

**ARKANSAS DEPARTMENT OF WORKFORCE EDUCATION
GUIDELINES
FOR
ARKANSAS CODE ANNOTATED §SEQ, “Megan’s Law”**

INTRODUCTION

Arkansas Code Annotated § 12-12-901 et. seq, known as the Arkansas Sex and Child Offender Registration Act, also know as “Megan’s Law”, is the community notification law that allows law enforcement to communicate with the public when a sexual offender is in their area. The Sex Offender Assessment Committee will assess the offender using a ratings instrument to determine the risk that the offender may pose to the community. The assessment allows local law enforcement to determine who needs to be notified in the community and to tailor the notification according to the offender’s level of risk.

Four levels of risk have been developed for assessment purposes:

- Level I: Usually there are individuals with no prior history of sexual acting out and no strong antisocial tendencies or sexual compulsions or other psychological factors impairing judgment.
- Level II: Usually these are individuals with limited or circumscribed prior history of sexual acting out and/or only mild antisocial or predatory tendencies that increase the general level of risk they pose.
- Level III: These are individuals with histories of repeat sexual offending and/or strong antisocial, violent or predatory personality characteristics. Sexual compulsions are likely to be present, but may be kept under control when relapse prevention plans are followed and treatment is continued.
- Level IV: These are individuals with impaired judgment or control who have sexual or violent compulsions that they lack the ability to control. This may be due to pedophilia or other disorders of sexual attraction, mental illness or personality disorder that distorts thinking or otherwise interferes with behavioral control.

In order to determine an offender’s risk of “re-offense”, the law enforcement guidelines include a risk assessment scale that reviews the seriousness of the offender’s crime, his offense history, and other personal and social characteristics of the offender. Point values are assigned to the factors and total points accumulated on the scale determine the offender’s risk level. The assessment process is not intended to determine the actual probability of any one offender committing another crime, but to provide the basis for a rational method of notification to the public.

Law enforcement will assess the offender and will notify the schools in their area of an offender who is Level II, Level III, or Level IV and is likely to prey on school-age children. Law enforcement maintains the discretion to determine who in the community will be notified. For example, if the offender is Level II whose targets are elementary-school-aged children; law enforcement may only notify the elementary schools in the area and not the secondary schools.

Arkansas Code Annotated § 12-12-913(g) (1), (2), (3), and (4) states:

“(g) (1) The State Board of Education and the State Board of Workforce Education and Career Opportunities shall promulgate guidelines for the disclosure to students and parents of information regarding a sex offender when such information is released to a local school district or institution of vocational training by a local law enforcement agency having jurisdiction.

(2) The Arkansas Higher Education Coordinating Board shall promulgate guidelines for the disclosure to students of information regarding a sex offender when information regarding a sex offender is released to all institution of higher education by a local law enforcement agency having jurisdiction.

(3) In accordance with guidelines promulgated by the State Board of Education, the board of directors of a local school district or institution of vocational training shall adopt a written policy regarding the distribution to students and parents of information regarding a sex offender.

(4) In accordance with guidelines promulgated by the Arkansas Higher Education Coordinating Board, the board of directors of an institution of higher education shall adopt a written policy regarding the distribution to students of information regarding a sex offender.

These guidelines are to help schools distribute information to their staff, students, and parents according to the level of assessment. Law enforcement will inform the schools of an offender and the level the offender has been assessed. The level of assessment will determine whom the school needs to notify.

Level I offenders are considered to be low-risk offenders and not dangerous to the community at large. No notification of students and/or parents is permitted. For low-risk offenders, only law enforcement agencies and adult members of the household where the offender resides, Department of Children and Family Services of the Department of Human services for juvenile offenders, and victims or guardians of victims for adult offenders should be notified.

Level II offenders are considered to be moderate risk. Law enforcement has the discretion whether to notify schools. If schools are notified on this level, the information is intended to assist staff members in the protection of their charges, not to provide notification to the community at large. For moderate-risk offenders, law enforcement

agencies, adult members of the household, and organizations that serve individuals likely to encounter the offender should be notified unless to do so would cause harm to the victim(s).

Level IV offenders are considered to be sexually violent predators. Law enforcement will notify schools, according to the offender's profile. Again, parents and/or students are not automatically notified. If schools are notified on this level, the information is intended to assist staff members in the protection of their charges. However, law enforcement may ask schools to assist in notifying students and parents as members of the community at large. Notification of members of the general public in the vicinity of where the offender lives travels and works should be done.

The principal and/or program director of each school will have the discretion to make the determination as to which employees within the school should be informed of the notification. This determination must be made within the context of the following definition and the list provided here of employees or volunteers who may fit this description:

The principal and/or program director should share the notice with any person who in the course of their employment or assignment is regularly in a position to observe unauthorized persons on or near the property of the notified school.

The following is an illustrative list of those employees who may be given this information for use in the course of their job-related activities. Since job duties and titles vary, this list is meant only to provide examples. It is not meant to prevent sharing the notice with someone who meets the definition above but whose job title is not included on this list. Principals and/or Program Directors should make a determination of who to notify based on the definition above and on the specific job duties carried out in their schools.

List of employees or volunteers to be considered for notification:

- ❖ **Aids**
- ❖ **Bus drivers**
- ❖ **Coaches**
- ❖ **Maintenance staff**
- ❖ **Professional support staff**
- ❖ **School level administrative staff**
- ❖ **Security personnel**
- ❖ **Teacher's assistants**
- ❖ **Teachers**

If any of the above functions are performed by private vendors (i.e. bus companies), the principal and/or program director should inform the private vendor so that employees who in the course of the duties of their employment are regularly in a position to observe unauthorized persons on or near the property of the school may be notified.

LEVELS OF NOTICE FOR LEVEL II, III, AND IV

A. **Level II: Persons excluded from notification**

You are not permitted to disseminate this information to the following:

- Members of the parent-teacher organizations
- Organizations using school facilities
- Other schools
- Parents or guardians of students
- Press
- Students

If an organization using school facilities request this information from school personnel, the organization should be directed to the area law enforcement that issued the notice.

If members of the press contact a school, they may be informed about the procedures that have been put in place and other general topics. No one may reveal the name or any other specifics regarding an offender. No one should confirm or deny whether notice as to any particular offender has been disseminated.

B. **Level III or Level IV: Additional persons who may be notified**

In the case of a Level III or Level IV notification, if your school is located in an area where a vulnerable population is likely to encounter the offender, then area law enforcement notification may include the students in the school and, within law enforcement's discretion, notice will be given to the parents or guardians of those students. The determination as to the appropriate method to use in the dissemination of the notice must be reached through cooperation with area law enforcement.

A list of those persons who may be notified will be provided to you along with the notice. Notice to parents/guardians should be sent home to the parents with the children or by mail. An accompanying cover letter should explain that school employees are aware of the existence and location of the offender and that every possible precaution will be taken to protect the children. Age appropriate discussion may be held in the classroom explaining the potential danger to the students, but they should not be provided with copies of the law enforcement notice. School meetings may be held to provide parents, guardians, teaching staff and administrative staff with information and support.

Copies of the notice should not be posted on school bulletin boards, and copies of the notice should be kept in a secure place accessible to teachers and staff, but not accessible to students or members of the community at large.

OFFENDERS WHO ARE STUDENTS OR PARENTS/GUARDIANS OF STUDENTS

Nothing in these guidelines is intended to preclude a sex offender registrant from attending school as a student. However, the same procedures for notification apply to students who are sex offender registrants.

Nothing in these guidelines is intended to preclude a sex offender registrant who is the parent or guardian of a child enrolled in a school from entering school property for parent-teacher conference, for dropping off the child at school, or for any other activity which is appropriate for a parent or guardian. However, please note that in some cases, judicial restraining orders or conditions of probation or parole may limit such activities by sex offender registrants who are parents.

IMMUNITY

Public officials, public employees, and public agencies are immune from civil liability for good faith conduct under Arkansas Code Annotated § 12-12-913.

Nothing in Arkansas Code Annotated § 12-12-913 shall be deemed to impose any liability upon or give rise to a cause of action against any public employee, or public agency for any discretionary decision to release relevant and necessary information, unless it is shown that the official, employee or agency acted with gross negligence or in bad faith.

NEW STAFF OR STUDENTS; SUBSEQUENT SCHOOL YEARS

A. NEW STAFF OR STUDENTS

There is no ongoing obligation to distribute notices to students or staff that are enrolled or hired after the initial notification. However, schools may retain notices for training subsequently hired staff. Notices may also be distributed to the parents or guardians of newly enrolled students, during the same school year, at the school's discretion unless law enforcement has notified the school that notice can no longer be given.

B. SUBSEQUENT SCHOOL YEARS

Schools may use notices for training staff in subsequent school years at the discretion of the principal and/or program director.

NOTIFICATION DURING VACATION

It is possible that notification will occur during summer vacation or some other time when school is closed for an extended period. If your school receives a Level II notification, the procedures of these guidelines should be followed for any school employees who are working during the vacation period. Remaining staff members should be informed when they return to work. If your school receives Level III or Level IV notification and is not in session on the day law enforcement conducts notification, notices will still be provided to the principal and/or program director. Notices should be mailed to the parents of children who are registered for the upcoming school year along with an explanation that the school employees are aware of the existence and location of the offender and that every possible precaution will be taken to protect the students.

LIMITATIONS ON NOTIFICATION; CONSEQUENCES OF IMPROPER DISSEMINATION OF INFORMATION

Information about convicted sex offenders is being provided to school personnel so that they can take all appropriate steps to protect students they are supervising. Only law enforcement has the authority to decide who will receive notice. Therefore, it is important that school personnel receiving notice understand that they are receiving sex offender notifications in their official capacity and are not to disseminate information about an offender to anyone outside the school.

Improper dissemination of the information about an offender may lead to disciplinary action being taken. Moreover, law enforcement will carefully investigate all allegations of criminal conduct taken by any person against the offender, the offender's family, employer, or school and, where appropriate, criminal prosecution will occur.

If any school employee has reason to believe that an offender who has been the subject of a notification is a danger to someone outside the school environs, then he or she should immediately contact the local law enforcement agency.

HOT SPRINGS REHABILITATION CENTER

Sex Offender Policy

Purpose: To ensure that a safe environment is provided to the staff and students of the facility so that our mission of working with people with physical and emotional challenges may receive employment outcomes.

Scope: The HSRC/ACTI Personnel Policy applies to all staff of the Hot Springs Rehabilitation Center and its potential clients/students.

Policy Statement: The Hot Springs Rehabilitation Center/Arkansas Career Training Institute is a comprehensive vocational rehabilitation facility that residential treatment services to students (male & female) ages 16 through adult. Therefore, we believe that the facility should consider the following as it relates to sex offenders.

Level 1 offenders are classified as Low Risk

Level 2 offenders are classified as Moderate Risk

Based upon the above classifications HRSC/ACTI can consider Level 1 or 2 offenders for possible enrollment, depending on the circumstances surrounding the offender's offense, treatment, service need, and potential outcomes as presented by the ARS Field Counselor and as determined by a required risk assessment process conducted by the Admissions Review Committee.

Level 3 offenders are classified as High Risk

Level 4 offenders are classified as Sexually Violent Predator

Based upon these classifications, these applicants will not be considered for enrollment. Due to the severity and the nature of their classification as potential repeat offenders, it would create an endangerment to our residential facility. Also House Bill 1011 Act 330 of 2003 section 3 states that it is unlawful for a sex offender who is required to register under the Sex Offender Registration Act of 1997, 1212-901 et seq. and who has been assessed as a Level 3 or 4 offender to reside within two thousand feet (2,000) of the property on which any public or private elementary or secondary school or daycare facility is located.

Notification Guidelines: The above named Level offender classifications will be required to notify segments of the community and other individual or agencies according to the attached regulations: See Notification Pages 21, 22, 23.

Individuals, who refuse, deliberately provide false or misleading information during an interview will be assigned to the highest level at risk.

Notification Guidelines (Section 13): The notification guidelines indicate which segments of the community must be notified. Notification given to any individual or agency does not authorize that individual or agency to disseminate information beyond those residing with the individual or those who have a need to know within the agency.

Generally, the higher the risk level assigned, the broader the notification that must be given. These notification guidelines apply to adult offenders and to juvenile offenders ordered by the court to register. The guidelines should be interpreted narrowly in the case of a juvenile in accordance with the level of confidentiality afforded by the juvenile justice system. It is the responsibility of the Chief Law Enforcement Officer to interpret these guidelines and prepare a notification plan. Should circumstances change that may increase the offender's risk to the community, it is the responsibility of the Chief Law Enforcement Officer to modify the existing notification plan or request a reassessment.

Discretion must be used in applying the guidelines to any offender. The harm that may be caused by a particular notification must be weighed against the protection that would be afforded the public. For example, notifying the neighbors about a Level 1 or Level 2 incest offender may further victimize the offender's spouse and child if the offender's family is known in the community.

The initial steps toward notification occur as part of the risk assessment process. The Arkansas Department of Correction is responsible for notification occur as part of the risk assessment process. The Arkansas Department of Correction is responsible for notifying the sheriff and the chief of police, ACIC, the offender, any supervising agencies, and the victim. Sheriffs and chiefs of police are encouraged to have a written working agreement to ensure that all offenders in their jurisdictions are properly registered. The notification guidelines shown below and any special recommendations will be attached to the Offender Fact Sheet.

Level 1 / Low Risk

- The law enforcement agency having jurisdiction, and other law enforcement agencies likely to encounter the offender. This may include state and federal law enforcement agencies, campus police, school safety officers, and the like.
- The offender. The fact sheet will be mailed to the offender at the same time that it is mailed to the Chief Law Enforcement Officer having jurisdiction. If the offender requests an administrative review, the Chief Law Enforcement Officer will be notified and asked to limit community notification to that indicated for Level 1 and any citizens thought to be at immediate risk, until the review has been completed.
- All adult members of the household where the offender is residing or intends to reside, unless the offender is residing or intends to reside in a residential treatment facility, group home, foster home, half-way house, or other supervised living arrangement, in which case only the residence supervisor or foster parent should be notified.
- Victims or guardians of victims of adult offenders are notified through the VINE systems operated by the Arkansas Department of Corrections. Victims or guardians of juvenile offenders should be notified by law enforcement.

Level 2 / Moderate Risk

- All parties specified in level 1 **must** be notified.
- The heads of agencies and organizations that serve individuals in the offender's target group must be notified. This may include but is not limited to schools, day care centers, community and youth groups, religious organizations, libraries, the Department of Human Services, women's organizations and shelters, park security, businesses frequented by children.
- State licensing boards and prospective employers will be notified if requested by the licensing board or by the human resources manager for the employer, or if law enforcement sees the type of employment as bringing the offender and potential victims into contact.

Level 3 / High Risk

- All of the entities and individuals listed for Levels 1 and 2 must be notified, including those designated as "discretionary" unless to do so would cause harm to the victim(s).
- Notification must be made to any member of the community whom the offender is known to be likely to encounter, based on the offender's prior history, recreational or religious interests, employment, or the characteristics of the offender's victims.
- Notification should be conducted by methods devised to notify all members of the public likely to encounter the offender. This should be done face-to-face between law enforcement and citizens to the extent possible. Those likely to encounter the offender, including all neighbors, are to be given an Offender Fact Sheet and cautioned about the appropriate use of the information.
- Offender Fact Sheet information on offenders rated at Level 3 (high risk) or Level 4 (Sexually Violent Predator) will be available to the public on the ACIC web site (<http://www.adic.org/>).

Level 4 / Sexually Violent Predator

- All of the entities and individuals listed for Levels 1 through 3 must be notified.
- Notification of members of the general public in the vicinity of where the offender lives travels, and works, should be done. It is preferable to notify these individuals in a face-to-face meeting, and to encourage assistance in monitoring the offender rather than instigating harassment, fear or hatred. However, open community meetings or meetings with neighborhood watch groups are also acceptable.
- Any individual having good reason may request an Offender Fact Sheet from the Chief Law Enforcement Officer. Each individual given an Offender Fact Sheet must be advised that it is not for publication, but may only be used in accordance with the law and these guidelines.
- The Department of Community Correction will be asked to provide intensive supervision, if the offender falls under the jurisdiction of that agency.
- Polygraphing will be done on reassessments, unless clearly contraindicated in view of the Sex Offender Assessment Committee.
- Community meetings may be held to inform residents of the area in which the offender is likely to be found.
- Printed materials, posters, and electronic media may be used to notify and inform the public in the most necessary and potentially dangerous situations.

- The Offender Fact Sheets of all Sexually Violent Predators will be available to the public on the ACIC website.

Reassessment (Section 14)

The adult offenders, classified Levels 1 through 3, may request reassessment 5 years after the date of the most recent risk assessment. Reassessments will, at the discretion of the Sex Offender Assessment Committee, include a polygraph, voice stress analysis, and/or plethysmograph examinations to be billed to the person being reassessed.

The juvenile offender may request reassessment two years after the date of the most recent risk assessment. Once the juvenile offender reaches age 18, the guidelines for adult offenders are to be followed. The files of such offenders will be transferred from the Family Treatment Program to Sex Offenders Screening and Risk Assessment, which will conduct any further assessments.

Reassessment may be requested by any parole or probation, any law enforcement agency, the court, or the Sex Offender Assessment Committee at any time, by submission of a statement of reason to Sex Offender Screening and Risk Assessment. These requests will be reviewed by the Sex Offender Assessment Committee and granted if, in the opinion of the committee, sufficient grounds have been stated. Reassessment of a juvenile must be ordered by the Juvenile Court having jurisdiction.

Reassessments, particularly those done on the basis of suspicion of recent deviant sexual activity, will include administration of a polygraph and /or plethysmograph (measure if sexual interest) examination. The cost of polygraph, voice stress analysis and /or plethysmograph examinations on referrals by law enforcement will be borne by the Sex Offender Assessment Committee.

Refusal of, or non-compliance with, reassessment will result in a written notification to law enforcement in the area in which the offender resides, and to any supervising agency.

Request for reassessment may be made by phone (870-850-8429); fax (870-8500-5446); or mail (P. O. Box 6209, Pine Bluff, AR 71611-6209; or E-mail (adc.sosra@arkansas.gov) by completing the form entitled Request for Sex Offender Reassessment.

Forms for requesting reassessment will be available from the ACIC web site.