuit
22 where the person resides of the offense.

23 "(5) Any person denied a commercial driver license
24 with a P or an S endorsement pursuant to this subsection shall
25 have a right to file an appeal to the department within 30
26 days thereafter for a hearing in the matter. The department
27 shall set the matter for a hearing within 30 days in order to

1 take testimony and examine the facts of the case and determine
2 whether the petitioner is entitled to a commercial driver
3 license with a P or an S endorsement under this subsection.

4 "(6) Any person who makes a false affidavit, or who
5 knowingly swears or affirms falsely, to any matter or thing
6 required by this section to be affirmed to or sworn is guilty
7 of a Class C felony.

8 "(d) A person who drives a commercial passenger
9 vehicle or a school bus and who does not have a valid
10 commercial driver license with a P or an S endorsement because
11 the person was convicted of a violation that requires
12 registration as a sex offender under Chapter 20A of Title 15,
13 formerly Article 2 of Chapter 20 of Title 15 is guilty of a
14 Class C felony.

15 "§36-18-24.

16 "(a) The director is hereby authorized and empowered
17 to create and establish a DNA database for the purposes of:

18 "(1) Assisting federal, state, county, municipal, or
19 local criminal justice and law enforcement officers or
20 agencies in the putative identification, detection, or
21 exclusion of persons who are the subjects of investigations or
22 prosecutions of sex related crimes, other violent crimes, or
23 other crimes in which biological evidence is received or
24 recovered.

25 "(2) Supporting identification research and protocol
26 development of DNA forensic methods.

1 "(3) Creating and maintaining DNA quality control
2 standards.

3 "(4) Assisting in the recovery or identification of
4 human remains from natural or mass disasters.

5 "(5) Assisting in other humanitarian purposes
6 including the identification of missing, deceased, or
7 unidentified persons.

8 "(b) The DNA database shall contain DNA records
9 which the director shall deem necessary for the implementation
10 of this article, and also shall contain DNA records of:

11 "(1) Persons convicted after May 6, 1994, for a
12 felony offense.

13 "(2) Persons confined as of May 6, 1994, under a
14 sentence of imprisonment or involuntary incarceration or
15 confinement in a prison, jail, or other incarceration facility
16 as a result of any felony conviction.

17 "(3) Persons convicted after May 6, 1994, of any
18 offense contained in Chapter 6, Title 13A, or as the same may
19 be hereafter amended.

20 "(4) Persons convicted after May 6, 1994, of any
21 attempt, solicitation, or conspiracy to commit any offense
22 contained in Chapter 6, Title 13A, or as the same may be
23 hereafter amended.

24 "(5) Persons convicted or sentenced after May 6,
25 1994, for any of the offenses enumerated above and serving a
26 sentence of probation, suspended sentence, or other sentence
27 or judgment not requiring immediate incarceration.

1 "(6) Subject to subdivision (3) of subsection (c) of
2 Section 36-18-25, persons arrested on or after October 1,
3 2010, for any felony offense or for any sexual offense
4 including, but not limited to, those that would require
5 registration pursuant to the Alabama Sex Offender Registration
6 and Community Notification Act, Article 2, commencing with
7 Section ~~15-20-20~~ 15-20A-1, of Chapter ~~20~~ 20A, Title 15, former
8 Community Notification Act, Article 2, of Chapter 20 of Title
9 15.

10 "§36-18-25.

11 "(a) All persons convicted of a criminal offense as
12 set out in Section 36-18-24 shall, when requested by the
13 director submit to the taking of a DNA sample or samples as
14 may be specified by the director, provided, however, the
15 director shall promulgate such rules and regulations as may be
16 necessary for the purposes of ensuring that DNA samples are
17 collected in a medically approved manner.

18 "(b) As of May 6, 1994, all persons serving any
19 sentence of probation for any of the offenses set out in
20 Section 36-18-24 shall, when requested by the director, submit
21 to the taking of a DNA sample or samples as specified by the
22 director. Upon the refusal of any such person to so submit the
23 sentencing court shall order such submission as a mandatory
24 condition of probation.

25 "(c) (1) All persons arrested for any felony offense
26 on or after October 1, 2010, or for any sexual offense
27 including, but not limited to, those that would require

1 registration pursuant to the Alabama Sex Offender Registration
2 and Community Notification Act, Article 2, commencing with
3 Section ~~15-20-20~~ 15-20A-1, of Chapter ~~20~~ 20A, Title 15, or the
4 former Community Notification Act, Article 2, of Chapter 20 of
5 Title 15, on or after October 1, 2010, shall have a DNA sample
6 drawn or taken, as specified by the director, at the same time
7 he or she is fingerprinted pursuant to the booking procedure
8 or at the time of arrest.

9 "(2) For purposes of this chapter, a juvenile who is
10 arrested for an offense covered by this chapter or adjudicated
11 delinquent for the commission of a felony-grade delinquent act
12 shall be considered a person who is arrested for a felony or
13 other specified offense.

14 "(3) Notwithstanding the other provisions of this
15 section, any person arrested for a felony offense or a sexual
16 offense, including a juvenile pursuant to subdivision (2),
17 shall consent in writing freely and voluntarily to provide a
18 DNA sample and shall be informed that they are providing
19 written permission without any threats or promises. The person
20 shall have the right to refuse to provide a sample pursuant to
21 subdivision (1) or (2) without penalty. The refusal may not be
22 used as evidence against the person in any proceeding.

23 "(4) If it is determined that the person's DNA
24 sample has been included in the DNA database, and has not been
25 subject to a court's order expunging the record from the DNA
26 database, no additional sample is required.

1 "(d) As of May 6, 1994, all persons convicted of any
2 of the offenses set out in Section 36-18-24 shall be ordered
3 to submit to the taking of a DNA sample or samples as
4 specified by the director as a mandatory condition of any term
5 of probation or suspended sentence which may be imposed by the
6 sentencing court.

7 "(e) As of May 6, 1994, all persons convicted for
8 any offense set out in Section 36-18-24 and under any sentence
9 of confinement to any incarceration facility, shall, when
10 requested by the director, submit to the taking of a DNA
11 sample or samples as specified by the director. Upon the
12 refusal of any such person to so submit, the custodian of the
13 incarceration facility shall require such submission as a
14 mandatory condition of any temporary, partial, or limited
15 release, including, but not limited to, work release,
16 furlough, or other incentive release.

17 "(f) As of May 6, 1994, all persons convicted of any
18 of the offenses set out in Section 36-18-24, shall be ordered
19 by the sentencing court to submit to the taking of a DNA
20 sample or samples as may be specified by the director as part
21 of the sentence to be imposed.

22 "(g) As of May 6, 1994, all persons convicted for
23 any offense set out in Section 36-18-24 who may be eligible
24 for consideration by the Alabama Board of Pardons and Paroles
25 for either a pardon or parole shall be ordered by the Alabama
26 Board of Pardons and Paroles to submit to the taking of a DNA

1 sample or samples as may be specified by the director, as a
2 mandatory condition of the pardon or parole.

3 "(h) Nothing in this article shall be construed as
4 creating a cause of action against the state or any of its
5 agencies, officials, employees, or political subdivisions
6 based on the performance of any duty imposed by this article
7 or the failure to perform any duty imposed by this article.

8 "(i) A DNA sample obtained in good faith shall be
9 deemed to have been obtained in accordance with the
10 requirements of this chapter and its use in accordance with
11 this chapter is authorized until the circuit court in which an
12 individual was convicted or, in a case where the DNA sample
13 was collected pursuant to a felony or sexual offense arrest,
14 the circuit court where the individual was arrested, orders
15 that the DNA sample should be expunged.

16 "(j) DNA records and DNA samples submitted to the
17 Department of Forensic Sciences may only be released for one
18 of the following authorized purposes:

19 "(1) For law enforcement identification purposes,
20 including the identification of human remains, to federal,
21 state, or local criminal justice agencies.

22 "(2) For criminal defense and appeal purposes, to a
23 defendant, who shall have access to samples and analyses
24 performed in connection with the case in which the defendant
25 is charged or was convicted.

1 "(3) If personally identifiable information is
2 removed for forensic validation studies, forensic protocol
3 development, or quality control purposes.

4 "§38-13-2.

5 "When used in this chapter, the following words
6 shall have the following meanings:

7 "(1) ADULT. An individual 19 years of age and older.

8 "(2) ADULT CARE FACILITY. A person or entity holding
9 a Department of Human Resources license or approval or
10 certification to provide care, including foster care, for
11 adults.

12 "(3) APPLICANT. A person or entity who submits an
13 application for license as a child care or adult care facility
14 to the Department of Human Resources or a child placing
15 agency, or an application for employment or for a volunteer
16 position to a Department of Human Resources licensed child
17 care or adult care facility. With regards to child care and
18 adult care facilities in a home setting, the term includes an
19 adult household member whose residence is in the home. The
20 term also includes an individual who submits an application
21 for a volunteer position or for employment with the Department
22 of Human Resources in a position in which the person has
23 unsupervised access to children, adults, or individuals with
24 disabilities as one of the essential functions of the job. The
25 term also includes an applicant for approval as an adoptive
26 parent of a child or as a foster parent of an adult or child.

1 "(4) AUTOMATED SYSTEM. The computerized, automated
2 fingerprint identification system (AFIS) maintained by the
3 Department of Public Safety that allows for a computer search
4 of the in-state database for criminal history background check
5 information maintained by the Alabama Criminal Justice
6 Information Center (ACJIC). The system contains criminal
7 history background information for fingerprint-based and
8 name-based searches.

9 "(5) CARE. The provision of care, treatment,
10 education, training, instruction, supervision, or recreation
11 to children, adults, or individuals with disabilities.

12 "(6) CARETAKER SETTING. A building, structure, or
13 location, public or private property, or vehicle, utilized for
14 or involved in the providing of care, education, training,
15 instruction, or supervision of children, adults, or
16 individuals with disabilities or transportation in connection
17 with activity provided by a licensed, approved, or certified
18 child or adult care facility.

19 "(7) CHIEF EXECUTIVE OFFICER. The Commissioner of
20 the Department of Human Resources, the director of a county
21 department of human resources, or the head of an employer
22 covered by this chapter, but not specifically enumerated.

23 "(8) CHILD or CHILDREN. An individual under 19 years
24 of age.

25 "(9) CHILD CARE FACILITY. A person or entity holding
26 a Department of Human Resources license, permit, or approval

1 to provide child care, including foster care, under Chapter 7
2 of this title. The term excludes exempt child care facilities.

3 "(10) CHILD PLACING AGENCY. A person or entity
4 licensed by the Department of Human Resources under Chapter 7
5 of this title, issuing approvals to foster family homes and
6 adoptive homes.

7 "(11) CONVICTION. A determination of guilt as the
8 result of a plea, including a plea of nolo contendere, or a
9 trial.

10 "(12) CRIMINAL HISTORY BACKGROUND INFORMATION CHECK.
11 The review of any and all records containing any information
12 collected and stored in the criminal record repository of the
13 Federal Bureau of Investigation, the Alabama Criminal Justice
14 Information Center, and the Alabama Department of Public
15 Safety involving an arrest or conviction by a criminal justice
16 agency, including, but not limited to, child abuse crime
17 information as defined by 42 U.S.C. § 5119, the National Child
18 Protection Act of 1993, conviction record information,
19 fingerprint cards, correctional data and release information,
20 and identifiable descriptions and notations of convictions.
21 Criminal history background information shall not include any
22 analytical records or investigative reports that contain
23 intelligence information or criminal investigation
24 information.

25 "(13) CURRENT. An individual who is presently
26 employed, licensed, or approved, or working as a volunteer on
27 November 1, 2000.

1 "(14) DAILY LIVING TASKS. Activities of daily
2 living, including walking, working, learning, grooming and
3 hygiene, bathing, dressing, eating, cooking, cleaning,
4 shopping, transportation, managing money, maintaining a
5 residence, writing, and using telephones, computers, and other
6 automated communication devices.

7 "(15) ELDERLY. An individual 65 years of age or
8 older.

9 "(16) EMPLOYEE. An individual currently in the
10 service of an employer for compensation, full-time or
11 part-time, and employed by contract or at will, in which the
12 employer has the authority to control the person in the
13 material details of how work shall be performed and when
14 compensation shall be provided.

15 "(17) EMPLOYER. An individual, person, group of
16 persons, association, partnership, corporation, limited
17 liability company or partnership, business, or other entity
18 which hires employees, has volunteers, or contracts with
19 others to provide personnel to work with or provide care to
20 children, adults, or individuals with disabilities in a
21 caretaker setting.

22 "(18) ESSENTIAL FUNCTIONS. The fundamental, not
23 merely marginal, job duties of the employment as determined by
24 a written job description or the judgement of the employer.

25 "(19) EXEMPT CARE FACILITY. A person or entity
26 exempt by law from licensure by the Department of Human

1 Resources or a child placing agency, including church day
2 care, child centers, or elder centers.

3 "(20) INDIVIDUAL. A natural person.

4 "(21) INDIVIDUAL WITH DISABILITIES. A person with a
5 mental or physical impairment who requires assistance to
6 perform one or more daily living tasks.

7 "(22) LAW ENFORCEMENT. The sheriff's department of a
8 county or the police department of a municipality.

9 "(23) LICENSE. A license, permit, certification,
10 approval, registration, or other form of permission required
11 by law by whatever designation for a child care facility,
12 adult care facility, child placing agency, foster parent or
13 foster home, adoptive parent or adoptive home, or any other
14 person or entity in which an individual has unsupervised
15 access to children, the elderly, or individuals with
16 disabilities.

17 "(24) LICENSED SOCIAL WORKER. A social worker
18 licensed by the Alabama State Board of Social Work Examiners
19 to conduct family home studies and psychosocial assessments in
20 adoptive or custody cases by court order or for treatment not
21 otherwise required to conduct a criminal history check.

22 "(25) LICENSEE. Holder of a license or approval and
23 an adult household member whose residence is in the home in
24 regards to child care and adult care facilities in a home
25 setting.

26 "(26) PERSON or ENTITY. A natural person, sometimes
27 referred to as an individual, an owner or operator of any

1 adult care facility, child care facility, child placing
2 agency, exempt child care facility, or licensee, whether an
3 individual, corporation, limited liability company or
4 partnership, partnership, association, or other legal entity
5 or group, and a board member, an officer, member, or partner
6 of an entity who has direct contact with children, the
7 elderly, or individuals with disabilities in care.

8 "(27) REASONABLE SUSPICION. Belief by a prudent
9 person that reasonable articulable grounds exist to suspect
10 that the employee's past or present behavior should be
11 reviewed to determine if such behavior or conduct bears upon
12 the individual's fitness to teach or supervise or have
13 responsibility for the safety and well-being of children, the
14 elderly, or persons with disabilities as defined in this
15 chapter.

16 "(28) REPORT. A written statement of criminal
17 history background information.

18 "(29) RESIDENCE. Place of abode, domicile, or
19 dwelling with intention to remain permanently and continuously
20 or for an indefinite or uncertain length of time.

21 "(30) SEX CRIME. Includes the following:

22 "a. Enticing a child to enter a vehicle, room,
23 house, office, or any other place for immoral purposes, as
24 proscribed by Section 13A-6-69.

25 "b. Incest, when the offender is an adult and the
26 victim is a minor, as proscribed by Section 13A-13-3.

1 "c. Kidnapping of a minor, except by a parent, in
2 the first or second degree, as proscribed by Section 13A-6-43
3 or Section 13A-6-44.

4 "d. Promoting prostitution in the first or second
5 degree, as proscribed by Section 13A-12-111 or Section
6 13A-12-112.

7 "e. Rape in the first or second degree, as
8 proscribed by Section 13A-6-61 or Section 13A-6-62.

9 "f. Sexual misconduct, as proscribed by Section
10 13A-6-65.

11 "g. Sexual torture, as proscribed by Section
12 13A-6-65.1.

13 "h. Sexual abuse in the first or second degree, as
14 proscribed by Section 13A-6-66 or Section 13A-6-67.

15 "i. Sodomy in the first or second degree, as
16 proscribed by Section 13A-6-63 or Section 13A-6-64.

17 "j. Soliciting a child by computer for the purposes
18 of committing a sexual act and transmitting obscene material
19 to a child by computer as proscribed by Sections 13A-6-110 and
20 13A-6-111.

21 "k. Violation of the Alabama Child Pornography Act,
22 as proscribed by Section 13A-12-191, 13A-12-192, 13A-12-196,
23 or 13A-12-197.

24 "l. Any solicitation, attempt, or conspiracy to
25 commit any of the offenses listed in paragraphs a. to k.,
26 inclusive.

1 "m. A crime listed in the Alabama Sex Offender
2 Registration and Community Notification Act, Chapter ~~20~~ 20A of
3 Title 15.

4 "n. Conviction for a violation or attempted
5 violation of an offense committed outside the State of Alabama
6 or under federal law is a sex crime or any other crime if the
7 offense would be a crime in Alabama.

8 "(31) SUITABILITY CRITERIA.

9 "a. Convictions for any of the following crimes
10 shall make an individual unsuitable for employment, volunteer
11 work, approval, or licensure:

12 "1. Murder, manslaughter, or criminally negligent
13 homicide.

14 "2. A sex crime.

15 "3. A crime that involves the physical or mental
16 injury or maltreatment of a child, the elderly, or an
17 individual with disabilities.

18 "4. A crime committed against a child.

19 "5. A crime involving the sale or distribution of a
20 controlled substance.

21 "6. Robbery.

22 "7. A crime or offense committed in another state or
23 under federal law which would constitute any of the above
24 crimes in this state.

25 "b. Conviction for any crime listed in the Adoption
26 and Safe Families Act, 42 U.S.C. § 671(a)(20) shall disqualify
27 a person from being approved or continuing to be approved as a

1 foster parent or adoptive parent and a convicted person shall
2 be deemed unsuitable for employment, volunteer work, approval,
3 or licensure as a foster parent or adoptive parent.

4 "c. The Department of Human Resources may set other
5 disqualifying convictions by rule under the Administrative
6 Procedure Act, Section 41-22-1, et seq., for Department of
7 Human Resources licensed child or adult care facilities.

8 "(32) SUITABILITY DETERMINATION. A decision that an
9 individual is or is not suitable for employment, volunteer
10 work, or licensure based upon the existence of a prohibited
11 criminal conviction.

12 "(33) UNSUPERVISED ACCESS TO A CHILD OR CHILDREN,
13 THE ELDERLY, OR AN INDIVIDUAL WITH DISABILITIES. Contacts,
14 interviews, questions, examinations, interaction, or
15 communications outside the presence, supervision, and control
16 of someone other than a child or elderly or disabled
17 individual in care during the provision of care, education,
18 training, instruction, supervision, or other employment or
19 license related activities.

20 "(34) VOLUNTEER. An individual who provides services
21 without an express or implied promise of compensation, but
22 shall not include the parent, family member, legal custodian,
23 or legal guardian of a child, the elderly, or disabled
24 individual in care.

25 "(35) WRITTEN CONSENT. A signed statement by the
26 applicant or employee containing all of the following:

1 "a. The name, address, date of birth, race, gender,
2 and Social Security number appearing on a valid identification
3 document as defined in subsection (d) of 18 U.S.C. § 1028. If
4 the applicant does not have a Social Security number because
5 of sincerely held personal beliefs, the Social Security number
6 shall not be required and the Department of Human Resources
7 and the Department of Public Safety shall provide an
8 alternative means of identification and procedure.

9 b. Notice to the applicant or employee of the right
10 to obtain a copy of the criminal history background
11 information check report, challenge the accuracy and
12 completeness of any information contained in the report, and
13 to obtain a prompt determination as to the validity of a
14 challenge.

15 "c. Name, address, and telephone number of the
16 employer or licensing entity for which the criminal history
17 background information check report is being sought.

18 "d. Release of the criminal history background
19 information check report to the Department of Human Resources.

20 "§38-13-4.

21 "(a) Every employer, child care facility, adult care
22 facility, the Department of Human Resources, and child placing
23 agency required to obtain a criminal history background
24 information check pursuant to this chapter shall obtain, prior
25 to or upon the date of employment, or issuance of a license or
26 approval or renewal thereof, and maintain in the agency or
27 personnel file, a request with written consent for the

1 criminal history background information check and a statement
2 signed by the applicant, volunteer, or employee indicating
3 whether he or she has ever been convicted of a crime, and if
4 so, fully disclosing all convictions. The statement shall
5 include a notice and questionnaire the same as or similar to
6 the following:

7 "MANDATORY CRIMINAL HISTORY CHECK NOTICE: Alabama
8 law requires that a criminal history background information
9 check be conducted on all persons who hold a license or work
10 in a Department of Human Resources licensed child care or
11 adult care facility, a foster or adoptive home approved by the
12 Department of Human Resources, or a licensed child placing
13 agency, including all officers and agents of the entity. You
14 are required to provide full, complete, and accurate
15 information on your criminal conviction history upon
16 application for a license or employment. This information
17 shall be used to determine your suitability to provide care to
18 children, the elderly, or disabled individuals. Unless a
19 criminal history background information check report and
20 suitability determination have previously been obtained, you
21 must complete a written request and consent for a criminal
22 history background information check with fingerprints at the
23 time of application for employment. Refusal to complete these
24 documents or providing false information may result in refusal
25 of employment, approval, or licensure. The term conviction
26 includes a determination of guilt by a trial, by a plea of
27 guilty, or a plea of nolo contendere. You are required to

1 notify your employer, licensing agency, or entity where you
2 are performing volunteer work of any criminal conviction
3 occurring subsequent to the date of completion of this notice.
4 Any individual determined to have submitted false information
5 may be referred to the district attorney or law enforcement
6 for investigation and possible prosecution. An individual who
7 intentionally falsifies or provides any misleading information
8 on the statement is guilty of a Class A misdemeanor,
9 punishable by a fine of not more than two thousand dollars
10 (\$2,000) and imprisonment for not more than one year.

11 "Convictions for any of the following crimes shall
12 make an individual unsuitable for employment, volunteer work,
13 approval, or licensure:

14 ""1. Murder, manslaughter, or criminally negligent
15 homicide.

16 ""2. A sex crime.

17 ""3. A crime that involves the physical or mental
18 injury or maltreatment of a child, the elderly, or an
19 individual with disabilities.

20 ""4. A crime committed against a child.

21 ""5. A crime involving the sale or distribution of a
22 controlled substance.

23 ""A sex crime includes the following:

24 ""a. Enticing a child to enter a vehicle, room,
25 house, office, or any other space for immoral purposes, as
26 proscribed by Section 13A-6-69 of the Code of Alabama 1975.

1 ""b. Incest, when the offender is an adult and the
2 victim is a minor, as proscribed by Section 13A-13-3 of the
3 Code of Alabama 1975.

4 ""c. Kidnapping of a minor, except by a parent, in
5 the first or second degree, as proscribed by Section 13A-6-43
6 or Section 13A-6-44 of the Code of Alabama 1975.

7 ""d. Promoting prostitution in the first or second
8 degree, as proscribed by Section 13A-12-111 or Section
9 13A-12-112 of the Code of Alabama 1975.

10 ""e. Rape in the first or second degree, as
11 proscribed by Section 13A-6-61 or Section 13A-6-62 of the Code
12 of Alabama 1975.

13 ""f. Sexual misconduct, as proscribed by Section
14 13A-6-65 of the Code of Alabama 1975.

15 ""g. Sexual torture, as proscribed by Section
16 13A-6-65.1 of the Code of Alabama 1975.

17 ""h. Sexual abuse in the first or second degree, as
18 proscribed by Section 13A-6-66 or Section 13A-6-67 of the Code
19 of Alabama 1975.

20 ""i. Sodomy in the first or second degree, as
21 proscribed by Section 13A-6-63 or Section 13A-6-64 of the Code
22 of Alabama 1975.

23 ""j. Soliciting a child by computer for the purposes
24 of committing a sexual act and transmittal of obscene material
25 to a child by computer as proscribed by Sections 13A-6-110 and
26 13A-6-111 of the Code of Alabama 1975.

1 ""k. Violation of the Alabama Child Pornography Act,
2 as proscribed by Section 13A-12-191, 13A-12-192, 13A-12-196,
3 or 13A-12-197 of the Code of Alabama 1975.

4 ""l. Any solicitation, attempt, or conspiracy to
5 commit any of the offenses listed in paragraphs a. to k.,
6 inclusive.

7 ""m. A crime listed in the Alabama Sex Offender
8 Registration and Community Notification Act, Chapter ~~20~~ 20A of
9 Title 15 of the Code of Alabama 1975.

10 ""6. Conviction for a crime listed in the federal
11 Adoption and Safe Families Act as prohibiting a person from
12 being a foster parent or adoptive parent shall be deemed to
13 make the convicted person unsuitable for employment, volunteer
14 work, approval, or licensure as a foster parent or adoptive
15 parent.

16 ""7. Conviction for a violation or attempted
17 violation of an offense committed outside the State of Alabama
18 or under federal law is a sex crime or any other crime listed
19 in this notice if the offense would be a crime listed in this
20 notice in Alabama.

21 ""CRIMINAL HISTORY STATEMENT

22 ""Have you ever had a suitability determination made
23 by the Department of Human Resources in connection with a
24 previous criminal history information background check? Yes
25 () No () .

26 ""Have you ever been convicted of a crime? Yes ()
27 No () . If yes, state the date, crime, location, punishment

1 imposed, and whether the victim was a child or an elderly or
2 disabled individual.

3 "" _____

4 "" _____

5 ""Date _____ Signature _____."

6 "(b) An individual who fails or refuses to provide a
7 statement shall not be employed, allowed to work or volunteer,
8 or issued a license or approval as defined in this chapter.
9 Upon receipt of a signed criminal history statement which does
10 not indicate conviction for a crime prohibiting employment
11 under the suitability criteria, an employer, including the
12 Department of Human Resources, may employ an applicant or
13 allow a volunteer or contract provider to work provisionally
14 pending receipt of a suitability determination from the
15 Department of Human Resources.

16 "(c) No later than the five business days after
17 employment or a reasonable time after completion of
18 application for a license or approval, an employer, the
19 Department of Human Resources, or child placing agency shall
20 mail or deliver a request for a criminal history background
21 information check to the Department of Public Safety
22 accompanied by the following:

23 "(1) Two complete sets of fingerprints, properly
24 executed by a law enforcement agency or an individual properly
25 trained in fingerprinting techniques.

1 "(2) Written consent from the applicant, employee,
2 or volunteer for the release of the criminal history
3 background information to the Department of Human Resources.

4 "(3) The fee.

5 "(d) Upon receipt of a suitability determination
6 from the Department of Human Resources that a person or entity
7 is suitable for employment, volunteer work, licensure, or
8 approval based on the criminal history background information
9 check, an employer, a child care facility, adult care
10 facility, a child placing agency, or the Department of Human
11 Resources may make its own determination of employment,
12 licensure, or approval. This chapter shall not create any
13 right to employment, work, approval, or licensure. Upon
14 receipt of a determination from the Department of Human
15 Resources that an individual is unsuitable for employment,
16 licensure, approval, or volunteer work, an employer, the child
17 care facility, adult care facility, child placing agency, or
18 Department of Human Resources shall terminate the individual
19 from employment or volunteer work or shall not employ or use
20 the individual. Termination of employment may be delayed by
21 the employer to allow the individual to challenge either the
22 accuracy or completeness of the criminal history information
23 background report or the suitability determination made by the
24 Department of Human Resources. The Department of Human
25 Resources or child placing agency shall suspend or revoke a
26 license or approval or deny a license or approval application
27 to an individual receiving an unsuitability determination. As

1 an alternative to termination of employment, the Department of
2 Human Resources may transfer a permanent Merit System employee
3 to an available position for which the employee is qualified
4 where unsupervised access to children, the elderly, or persons
5 with disabilities shall not be an essential function of the
6 job.

7 "(e) If a review of a criminal history background
8 information check or other information received reveals that
9 the person has submitted false information, the employer,
10 child care facility, adult care facility, child placing
11 agency, or Department of Human Resources may terminate the
12 employee or volunteer. The Department of Human Resources or
13 child placing agency may revoke the approval or license of a
14 person or entity when the person or entity submits false
15 information in a review of criminal history background
16 information check or other information. The Department of
17 Human Resources shall be notified of the false information and
18 may refer the case to an appropriate law enforcement agency or
19 district attorney for investigation and prosecution.

20 "(f) Unless otherwise provided in this chapter, only
21 one criminal history background information check shall be
22 required on an individual regardless of subsequent changes in
23 employment or licensing or approval status. Subsequent
24 criminal history background information checks may be
25 conducted by the employer or licensing or approval entity. The
26 licensing or approval entity shall pay the cost for subsequent
27 criminal history background information checks. If the

1 statement signed by the applicant or employee states that a
2 criminal history background information check has been
3 performed and suitability determination issued on the
4 individual pursuant to this chapter, the employer or licensing
5 agency may request at the time of application only a
6 suitability determination from the Department of Human
7 Resources on the check previously performed, within five
8 business days of employment, or completion of license or
9 approval application, submitting the same kind of information
10 and consent for the request for suitability determination as
11 required by the written consent for a criminal history
12 background information check."

13 Section 2. Although this bill would have as its
14 purpose or effect the requirement of a new or increased
15 expenditure of local funds, the bill is excluded from further
16 requirements and application under Amendment 621 because the
17 bill defines a new crime or amends the definition of an
18 existing crime.

19 Section 3. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.