

1 HB316
2 165910-1
3 By Representatives Givan, Beckman, England, Treadaway and
4 Coleman-Evans
5 RFD: Judiciary
6 First Read: 18-MAR-15

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8 SYNOPSIS: This bill would make technical revisions to
9 the Alabama Sex Offender Registration and Community
10 Notification Act, would change certain references
11 from the Department of Public Safety to the Alabama
12 State Law Enforcement Agency, and would update
13 internal citations in various sections of the Code
14 of Alabama 1975 to reflect the appropriate section
15 under current law.

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

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

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

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

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

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 Relating to sex offender registration, to amend
27 Sections 12-15-107, 12-15-116, 13A-5-2, 13A-5-6, 14-9-41,

1 15-18-8, 15-19-7, 15-20A-4, 15-20A-5, 15-20A-6, 15-20A-7,
2 15-20A-8, 15-20A-9, 15-20A-11, 15-20A-12, 15-20A-14,
3 15-20A-15, 15-20A-16, 15-20A-18, 15-20A-21, 15-20A-22,
4 15-20A-23, 15-20A-24, 15-20A-25, 15-20A-26, 15-20A-27,
5 15-20A-28, 15-20A-29, 15-20A-32, 15-20A-34, 15-20A-35,
6 15-20A-37, 15-20A-38, 15-20A-39, 15-20A-40, 15-20A-42,
7 15-20A-43, 15-20A-44, 15-20A-45, 15-20A-46, 15-22-27.3,
8 32-6-49.24, 36-18-24, 36-18-25, 38-13-2, and 38-13-4, Code of
9 Alabama 1975, to make technical revisions to the Alabama Sex
10 Offender Registration and Community Notification Act; to
11 update internal citations to reflect the appropriate section
12 of the current registration and community notification law; to
13 clarify that petitions for relief from registration,
14 employment, or living restrictions must be filed in the civil
15 division of the circuit court; to provide a penalty for a sex
16 offender who absconds and fails to register with the county
17 where he or she declared intent to reside; and to require a
18 sex offender to provide law enforcement with a list of all
19 Internet providers used by the sex offender; and in connection
20 therewith to have as its purpose or effect the requirement of
21 a new or increased expenditure of local funds within the
22 meaning of Amendment 621 of the Constitution of Alabama of
23 1901, now appearing as Section 111.05 of the Official
24 Recompilation of the Constitution of Alabama of 1901, as
25 amended.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 12-15-107, 12-15-116, 13A-5-2,
2 13A-5-6, 14-9-41, 15-18-8, 15-19-7, 15-20A-4, 15-20A-5,
3 15-20A-6, 15-20A-7, 15-20A-8, 15-20A-9, 15-20A-11,
4 15-20A-12, 15-20A-14, 15-20A-15, 15-20A-16, 15-20A-18,
5 15-20A-21, 15-20A-22, 15-20A-23, 15-20A-24, 15-20A-25,
6 15-20A-26, 15-20A-27, 15-20A-28, 15-20A-29, 15-20A-32,
7 15-20A-34, 15-20A-35, 15-20A-37, 15-20A-38, 15-20A-39,
8 15-20A-40, 15-20A-42, 15-20A-43, 15-20A-44, 15-20A-45,
9 15-20A-46, 15-22-27.3, 32-6-49.24, 36-18-24, 36-18-25,
10 38-13-2, and 38-13-4, Code of Alabama 1975, are amended to
11 read as follows:

12 "§12-15-107.

13 "(a) For the purpose of carrying out the objectives
14 and purposes of this chapter and subject to the limitations of
15 this chapter or imposed by the juvenile court, a juvenile
16 probation officer shall perform the following duties:

17 "(1) Make investigations, reports, and
18 recommendations to the juvenile court.

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

21 "(3) Supervise and assist a child placed on
22 probation or aftercare by order of the juvenile court or other
23 authority of law until the terms of probation or aftercare
24 expire or are otherwise terminated.

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

1 "(5) Make predisposition studies and submit reports
2 and recommendations to the juvenile court as required by this
3 chapter.

4 "(6) Collect and compile statistical data and file
5 reports as may be required by the Administrative Director of
6 Courts pursuant to subdivision (1) of Section 12-5-10. The
7 reports may include, but shall not be limited to, statistical
8 data, case studies, and research materials.

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

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

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

27 "§12-15-116.

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

4 "(1) Contributing to the delinquency, in need of
5 supervision, or dependency of a child in violation of Section
6 12-15-111.

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

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

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

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

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

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

21 "§13A-5-2.

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

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

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

3 "(1) Imprisonment for a term authorized by Section
4 13A-5-7; or

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

6 "(3) Both such imprisonment and fine.

7 "(d) Every person convicted of a felony,
8 misdemeanor, or violation, except for the commission of a
9 ~~criminal~~ sex offense involving a child as defined in Section
10 ~~15-20-21(5)~~ 15-20A-4(26), may be placed on probation as
11 authorized by law.

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

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

22 "§13A-5-6.

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

26 "(1) For a Class A felony, for life or not more than
27 99 years or less than 10 years.

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

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

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

10 "(5) For a Class B or C felony in which a firearm or
11 deadly weapon was used or attempted to be used in the
12 commission of the felony, or a Class B felony ~~criminal~~ sex
13 offense involving a child as defined in Section ~~15-20-21(5)~~
14 15-20A-4(26), not less than 10 years.

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

19 "(c) In addition to any penalties heretofore or
20 hereafter provided by law, in all cases where an offender is
21 designated as a sexually violent predator pursuant to Section
22 ~~15-20-25.3~~ 15-20A-19, or where an offender is convicted of a
23 Class A felony ~~criminal~~ sex offense involving a child as
24 defined in Section ~~15-20-21(5)~~ 15-20A-4(26), and is sentenced
25 to a county jail or the Alabama Department of Corrections, the
26 sentencing judge shall impose an additional penalty of not

1 less than 10 years of post-release supervision to be served
2 upon the defendant's release from incarceration.

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

11 "§14-9-41.

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

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

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

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

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

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

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

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

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

26 "(4) Class IV is for prisoners not yet classified
27 and for those who are able to work and refuse, or who commit

1 disciplinary infractions of such a nature which do not warrant
2 a higher classification, or inmates who do not abide by the
3 rules of the institution. Inmates who are classified in this
4 earning class receive no correctional incentive time. This
5 class is generally referred to as "flat time" or
6 "day-for-day." Any inmate shall remain in this classification
7 for a minimum period of 30 days before being eligible for
8 Class III.

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

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

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

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

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

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

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

1 judgment, upon recommendation and evidence submitted to him by
2 the warden in charge.

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

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

24 "(h) Deductions for good behavior, work habits and
25 cooperation, or good conduct shall be interpreted to give
26 authorized good time retroactively, to those offenders
27 convicted of crimes committed after May 19, 1980, except those

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

9 "§15-18-8.

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

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

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

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

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

21 "(b) Probation may not be granted for a ~~criminal~~ sex
22 offense involving a child as defined in Section ~~15-20-21(5)~~
23 15-20A-4(26), which constitutes a Class A or B felony.

24 Otherwise, probation may be granted whether the offense is
25 punishable by fine or imprisonment or both. If an offense is
26 punishable by both fine and imprisonment, the court may impose
27 a fine and place the defendant on probation as to

1 imprisonment. Probation may be limited to one or more counts
2 or indictments, but, in the absence of express limitation,
3 shall extend to the entire sentence and judgment.

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

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

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

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

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

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

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

1 "(g) No defendant serving a minimum period of
2 confinement ordered under the provisions of subsection (a)
3 shall be entitled to parole or to deductions from his or her
4 sentence under the Alabama Correctional Incentive Time Act,
5 during the minimum period of confinement so ordered; provided,
6 however, that this subsection shall not be construed to
7 prohibit application of the Alabama Correctional Incentive
8 Time Act to any period of confinement which may be required
9 after the defendant has served such minimum period.

10 "§15-19-7.

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

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

26 "§15-20A-4.

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

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

5 "(2) CHILD. A person who has not attained the age of
6 12.

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

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

1 Cases on appeal are deemed convictions until reversed or
2 overturned.

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

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

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

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

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

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

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

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

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

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

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

9 "(16) PRIOR CONVICTION. The person has served and
10 has been released or discharged from, or is serving, a
11 separate period of incarceration, commitment, or supervision
12 for the commission of a sex offense, as defined by Section
13 15-20A-5, prior to, or at the time of, committing another sex
14 offense.

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

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

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

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

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

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

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

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

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

1 "(25) SEX OFFENDER. Includes any adult sex offender,
2 any youthful offender sex offender, and any juvenile sex
3 offender.

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

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

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

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

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

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

27 "§15-20A-5.

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

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

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

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

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

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

22 "(6) Sexual torture, as provided by Section
23 13A-6-65.1.

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

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

1 "(9) Indecent exposure, as provided by Section
2 13A-6-68, provided that on a first conviction or adjudication
3 of a sex offense, the sex offender is only subject to
4 registration and verification pursuant to this chapter. On a
5 second or subsequent conviction or adjudication of a sex
6 offense, if the second or subsequent conviction or
7 adjudication does not arise out of the same set of facts and
8 circumstances as the first conviction or adjudication, the sex
9 offender shall comply with all requirements of this chapter.
10 The sentencing court may exempt from this act a juvenile sex
11 offender adjudicated delinquent of indecent exposure.

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

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

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

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

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

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

1 the intent of the unlawful imprisonment was to abuse the minor
2 sexually.

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

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

12 "(18) Kidnapping of a minor, except by a parent,
13 guardian, or custodian, as provided by Section 13A-6-43 or
14 13A-6-44.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 employing, harboring, procuring or using a girl over 10 and
2 under 18 years of age for the purpose of prostitution or
3 sexual intercourse, as provided by Section 13-7-1; seduction,
4 as defined and provided by Section 13-1-112; a male person
5 peeping into a room occupied by a female, as provided by
6 Section 13-6-6; assault with intent to ravish, as provided by
7 Section 13-1-46; and soliciting a child by computer, as
8 provided by Section 13A-6-110.

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

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

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

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

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

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

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

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

21 "§15-20A-6.

22 "(a) (1) The indictment, count in the indictment,
23 information, complaint or warrant charging the offense may
24 include a specification of sexual motivation or the
25 prosecuting attorney may file an allegation of sexual
26 motivation in any criminal case classified as a felony or
27 Class A misdemeanor if sufficient admissible evidence exists

1 that would justify a finding of sexual motivation by a
2 reasonable and objective finder of fact.

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

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

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

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

1 "(d) If a defendant has a trial by jury, the jury,
2 if it finds the defendant guilty, shall also find a special
3 verdict as to whether or not the defendant committed the crime
4 with a sexual motivation.

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

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

12 "(g) This section shall not apply to sex offenses as
13 defined in subdivisions (1) to (38), inclusive, of Section
14 15-20A-5.

15 "§15-20A-7.

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

19 "(1) Name, including any aliases, nicknames, ethnic,
20 or tribal names.

21 "(2) Date of birth.

22 "(3) Social Security number.

23 "(4) Address of each residence.

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

1 including a secondary school, a trade or professional school,
2 or an institution of higher education.

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

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

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

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

17 "(10) A current photograph.

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

21 "(12) Fingerprints and palm prints.

22 "(13) A DNA sample. The DNA sample may be collected
23 by the probation officer, sheriff, chief of police, or other
24 responsible agency. Prior to collecting a DNA sample, the
25 responsible agency shall determine if a DNA sample has already
26 been collected for the sex offender by checking the Dru Sjodin
27 National Sex Offender Public Registry website, the Alabama

1 Department of Forensic Sciences DNATracker site, or with the
2 Alabama State Law Enforcement Agency ~~Department of Public~~
3 ~~Safety~~. If a DNA sample has not been previously collected for
4 the sex offender, the responsible agency shall coordinate for
5 the collection of a DNA sample with the sheriff of the county
6 in which the registration is occurring. The collection of a
7 DNA sample should be performed using materials recommended or
8 provided by the Alabama Department of Forensic Sciences. The
9 DNA sample shall be immediately forwarded by the entity
10 collecting the sample to the Department of Forensic Sciences.

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

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

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

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

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

24 "~~(18)~~(19) Any other information deemed necessary by
25 the ~~Director~~ Secretary of the ~~Department of Public Safety~~
26 Alabama State Law Enforcement Agency.

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

6 "(1) A current photograph.

7 "(2) Fingerprints or palm prints.

8 "(3) A DNA sample.

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

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

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

24 "(d) The required registration information shall
25 include a form explaining all registration and notification
26 duties, including any requirements and restrictions placed on
27 the sex offender. This form shall be signed and dated by the

1 sex offender. If the sex offender fails to sign the form, the
2 designee of the registering agency shall sign the form stating
3 that the requirements have been explained to the sex offender
4 and that the sex offender refused to sign.

5 "(e) All required registration information shall be
6 stored electronically in a manner determined by the ~~Director~~
7 Secretary of the Department of Public Safety Alabama State Law
8 Enforcement Agency and shall be available in a digitized
9 format by the ~~Department of Public Safety Alabama State Law~~
10 Enforcement Agency to anyone entitled to receive the
11 information as provided in Section 15-20A-42.

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

15 "§15-20A-8.

16 "(a) All of the following registration information
17 shall be provided on the public registry website maintained by
18 the ~~Department of Public Safety Alabama State Law Enforcement~~
19 Agency and may be provided on any community notification
20 documents:

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

23 "(2) Address of each residence.

24 "(3) Address of any school the sex offender attends
25 or will attend. For purposes of this subdivision, a school
26 includes an educational institution, public or private,

1 including a secondary school, a trade or professional school,
2 or an institution of higher education.

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

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

9 "(6) A current photograph.

10 "(7) A physical description of the sex offender.

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

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

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

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

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

23 "(2) Social Security number.

24 "(3) Travel and immigration document numbers.

25 "(4) Victim identity.

26 "(5) Internet identifiers.

1 "(c) Any other required registration information may
2 be included on the website as determined by the ~~Director~~
3 Secretary of the Department of Public Safety Alabama State Law
4 Enforcement Agency.

5 "(d) All information shall immediately be posted on
6 the public registry website upon receipt of the information by
7 the ~~Department of Public Safety~~ Alabama State Law Enforcement
8 Agency.

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

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

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

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

23 "§15-20A-9.

24 "(a) At least 30 days prior to release, or
25 immediately upon notice of release if release is less than 30
26 days, of an adult sex offender from the county jail, municipal
27 jail, Department of Corrections, or any other facility that

1 has incarcerated the adult sex offender, or immediately upon
2 conviction, if the adult sex offender is not incarcerated,~~the~~
3 ~~responsible agency shall:~~

4 "(1) ~~Inform~~ The responsible agency shall inform the
5 adult sex offender of his or her duty to register and,
6 instruct the adult sex offender to read and sign a form
7 stating that the duty to register has been explained,~~and~~
8 obtain. The adult sex offender shall sign the form stating
9 that the duty to register has been explained and shall provide
10 the required registration information ~~from the adult sex~~
11 ~~offender~~. If the adult sex offender refuses to sign the form,
12 the designee of the responsible agency shall sign the form
13 stating that the requirements have been explained to the adult
14 sex offender and that the adult sex offender refused to sign.

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

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

15 "(4) If an adult sex offender is not able to provide
16 a residence prior to the time of release, then the responsible
17 agency shall notify the sheriff of the county where the last
18 conviction for a sex offense or violation of this chapter took
19 place at least five days prior to the release of the adult sex
20 offender. Upon notice of the release date from the responsible
21 agency, the sheriff of the county of the last conviction for a
22 sex offense or a violation of this chapter shall make
23 arrangements to have the adult sex offender immediately
24 remanded to his or her custody to register in accordance with
25 Section 15-20A-10 at the time of release.

26 "(5) Any adult sex offender who is due to be
27 released due to the expiration of his or her sentence and who

1 refuses to provide the required registration information shall
2 be treated as follows:

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

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

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

4 "§15-20A-11.

5 "(a) No adult sex offender shall establish a
6 residence, maintain a residence after release or conviction,
7 or establish any other living accommodation within 2,000 feet
8 of the property on which any school or childcare facility is
9 located unless otherwise exempted pursuant to Sections
10 15-20A-23 and 15-20A-24.

11 "(b) No adult sex offender shall establish a
12 residence, maintain a residence after release or conviction,
13 or establish any other living accommodation within 2,000 feet
14 of the property on which his or her former victim, or an
15 immediate family member of the victim, resides unless
16 otherwise exempted pursuant to Section 15-20A-24 or Section
17 15-20A-16.

18 "(c) Changes to property within 2,000 feet of a
19 registered address of an adult sex offender which occur after
20 the adult sex offender establishes residency shall not form
21 the basis for finding that the adult sex offender is in
22 violation of this section unless the sex offender has been
23 released or convicted of a new offense after establishing
24 residency.

25 "(d) No adult sex offender shall establish or
26 maintain a residence or any other living accommodation with a
27 minor. For the purpose of this subsection, living

1 accommodation includes, but is not limited to, any overnight
2 visit with a minor. Notwithstanding the foregoing, an adult
3 sex offender may reside with a minor if the adult sex offender
4 is the parent, grandparent, stepparent, sibling, or
5 stepsibling of the minor, unless one of the following
6 conditions applies:

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

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

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

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

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

25 "(e) Notwithstanding any other provision of law
26 regarding establishment of residence, an adult sex offender

1 shall be deemed to have established a residence in any of the
2 following circumstances:

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

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

9 "(3) Whenever an adult sex offender spends 10 or
10 more aggregate days at ~~a location~~ any locations during a
11 calendar month other than his or her registered address.

12 "(4) Whenever an adult sex offender vacates his or
13 her residence or fails to spend three or more consecutive days
14 at his or her residence without previously notifying local law
15 enforcement or obtaining a travel permit pursuant to Section
16 15-20A-15.

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

23 "(g) For the purposes of this section, the
24 2,000-foot measurement shall be taken in a straight line from
25 nearest property line to nearest property line.

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

1 "§15-20A-12.

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

7 "(b) In addition to complying with the registration
8 and verification requirements pursuant to Section 15-20A-10, a
9 homeless adult sex offender who lacks a fixed residence, or
10 who does not provide an address at a fixed residence at the
11 time of release or registration, shall report in person once
12 every seven days to ~~local~~ law enforcement agency where he or
13 she resides. If the sex offender resides within the city
14 limits of a municipality, he or she shall report to the chief
15 of police. If the adult sex offender resides outside of the
16 city limits of a municipality he or she shall report to the
17 sheriff of the county. The weekly report shall be on a day
18 specified by local law enforcement and shall occur during
19 normal business hours.

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

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

26 "a. Name.

27 "b. Date of birth.

1 "c. Social Security number.

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

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

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

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

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

20 "§15-20A-14.

21 "(a) Any adult sex offender who declares he or she
22 is entering the state to establish a residence or who enters
23 this state and establishes to establish a residence shall
24 immediately appear in person and register all required
25 registration information with local law enforcement in the
26 county of residence where the adult sex offender intends to
27 establish or establishes a residence.

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

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

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

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

20 "§15-20A-15.

21 "(a) ~~If~~ Prior to an adult sex offender ~~intends to~~
22 temporarily ~~be away~~ leaving from his or her county of
23 residence for a period of three or more consecutive days, the
24 adult sex offender shall report such information in person
25 immediately prior to leaving his or her county of residence
26 for such travel to ~~local law enforcement~~ the sheriff in each
27 county of residence.

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

4 "(c) If a sex offender intends to travel to another
5 country, he or she shall report in person ~~local law~~
6 ~~enforcement~~ the sheriff in each county of residence at least
7 21 days prior to such travel. Any information reported to
8 ~~local law enforcement~~ the sheriff in each county of residence
9 shall immediately be reported to the United States Marshals
10 Service and the ~~Department of Public Safety~~ Alabama State Law
11 Enforcement Agency.

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

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

22 "(f) Upon return to the county of residence, the
23 adult sex offender shall immediately report to ~~local law~~
24 ~~enforcement~~ the sheriff in each county of residence.

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

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

3 "§15-20A-16.

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

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

12 "(c) Notwithstanding subsections (a) and (b), a
13 petition to exclude an adult sex offender from the
14 requirements of this section and Section 15-20A-11(b) may be
15 filed in accordance with the requirements of Section
16 15-20A-24(c). The court shall conduct a hearing and may
17 exclude an adult sex offender from the provisions of this
18 section provided that:

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

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

23 "(3) The sex offense is an offense included in
24 Sections 13A-6-62, 13A-6-64, 13A-6-65, or 13A-6-67, of if the
25 crime was committed in this state or any other jurisdiction
26 which, if had been committed in this state under the current

1 provisions of law, would constitute an offense listed in
2 Sections 13A-6-62, 13A-6-64, 13A-6-65, or 13A-6-67.

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

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

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

13 "§15-20A-18.

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

1 offender at no cost. Indigence shall be determined by order of
2 the court prior to each issuance of a driver license or
3 identification card.

4 "(b) The adult sex offender shall ~~immediately~~ obtain
5 a valid driver license or identification card upon bearing a
6 designation that enables law enforcement officers to identify
7 the licensee as a sex offender within 14 days of his or her
8 initial registration following release, initial registration
9 upon entering the state to become a resident, or immediately
10 following his or her next registration after July 1, 2011.

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

17 "(d) Upon obtaining or renewing a driver license or
18 identification card bearing a designation that enables law
19 enforcement officers to identify the licensee as a sex
20 offender, the adult sex offender shall relinquish to the
21 ~~Department of Public Safety~~ Alabama State Law Enforcement
22 Agency any other driver license or identification card
23 previously issued to him or her which does not bear any
24 designation enabling law enforcement officers to identify the
25 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 Alabama State Law Enforcement Agency bearing any designation
8 enabling law enforcement officers to identify the licensee as
9 a sex offender which has been mutilated, marred, changed,
10 reproduced, altered, defaced, disfigured, or otherwise changed
11 shall be prima facie evidence that he or she has violated this
12 section.

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

15 "§15-20A-21.

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

20 "(1) In the Cities of Birmingham, Mobile,
21 Huntsville, and Montgomery, the chief of police shall notify
22 all persons who have a legal residence within 1,000 feet of
23 the declared residence of the adult sex offender and all
24 schools and childcare facilities within three miles of the
25 declared residence of the adult sex offender that the adult
26 sex offender will be establishing or has established his or
27 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~~ Secretary of the ~~Department of Public~~
5 ~~Safety~~ Alabama State Law Enforcement Agency, a sheriff, or a
6 chief of police from providing community notification under
7 the provisions of this chapter by regular mail,
8 electronically, or by publication or periodically to persons
9 whose legal residence is within the guidelines of this chapter
10 or more than the applicable distance from the residence of an
11 adult sex offender.

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

20 "\$15-20A-22.

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

26 "(b) Each time an adult sex offender terminates his
27 or her residence and establishes a new residence, he or she

1 shall pay a registration fee in the amount of ten dollars
2 (\$10) to each registering agency where the adult sex offender
3 establishes a new residence.

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

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

22 "(2) Any and all registration fees collected by the
23 sheriff, or his or her designee, shall be deposited in the
24 county general fund earmarked for use of the sheriff and shall
25 be paid to the sheriff upon his or her request to be used at
26 the discretion of the sheriff for any law enforcement purpose

1 related to sex offender registration, notification, tracking
2 or apprehension.

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

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

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

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

26 "§15-20A-23.

1 "(a) A sex offender required to register under this
2 chapter may petition the court for relief from the residency
3 restriction pursuant to subsection (a) of Section 15-20A-11
4 during the time a sex offender is terminally ill or
5 permanently immobile, or the sex offender has a debilitating
6 medical condition requiring substantial care or supervision or
7 requires placement in a residential health care facility.

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

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

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

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

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

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

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

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

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

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) Notarized documentation of the sex offender's
11 condition by his or her medical provider.

12 "(5) A release allowing the prosecuting attorney or
13 the court to obtain any other medical records or documentation
14 relevant to the petition.

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

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

22 "(f) The court shall hold a hearing within 30 days
23 of the filing of the petition. Upon request of the prosecuting
24 attorney, and for good cause shown, the hearing may be
25 continued to allow the prosecuting attorney to obtain any
26 relevant records pertinent to the hearing. At the hearing the

1 prosecuting attorney and the victim shall have the opportunity
2 to be heard.

3 "(g) The court may issue an order releasing the sex
4 offender from ~~any~~ of the residency restrictions pursuant to
5 subsection (a) of Section 15-20A-11 if the court finds by
6 clear and convincing evidence that the sex offender does not
7 pose a substantial risk of perpetrating any future dangerous
8 sexual offense or that the sex offender is not likely to
9 reoffend. The court may relieve a sex offender from any
10 residency restrictions indefinitely or for a specific period
11 of time.

12 "(h) The court shall send a copy of any order
13 releasing a sex offender from ~~any~~ residency restrictions
14 pursuant to subsection (a) of Section 15-20A-11 to the
15 prosecuting attorney and the ~~Department of Public Safety~~
16 Alabama State Law Enforcement Agency.

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

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

1 "(k) If at any time the sex offender is no longer
2 terminally ill, ~~or permanently immobile, or no longer suffers~~
3 from a debilitating medical condition requiring substantial
4 care or supervision or no longer requires placement in a
5 residential health care facility, the sex offender shall
6 immediately register in person with local law enforcement in
7 each county of residence and update all required registration
8 information.

9 "(l) No sex offender petitioning the court under
10 this section for an order terminating the sex offender's
11 obligation to comply with the residency restrictions is
12 entitled to publicly funded experts or publicly funded
13 witnesses.

14 "(m) The state may petition the court to reinstate
15 the restrictions pursuant to subsection (a) of Section
16 15-20A-11 for good cause shown.

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

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

1 "(p) 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-24.

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

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

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

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

18 "(4) Sexual misconduct, as provided by Section
19 13A-6-65.

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

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

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

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

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

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

11 "(c) ~~The~~ If the petition for relief is filed after
12 sentencing or disposition, the petition for relief shall be
13 filed as follows:

14 "(1) If the adult or youthful offender sex offender
15 was adjudicated or convicted in this state, the petition for
16 relief shall be filed in the ~~sentencing court~~ civil division
17 of the circuit court where the adult or youthful offender sex
18 offender was adjudicated or convicted.

19 "(2) If the adult or youthful offender sex offender
20 was adjudicated or convicted in a jurisdiction outside of this
21 state, the petition for relief shall be filed in the
22 ~~appropriate court of this state with similar jurisdiction~~
23 civil division of the circuit court in the county in which the
24 adult or youthful offender sex offender resides.

25 "(3) If the juvenile sex offender was adjudicated in
26 this state, the petition for relief shall be filed in the
27 juvenile court.

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

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

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

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

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

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

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

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

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

25 "(2) 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 upon
2 completion of probation or a term of registration.

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

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

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

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

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

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

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

25 "(1) Recommendations from the sex offender's
26 probation officer, including, but not limited to, the

1 recommendations in the presentence investigation report and
2 the sex offender's compliance with supervision requirements.

3 "(2) Recommendations from the prosecuting attorney.

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

6 "(4) The facts and circumstances surrounding the
7 offense.

8 "(5) The relationship of the parties.

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

10 "(7) The protection of society.

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

13 "(i) The court may grant full or partial relief from
14 this chapter. If the court grants relief, the court shall
15 enter an order detailing the relief granted and provide a copy
16 of the order to the prosecuting attorney and the ~~Department of~~
17 ~~Public Safety~~ Alabama State Law Enforcement Agency.

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

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

26 "(l) If a sex offender was adjudicated or convicted
27 of any of the offenses specified in subsection (a) prior to

1 July 1, 2011, and meets the eligibility requirements specified
2 in subsection (b), except as otherwise provided for in
3 subsection (k), the sex offender may petition the court for
4 relief pursuant to this section.

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

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

18 "§15-20A-25.

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

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

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

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

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

9 "(5) Sexual torture, as provided by Section
10 13A-6-65.1.

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

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

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

19 "(b) (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 in which
25 the sex offender seeks to accept or maintain employment.

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 sex offender
5 seeks to accept or maintain employment.

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

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

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

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

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

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

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

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

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

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

11 "(1) The nature of the offense.

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

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

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

17 "(g) If the court grants the petition, the court
18 shall enter an order detailing the relief granted and provide
19 a copy of the order to the prosecuting attorney where the
20 petition was filed and to the ~~Department of Public Safety~~
21 Alabama State Law Enforcement Agency.

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

1 "(i) The state may petition the court to reinstate
2 the restrictions pursuant to subsection (b) of Section
3 15-20A-13 for good cause shown.

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

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

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

17 "§15-20A-26.

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

22 "(b) Upon completion of sex offender treatment, the
23 juvenile sex offender shall be required to undergo a sex
24 offender risk assessment. The treatment provider shall provide
25 a copy of the risk assessment to the sentencing court, the
26 prosecuting attorney, and the juvenile probation ~~officer~~
27 office not less than 60 days prior to the projected release of

1 the juvenile sex offender from a facility where the juvenile
2 sex offender does not have unsupervised access to the public
3 or immediately upon completion of the risk assessment if the
4 juvenile sex offender is not in a facility where the juvenile
5 sex offender does not have unsupervised access to the public.

6 "(c) Upon receiving the risk assessment, the
7 juvenile probation ~~officer~~ office shall ~~immediately notify~~
8 provide a copy of the risk assessment to the state and either
9 the attorney for the juvenile sex offender ~~and either~~ or the
10 parent, guardian, or custodian of the juvenile sex offender ~~of~~
11 ~~the pending release of the juvenile sex offender and provide~~
12 ~~them with a copy of the risk assessment.~~ In addition, the
13 juvenile probation office shall immediately notify the
14 attorney for the juvenile sex offender and either the parent,
15 guardian, or custodian of the pending release of the juvenile
16 sex offender from a facility where the juvenile sex offender
17 does not have unsupervised access to the public.

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

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

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

3 "§15-20A-28.

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

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

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

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

14 "(4) Sexual torture, as provided by Section
15 13A-6-65.1.

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

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

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

26 "(b) A juvenile sex offender subject to lifetime
27 registration may petition the sentencing juvenile court for

1 relief from registration and notification, if notification was
2 ordered, 25 years after the juvenile sex offender is released
3 from the offense subjecting the juvenile sex offender to
4 registration in accordance with this chapter, pursuant to
5 Section 15-20A-34.

6 "(c) A juvenile sex offender who ~~has been~~
7 ~~adjudicated delinquent of any sex offense, excluding those~~
8 ~~listed in~~ is not subject to lifetime registration pursuant to
9 subsection (a), shall be subject to this chapter for a period
10 of 10 years from the last date of release from the offense
11 subjecting the juvenile sex offender to registration in
12 accordance with this chapter.

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

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

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

5 "§15-20A-27.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 "(13) The protection of society.

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

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

20 "(1) If the risk of re-offense is low, notification
21 that the juvenile sex offender will be establishing or has
22 established his or her residence shall be provided by local
23 law enforcement to the principal of the school where the
24 juvenile sex offender will attend after release. This
25 notification shall include the name, actual living address,
26 date of birth of the juvenile sex offender, and a statement of
27 the sex offense for which he or she has been adjudicated

1 delinquent, including the age and gender of the victim. This
2 information shall be considered confidential by the school and
3 be shared only with the teachers and staff with supervision
4 over the juvenile sex offender. Whomever, except as
5 specifically provided herein, directly or indirectly discloses
6 or makes use of or knowingly permits the use of information
7 concerning a juvenile sex offender described in this section,
8 upon conviction thereof, shall be guilty of a Class A
9 misdemeanor within the jurisdiction of the juvenile court.

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

20 "(3) If the risk of re-offense is high, the public
21 shall receive notification as though the juvenile sex offender
22 were an adult sex offender in accordance with Section
23 15-20A-21.

24 "(c) The sentencing court shall enter an order
25 stating whether the juvenile sex offender shall be subject to
26 notification and the level of notification that shall be
27 applied. The court shall provide a copy of the order to the

1 prosecuting attorney and to the ~~Department of Public Safety~~
2 Alabama State Law Enforcement Agency.

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

5 "§15-20A-29.

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

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

12 "(2) If the juvenile sex offender or the parent,
13 guardian, or custodian of the juvenile sex offender declares a
14 residence outside of the state, the responsible agency shall
15 immediately notify the ~~Department of Public Safety~~ Alabama
16 State Law Enforcement Agency and the designated state law
17 enforcement agency of the state to which the juvenile sex
18 offender or the parent, guardian, or custodian of the juvenile
19 sex offender has declared the residence. The notification
20 shall include all information available to the responsible
21 agency that would be necessary to identify and trace the
22 juvenile sex offender, including, but not limited to, the risk
23 assessment and a current photograph of the juvenile sex
24 offender.

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

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

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

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

17 "§15-20A-32.

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

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

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

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

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

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

27 "§15-20A-34.

1 "(a) A juvenile sex offender subject to lifetime
2 registration pursuant to Section 15-20A-28 may file a petition
3 requesting the sentencing juvenile court to enter an order
4 relieving the juvenile sex offender of the requirements
5 pursuant to this chapter 25 years after the juvenile sex
6 offender is released from the custody of the Department of
7 Youth Services or sentenced, if the juvenile sex offender was
8 placed on probation, for the sex offense requiring
9 registration pursuant to this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 "(3) Recommendations from the prosecuting attorney.

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

25 "(5) The facts and circumstances surrounding the
26 offense including, but not limited to, the age and number of
27 victims, whether the act was premeditated, and whether the

1 offense involved the use of a weapon, violence, or infliction
2 of serious bodily injury.

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

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

9 "(8) The protection of society.

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

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

15 "(i) The court shall provide a copy of any order
16 granting relief to the prosecuting attorney and to the
17 ~~Department of Public Safety~~ Alabama State Law Enforcement
18 Agency.

19 "(j) Upon receipt of a copy of an order granting
20 relief as provided in this section, the ~~Department of Public~~
21 ~~Safety~~ Alabama State Law Enforcement Agency shall remove the
22 juvenile sex offender from the public registry website. If the
23 registering agencies maintain a local registry of sex
24 offenders who are registered with their agencies, the
25 registering agencies shall remove the registration information
26 of the juvenile sex offender from the local sex offender
27 public registry, if notification applied.

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

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

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

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

16 "§15-20A-35.

17 "For the purposes of this chapter, a youthful
18 offender sex offender who has not been previously adjudicated
19 or convicted of a sex offense and who has not yet attained the
20 age of 18 at the time of the offense shall be considered a
21 juvenile sex offender. A youthful offender sex offender who
22 has been previously adjudicated or convicted of a sex offense
23 as a juvenile sex offender, youthful offender sex offender, or
24 adult sex offender, or who has attained the age of 18 at the
25 time of the offense shall be treated as an adult sex offender
26 convicted of a sex offense. A youthful offender sex offender
27 who is treated as a juvenile sex offender for purposes of this

1 chapter may not be released from the jurisdiction of the
2 sentencing court until the youthful offender sex offender has
3 undergone sex offender treatment and a risk assessment as
4 required by Section 15-20A-26.

5 "§15-20A-37.

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

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

18 "(c) If no determination can be made as to whether
19 the sex offender has absconded, the sheriff of the county in
20 which the sex offender failed to appear for registration shall
21 immediately notify the ~~Department of Public Safety~~ Alabama
22 State Law Enforcement Agency and the United States Marshals
23 Service that the sex offender cannot be located and provide
24 any information available to determine whether the sex
25 offender absconded to the United States Marshals Service.

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

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

4 "(2) The sheriff of the county in which the sex
5 offender has absconded shall immediately notify the United
6 States Marshals Service and the ~~Department of Public Safety~~
7 Alabama State Law Enforcement Agency.

8 "(3) The ~~Department of Public Safety~~ Alabama State
9 Law Enforcement Agency shall immediately update its public
10 registry website to reflect that the sex offender has
11 absconded.

12 "(4) The ~~Department of Public Safety~~ Alabama State
13 Law Enforcement Agency shall immediately notify the Criminal
14 Justice Information Center, who shall immediately notify the
15 National Criminal Information Center.

16 "(5) The ~~Department of Public Safety~~ Alabama State
17 Law Enforcement Agency shall immediately notify the National
18 Sex Offender Registry to reflect that the sex offender has
19 absconded and enter the information into the National Crime
20 Center Wanted Person File.

21 "(e) A sex offender who fails to appear for
22 registration after declaring his or her intent to reside, be
23 employed, or attend school in a county without notifying local
24 law enforcement in that county that he or she will no longer
25 establish a residence, maintain employment, or attend school,
26 shall be guilty of a Class C felony.

27 "§15-20A-38.

1 "(a) If a sex offender escapes from a state or local
2 correctional facility, juvenile detention facility, or any
3 other facility that would not permit unsupervised access to
4 the public, the responsible agency, within 24 hours, shall
5 notify the ~~Department of Public Safety~~ Alabama State Law
6 Enforcement Agency, local law enforcement who had jurisdiction
7 at the time of adjudication or conviction of the sex offense,
8 the sheriff of the county and each chief of police of every
9 municipality in the county where the sex offender escaped, and
10 the United States Marshals Service.

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

14 "(1) The name and aliases of the sex offender.

15 "(2) The amount of time remaining to be served by
16 the sex offender.

17 "(3) The nature of the crime for which the sex
18 offender was incarcerated.

19 "(4) A copy of the fingerprints and current
20 photograph of the sex offender and a summary of the criminal
21 record of the sex offender.

22 "§15-20A-39.

23 "(a) A person is guilty of the crime of harboring,
24 assisting, concealing, or withholding information about a sex
25 offender if the person has knowledge or reason to believe that
26 a sex offender is required to register ~~and has not complied~~
27 ~~with the registration requirements of this chapter~~ and the

1 person assists the sex offender in avoiding a law enforcement
2 agency that is seeking to find the sex offender to question
3 the sex offender about, or to arrest the sex offender for,
4 noncompliance with the requirements of this chapter if the
5 person does any of the following:

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

8 "(2) Allows a sex offender to reside at his or her
9 residence to avoid registration if the address is not the
10 address the sex offender listed as his or her residence
11 address.

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

14 "(4) Provides the sex offender with money,
15 transportation, weapon, disguise, or other means of avoiding
16 discovery or apprehension.

17 "(5) Conceals, attempts to conceal, or assists
18 another in concealing or attempting to conceal the sex
19 offender.

20 "(6) Provides information to a law enforcement
21 agency regarding a sex offender which the person knows to be
22 false.

23 "(b) For the purposes of this section, the term law
24 enforcement agency includes, but is not limited to, the Board
25 of Pardons and Paroles.

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

1 "§15-20A-40.

2 "(a) It is the intent of the Legislature that a
3 duplicate of a certified copy of a public record be admissible
4 and is not dependent on the original custodian of record to
5 gain admissibility. Further, the Legislature finds that the
6 certification by the clerk of the court and the certification
7 by the Alabama State Law Enforcement Agency, formerly the
8 Department of Public Safety, assures reliability and
9 trustworthiness.

10 "(b) The clerk of the court shall forward a
11 certified copy of a sex offender's adjudication or conviction
12 to the Alabama State Law Enforcement Agency, formerly the
13 Department of Public Safety, within 30 days of ~~sentencing~~
14 receipt of the order of adjudication or conviction of any of
15 the offenses listed in Section 15-20A-5.

16 "(c) Any state, county, or municipal law enforcement
17 agency, the Attorney General, or a district attorney may
18 request a duplicate of the sex offender's adjudication or
19 conviction from the Alabama State Law Enforcement Agency,
20 formerly the Department of Public Safety.

21 "(d) Upon the request of any of the agencies listed
22 in subsection (c), the custodian of records, or its designee,
23 of the Alabama State Law Enforcement Agency, formerly the
24 Department of Public Safety shall immediately certify all of
25 the following:

26 "(1) That the Alabama State Law Enforcement Agency,
27 formerly the Department of Public Safety received the

1 certified copy of the sex offender's conviction or
2 adjudication from the clerk of the court pursuant to
3 subsection (b).

4 "(2) That the original certified copy received from
5 the clerk of the court remains in the possession of the
6 Alabama State Law Enforcement Agency, formerly the Department
7 of Public Safety.

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

10 "(e) Upon certification by the Alabama State Law
11 Enforcement Agency, formerly the Department of Public Safety
12 as provided in subsection (d), the Alabama State Law
13 Enforcement Agency, formerly the Department of Public Safety
14 shall immediately forward the certified documents to the
15 requesting agency.

16 "(f) Notwithstanding any other law or rule of
17 evidence, a certified copy of the record of adjudication or
18 conviction as defined in subsection (b), provided by the
19 Alabama State Law Enforcement Agency, formerly the Department
20 of Public Safety as provided in subsection (d), shall be proof
21 of the sex offender's adjudication or conviction of a sex
22 offense and shall be admissible into evidence, without further
23 proof, in any court in this state.

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

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

5 "§15-20A-42.

6 "(a) Any jurisdiction or agency responsible for
7 registering a sex offender shall immediately forward all
8 required registration information and any changes to the
9 required registration information received to the ~~Department~~
10 ~~of Public Safety~~ Alabama State Law Enforcement Agency in a
11 manner determined by the ~~director~~ Secretary of the ~~department~~
12 Alabama State Law Enforcement Agency and promulgated in rule
13 by the ~~director~~ secretary 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~~ Alabama State Law Enforcement Agency. The
18 advisory board members shall not receive any compensation or
19 reimbursement for serving on the advisory board.

20 "(b) Upon notification or discovery of the death of
21 a sex offender, the registering agency shall immediately
22 notify the ~~Department of Public Safety~~ Alabama State Law
23 Enforcement Agency.

24 "(c) The ~~Department of Public Safety~~ Alabama State
25 Law Enforcement Agency shall immediately enter all
26 registration information received into its sex offender
27 database.

1 "(d) All information received by the ~~Department of~~
2 ~~Public Safety~~ Alabama State Law Enforcement Agency shall be
3 immediately forwarded to the following by the ~~Department of~~
4 ~~Public Safety~~ Alabama State Law Enforcement Agency:

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

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

11 "(3) The National Sex Offender Registry.

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

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

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

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

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

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

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

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

17 "§15-20A-43.

18 "Except as provided in Sections 15-20A-5, 15-20A-16,
19 15-20A-23, 15-20A-24, 15-20A-25, and 15-20A-34 or the former
20 15-20-21(4)(a), the sex offender registration and notification
21 requirements required by this chapter are mandatory and shall
22 not be altered, amended, waived, or suspended by any court.
23 Any order altering, amending, waiving, or suspending sex
24 offender registration and notification requirements, except as
25 provided in Sections 15-20A-5, 15-20A-16, 15-20A-23,
26 15-20A-24, 15-20A-25, and 15-20A-34 or the former
27 15-20-21(4)(a), shall be null, void, and of no effect.

1 "§15-20A-45.

2 "(a) A sex offender who is convicted of any offense
3 specified in this chapter, in addition to any imprisonment or
4 fine, or both, and in addition to any other fees, costs, and
5 assessments, imposed for the commission of the underlying
6 offense, shall be punished by a fine of two hundred fifty
7 dollars (\$250).

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

10 (1) Fifty dollars (\$50) to the Highway Traffic
11 Safety Fund in the ~~Department of Public Safety~~ Alabama State
12 Law Enforcement Agency.

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

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

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

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

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

24 "a. If the warrant was requested by the sheriff, or
25 his or her designee, any and all monies collected under this
26 subsection shall be deposited in the county general fund
27 earmarked for use by the sheriff and shall be paid to the

1 sheriff upon request by the sheriff to be used at the
2 discretion of the sheriff for any law enforcement purpose
3 related to sex offender registration, notification, tracking
4 or apprehension.

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

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

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

22 "§15-20A-44.

23 "(a) ~~The Director~~ Secretary of the ~~Department of~~
24 ~~Public Safety~~ Alabama State Law Enforcement Agency shall
25 promulgate rules establishing an administrative hearing for
26 persons who are only made subject to this chapter pursuant to
27 subdivision (33) of Section 15-20A-5.

1 " (b) The ~~Director~~ Secretary of the ~~Department of~~
2 ~~Public Safety~~ Alabama State Law Enforcement Agency shall
3 promulgate rules setting forth a listing of offenses from
4 other jurisdictions that are to be considered criminal sex
5 offenses under subdivision (33) of Section 15-20A-5.
6 Thereafter, any individual convicted of any offense set forth
7 in the listing shall immediately be subject to this chapter
8 and shall not be entitled to an administrative hearing as
9 provided in subsection (a).

10 " (c) The ~~Director~~ Secretary of the ~~Department of~~
11 ~~Public Safety~~ Alabama State Law Enforcement Agency shall have
12 the authority to promulgate any rules as are necessary to
13 implement and enforce this chapter.

14 "§15-20A-46.

15 " (a) The two hundred dollar (\$200) filing fee paid
16 by a sex offender who petitions the court for relief pursuant
17 to Sections 15-20A-16, 15-20A-23, 15-20A-24, 15-20A-25, or
18 15-20A-34 shall be distributed as follows:

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

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

24 "a. Any and all monies collected under this
25 subdivision shall be deposited in the county general fund
26 earmarked for use by the sheriff and shall be paid to the
27 sheriff upon request by the sheriff to be used at the

1 discretion of the sheriff for any law enforcement purpose
2 related to sex offender registration, notification, tracking
3 or apprehension.

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

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

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

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

14 "§15-22-27.3.

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

19 "§32-6-49.24.

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

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

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

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

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

26 "(3) If the department finds that the person is
27 currently registered as a sex offender in either this state or

1 another state, the department shall not issue a commercial
2 driver license with a P or an S endorsement to the person.

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

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

1 whether the petitioner is entitled to a commercial driver
2 license with a P or an S endorsement under this subsection.

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

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

14 "§36-18-24.

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

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

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

26 "(3) Creating and maintaining DNA quality control
27 standards.

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

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

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

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

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

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

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

22 "(5) Persons convicted or sentenced after May 6,
23 1994, for any of the offenses enumerated above and serving a
24 sentence of probation, suspended sentence, or other sentence
25 or judgment not requiring immediate incarceration.

26 "(6) Subject to subdivision (3) of subsection (c) of
27 Section 36-18-25, persons arrested on or after October 1,

1 2010, for any felony offense or for any sexual offense
2 including, but not limited to, those that would require
3 registration pursuant to the Alabama Sex Offender Registration
4 and Community Notification Act, Article 2, commencing with
5 Section ~~15-20-20~~ 15-20A-1, of Chapter ~~20~~ 20A, Title 15, former
6 Community Notification Act, Article 2, of Chapter 20 of Title
7 15.

8 "§36-18-25.

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

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

23 "(c) (1) All persons arrested for any felony offense
24 on or after October 1, 2010, or for any sexual offense
25 including, but not limited to, those that would require
26 registration pursuant to the Alabama Sex Offender Registration
27 and Community Notification Act, Article 2, commencing with

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

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

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

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

25 "(d) As of May 6, 1994, all persons convicted of any
26 of the offenses set out in Section 36-18-24 shall be ordered
27 to submit to the taking of a DNA sample or samples as

1 specified by the director as a mandatory condition of any term
2 of probation or suspended sentence which may be imposed by the
3 sentencing court.

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

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

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

26 "(h) Nothing in this article shall be construed as
27 creating a cause of action against the state or any of its

1 agencies, officials, employees, or political subdivisions
2 based on the performance of any duty imposed by this article
3 or the failure to perform any duty imposed by this article.

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

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

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

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

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

25 "§38-13-2.

26 "When used in this chapter, the following words
27 shall have the following meanings:

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

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

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

21 "(4) AUTOMATED SYSTEM. The computerized, automated
22 fingerprint identification system (AFIS) maintained by the
23 Department of Public Safety that allows for a computer search
24 of the in-state database for criminal history background check
25 information maintained by the Alabama Criminal Justice
26 Information Center (ACJIC). The system contains criminal

1 history background information for fingerprint-based and
2 name-based searches.

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

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

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

17 "(8) CHILD or CHILDREN. An individual under 19 years
18 of age.

19 "(9) CHILD CARE FACILITY. A person or entity holding
20 a Department of Human Resources license, permit, or approval
21 to provide child care, including foster care, under Chapter 7
22 of this title. The term excludes exempt child care facilities.

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

1 "(11) CONVICTION. A determination of guilt as the
2 result of a plea, including a plea of nolo contendere, or a
3 trial.

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

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

22 "(14) DAILY LIVING TASKS. Activities of daily
23 living, including walking, working, learning, grooming and
24 hygiene, bathing, dressing, eating, cooking, cleaning,
25 shopping, transportation, managing money, maintaining a
26 residence, writing, and using telephones, computers, and other
27 automated communication devices.

1 "(15) ELDERLY. An individual 65 years of age or
2 older.

3 "(16) EMPLOYEE. An individual currently in the
4 service of an employer for compensation, full-time or
5 part-time, and employed by contract or at will, in which the
6 employer has the authority to control the person in the
7 material details of how work shall be performed and when
8 compensation shall be provided.

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

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

19 "(19) EXEMPT CARE FACILITY. A person or entity
20 exempt by law from licensure by the Department of Human
21 Resources or a child placing agency, including church day
22 care, child centers, or elder centers.

23 "(20) INDIVIDUAL. A natural person.

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

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

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

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

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

20 "(26) PERSON or ENTITY. A natural person, sometimes
21 referred to as an individual, an owner or operator of any
22 adult care facility, child care facility, child placing
23 agency, exempt child care facility, or licensee, whether an
24 individual, corporation, limited liability company or
25 partnership, partnership, association, or other legal entity
26 or group, and a board member, an officer, member, or partner

1 of an entity who has direct contact with children, the
2 elderly, or individuals with disabilities in care.

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

11 "(28) REPORT. A written statement of criminal
12 history background information.

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

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

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

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

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

25 "d. Promoting prostitution in the first or second
26 degree, as proscribed by Section 13A-12-111 or Section
27 13A-12-112.

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

3 "f. Sexual misconduct, as proscribed by Section
4 13A-6-65.

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

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

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

11 "j. Soliciting a child by computer for the purposes
12 of committing a sexual act and transmitting obscene material
13 to a child by computer as proscribed by Sections 13A-6-110 and
14 13A-6-111.

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

18 "l. Any solicitation, attempt, or conspiracy to
19 commit any of the offenses listed in paragraphs a. to k.,
20 inclusive.

21 "m. A crime listed in the Alabama Sex Offender
22 Registration and Community Notification Act, Chapter ~~20~~ 20A of
23 Title 15.

24 "n. Conviction for a violation or attempted
25 violation of an offense committed outside the State of Alabama
26 or under federal law is a sex crime or any other crime if the
27 offense would be a crime in Alabama.

1 "(31) SUITABILITY CRITERIA.

2 "a. Convictions for any of the following crimes
3 shall make an individual unsuitable for employment, volunteer
4 work, approval, or licensure:

5 "1. Murder, manslaughter, or criminally negligent
6 homicide.

7 "2. A sex crime.

8 "3. A crime that involves the physical or mental
9 injury or maltreatment of a child, the elderly, or an
10 individual with disabilities.

11 "4. A crime committed against a child.

12 "5. A crime involving the sale or distribution of a
13 controlled substance.

14 "6. Robbery.

15 "7. A crime or offense committed in another state or
16 under federal law which would constitute any of the above
17 crimes in this state.

18 "b. Conviction for any crime listed in the Adoption
19 and Safe Families Act, 42 U.S.C. § 671(a)(20) shall disqualify
20 a person from being approved or continuing to be approved as a
21 foster parent or adoptive parent and a convicted person shall
22 be deemed unsuitable for employment, volunteer work, approval,
23 or licensure as a foster parent or adoptive parent.

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

1 "(32) SUITABILITY DETERMINATION. A decision that an
2 individual is or is not suitable for employment, volunteer
3 work, or licensure based upon the existence of a prohibited
4 criminal conviction.

5 "(33) UNSUPERVISED ACCESS TO A CHILD OR CHILDREN,
6 THE ELDERLY, OR AN INDIVIDUAL WITH DISABILITIES. Contacts,
7 interviews, questions, examinations, interaction, or
8 communications outside the presence, supervision, and control
9 of someone other than a child or elderly or disabled
10 individual in care during the provision of care, education,
11 training, instruction, supervision, or other employment or
12 license related activities.

13 "(34) VOLUNTEER. An individual who provides services
14 without an express or implied promise of compensation, but
15 shall not include the parent, family member, legal custodian,
16 or legal guardian of a child, the elderly, or disabled
17 individual in care.

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

20 "a. The name, address, date of birth, race, gender,
21 and Social Security number appearing on a valid identification
22 document as defined in subsection (d) of 18 U.S.C. § 1028. If
23 the applicant does not have a Social Security number because
24 of sincerely held personal beliefs, the Social Security number
25 shall not be required and the Department of Human Resources
26 and the Department of Public Safety shall provide an
27 alternative means of identification and procedure.

1 b. Notice to the applicant or employee of the right
2 to obtain a copy of the criminal history background
3 information check report, challenge the accuracy and
4 completeness of any information contained in the report, and
5 to obtain a prompt determination as to the validity of a
6 challenge.

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

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

12 "§38-13-4.

13 "(a) Every employer, child care facility, adult care
14 facility, the Department of Human Resources, and child placing
15 agency required to obtain a criminal history background
16 information check pursuant to this chapter shall obtain, prior
17 to or upon the date of employment, or issuance of a license or
18 approval or renewal thereof, and maintain in the agency or
19 personnel file, a request with written consent for the
20 criminal history background information check and a statement
21 signed by the applicant, volunteer, or employee indicating
22 whether he or she has ever been convicted of a crime, and if
23 so, fully disclosing all convictions. The statement shall
24 include a notice and questionnaire the same as or similar to
25 the following:

26 ""MANDATORY CRIMINAL HISTORY CHECK NOTICE: Alabama
27 law requires that a criminal history background information

1 check be conducted on all persons who hold a license or work
2 in a Department of Human Resources licensed child care or
3 adult care facility, a foster or adoptive home approved by the
4 Department of Human Resources, or a licensed child placing
5 agency, including all officers and agents of the entity. You
6 are required to provide full, complete, and accurate
7 information on your criminal conviction history upon
8 application for a license or employment. This information
9 shall be used to determine your suitability to provide care to
10 children, the elderly, or disabled individuals. Unless a
11 criminal history background information check report and
12 suitability determination have previously been obtained, you
13 must complete a written request and consent for a criminal
14 history background information check with fingerprints at the
15 time of application for employment. Refusal to complete these
16 documents or providing false information may result in refusal
17 of employment, approval, or licensure. The term conviction
18 includes a determination of guilt by a trial, by a plea of
19 guilty, or a plea of nolo contendere. You are required to
20 notify your employer, licensing agency, or entity where you
21 are performing volunteer work of any criminal conviction
22 occurring subsequent to the date of completion of this notice.
23 Any individual determined to have submitted false information
24 may be referred to the district attorney or law enforcement
25 for investigation and possible prosecution. An individual who
26 intentionally falsifies or provides any misleading information
27 on the statement is guilty of a Class A misdemeanor,

1 punishable by a fine of not more than two thousand dollars
2 (\$2,000) and imprisonment for not more than one year.

3 "Convictions for any of the following crimes shall
4 make an individual unsuitable for employment, volunteer work,
5 approval, or licensure:

6 ""1. Murder, manslaughter, or criminally negligent
7 homicide.

8 ""2. A sex crime.

9 ""3. A crime that involves the physical or mental
10 injury or maltreatment of a child, the elderly, or an
11 individual with disabilities.

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

13 ""5. A crime involving the sale or distribution of a
14 controlled substance.

15 ""A sex crime includes the following:

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

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

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

25 ""d. Promoting prostitution in the first or second
26 degree, as proscribed by Section 13A-12-111 or Section
27 13A-12-112 of the Code of Alabama 1975.

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

4 ""f. Sexual misconduct, as proscribed by Section
5 13A-6-65 of the Code of Alabama 1975.

6 ""g. Sexual torture, as proscribed by Section
7 13A-6-65.1 of the Code of Alabama 1975.

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

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

14 ""j. Soliciting a child by computer for the purposes
15 of committing a sexual act and transmittal of obscene material
16 to a child by computer as proscribed by Sections 13A-6-110 and
17 13A-6-111 of the Code of Alabama 1975.

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

21 ""l. Any solicitation, attempt, or conspiracy to
22 commit any of the offenses listed in paragraphs a. to k.,
23 inclusive.

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

1 ""6. Conviction for a crime listed in the federal
2 Adoption and Safe Families Act as prohibiting a person from
3 being a foster parent or adoptive parent shall be deemed to
4 make the convicted person unsuitable for employment, volunteer
5 work, approval, or licensure as a foster parent or adoptive
6 parent.

7 ""7. Conviction for a violation or attempted
8 violation of an offense committed outside the State of Alabama
9 or under federal law is a sex crime or any other crime listed
10 in this notice if the offense would be a crime listed in this
11 notice in Alabama.

12 ""CRIMINAL HISTORY STATEMENT

13 ""Have you ever had a suitability determination made
14 by the Department of Human Resources in connection with a
15 previous criminal history information background check? Yes
16 (__) No (__).

17 ""Have you ever been convicted of a crime? Yes (__)
18 No (__). If yes, state the date, crime, location, punishment
19 imposed, and whether the victim was a child or an elderly or
20 disabled individual.

21 "" _____

22 "" _____

23 ""Date _____ Signature _____."

24 "(b) An individual who fails or refuses to provide a
25 statement shall not be employed, allowed to work or volunteer,
26 or issued a license or approval as defined in this chapter.
27 Upon receipt of a signed criminal history statement which does

1 not indicate conviction for a crime prohibiting employment
2 under the suitability criteria, an employer, including the
3 Department of Human Resources, may employ an applicant or
4 allow a volunteer or contract provider to work provisionally
5 pending receipt of a suitability determination from the
6 Department of Human Resources.

7 "(c) No later than the five business days after
8 employment or a reasonable time after completion of
9 application for a license or approval, an employer, the
10 Department of Human Resources, or child placing agency shall
11 mail or deliver a request for a criminal history background
12 information check to the Department of Public Safety
13 accompanied by the following:

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

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

20 "(3) The fee.

21 "(d) Upon receipt of a suitability determination
22 from the Department of Human Resources that a person or entity
23 is suitable for employment, volunteer work, licensure, or
24 approval based on the criminal history background information
25 check, an employer, a child care facility, adult care
26 facility, a child placing agency, or the Department of Human
27 Resources may make its own determination of employment,

1 licensure, or approval. This chapter shall not create any
2 right to employment, work, approval, or licensure. Upon
3 receipt of a determination from the Department of Human
4 Resources that an individual is unsuitable for employment,
5 licensure, approval, or volunteer work, an employer, the child
6 care facility, adult care facility, child placing agency, or
7 Department of Human Resources shall terminate the individual
8 from employment or volunteer work or shall not employ or use
9 the individual. Termination of employment may be delayed by
10 the employer to allow the individual to challenge either the
11 accuracy or completeness of the criminal history information
12 background report or the suitability determination made by the
13 Department of Human Resources. The Department of Human
14 Resources or child placing agency shall suspend or revoke a
15 license or approval or deny a license or approval application
16 to an individual receiving an unsuitability determination. As
17 an alternative to termination of employment, the Department of
18 Human Resources may transfer a permanent Merit System employee
19 to an available position for which the employee is qualified
20 where unsupervised access to children, the elderly, or persons
21 with disabilities shall not be an essential function of the
22 job.

23 "(e) If a review of a criminal history background
24 information check or other information received reveals that
25 the person has submitted false information, the employer,
26 child care facility, adult care facility, child placing
27 agency, or Department of Human Resources may terminate the

1 employee or volunteer. The Department of Human Resources or
2 child placing agency may revoke the approval or license of a
3 person or entity when the person or entity submits false
4 information in a review of criminal history background
5 information check or other information. The Department of
6 Human Resources shall be notified of the false information and
7 may refer the case to an appropriate law enforcement agency or
8 district attorney for investigation and prosecution.

9 "(f) Unless otherwise provided in this chapter, only
10 one criminal history background information check shall be
11 required on an individual regardless of subsequent changes in
12 employment or licensing or approval status. Subsequent
13 criminal history background information checks may be
14 conducted by the employer or licensing or approval entity. The
15 licensing or approval entity shall pay the cost for subsequent
16 criminal history background information checks. If the
17 statement signed by the applicant or employee states that a
18 criminal history background information check has been
19 performed and suitability determination issued on the
20 individual pursuant to this chapter, the employer or licensing
21 agency may request at the time of application only a
22 suitability determination from the Department of Human
23 Resources on the check previously performed, within five
24 business days of employment, or completion of license or
25 approval application, submitting the same kind of information
26 and consent for the request for suitability determination as

1 required by the written consent for a criminal history
2 background information check."

3 Section 2. Although this bill would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds, the bill is excluded from further
6 requirements and application under Amendment 621 because the
7 bill defines a new crime or amends the definition of an
8 existing crime.

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