

## **Chapter 8. Sex Offender Registration and Notification**

### **9.801 SHORT TITLE**

This Statute may be cited as the “Sex Offender Registry Statute.” and repeals and replaces WOS 2009-008 and 2011-007.

(Source: WOS 2012-008, August 5, 2012, Section I)

### **9.802 PURPOSE**

**A.** The purpose of this Statute is to implement the federal Sex Offender Registration and Notification Act (SORNA), Section 1 of United States Public Law 109-248, 42 U.S.C. 16901 et seq. [34 U.S.C. 20901 et seq.]; and the accompanying sex offenses. Little Traverse Bay Bands of Odawa Indians finds that sex offenders present a risk of re-offending and that the efforts of law enforcement to protect the community, conduct investigations and to apprehend those who commit sex offenses is impaired by the lack of information available about individuals who have pled to, or have been found guilty of sex offenses.

**B.** This Act establishes a registry for offenses, the requirements of registration, and what crimes a person must register.

(Source: WOS 2012-008, August 5, 2012, Section II)

### **9.803 DEFINITIONS**

**A.** “Chief of Police” means the Chief of the Little Traverse Bay Bands of Odawa Indians Law Enforcement,

**B.** “Convicted” means an adult sex offender is “convicted” for the purposes of this Statute if the sex offender has been subject to penal consequences based on the conviction, however the conviction was styled. This includes convictions of juveniles who are prosecuted as adults.

**C.** “Department” means the Little Traverse Bay Bands of Odawa Indians Law Enforcement,

**D.** “Employee” means, for the purposes of this Statute, an individual employed by the Little

Traverse Bay Bands of Odawa Indians including Tribal Government Administration, commercial entities including the Odawa Casino Resort and ancillary enterprises and activities. Independent contractors for the purpose of this Statute shall be included within the definition of “Employee”.

**E.** “Employer” means all departments and agencies of the Tribal Government Administration and commercial entities of the Tribe, including the Odawa Casino Resort and ancillary enterprises and activities.

**F.** "Immediate" and "immediately" means within three (3) business days.

**G.** “Imprisonment” means incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state "prison" as well as in a local or Tribal "jail".

**H.** “Indian” means a person who is a member of a federally recognized Indian Tribe,

**I.** “Indian Tribe” means any federally recognized Tribe,

**J.** “Jurisdiction” means this Tribe and any other Indian Tribe that has asserted jurisdiction pursuant to section 127 of SORNA and the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the United States Virgin Islands.

**K.** “Minor” or “Juvenile” means an individual who has not attained the age of eighteen (18) years.

**L.** “Non-Indian” means a person who is not a member of a federally recognized Indian Tribe,

**M.** “Resides” means, with respect to an individual, the location of the individual's home or other place where the individual habitually lives.

**N.** “Sex Offense” as used in this Statute is limited to those offenses contained in section 111 (5) of SORNA, Sex Offender Registration and Notification Act (SORNA), Section 1 of United States Public Law 109-248, 42 U.S.C. 16901 et seq. [34 U.S.C. 20901 et seq.] and Tribal Sex Offenses.

- O.** “Sex Offender” means a person convicted of a sex offense.
- P.** “Student” means a person who enrolls in or attends an educational institution owned or operated by the Tribe, including a secondary school, trade or professional school, or an institution of higher education.
- Q.** “Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians” means “areas referenced in Public Law 103-324, 25 U.S.C. Section 1300k-2(b)(2)(A) as the boundaries *of the reservations for the Little Traverse Bay Bands as set out in Article I, paragraphs ‘third and fourth’ of the Treaty of 1855, 11 Stat.621.*” Little Traverse Bay Bands Constitution, Article V(A)(1)(a).
- R.** “Tribal Court” means the Little Traverse Bay Bands of Odawa Indians Tribal Court,
- S.** “Tribal Member” means a person who is enrolled Citizen of the Little Traverse Bay Bands of Odawa Indian,
- T.** “Tribe” means the Little Traverse Bay Bands of Odawa Indians,
- U.** “Visitor” means any person within the Tribe’s jurisdiction, who is not a resident,

(Source: WOS 2012-008, August 5, 2012, Section III)

#### **9.804 NOTIFICATION AND REGISTRATION REQUIREMENTS**

**A.** In order to protect our Tribal children and create a safe environment, any person who resides on property owned by the Tribe in fee or trust, regardless of location; are employed by the Tribe, regardless of location; or who attends schools owned or operated by the Tribe; or are lodging for more than seven (7) days on property owned by the Tribe, in fee or trust regardless of the location; shall register within three (3) business days with the Department if they have:

- 1.** Pled guilty to, been found guilty of, or who has been found not guilty by reason of insanity to any Sex Offense under Waganakising Odawak Tribal Code, Title IX., Criminal Laws.
- 2.** Who has pled guilty to, been found guilty of, or who has been found not guilty by reason of insanity, to any attempt, solicitation or conspiracy to commit a crime that requires

or would require that person to register as a sex offender under federal law, or under the law of any state, other Indian Tribe, territory, commonwealth, foreign country or other jurisdiction.

**B.** Any person residing within the exterior boundaries of the Tribe's territorial jurisdiction who does not reside on property owned by the Tribe in fee or trust, regardless of location; are not employed by the Tribe, regardless of location; or who do not attend school owned or operated by the Tribe; or are not lodging for more than seven (7) days on property owned by the Tribe in fee or trust, regardless of the location; may but are not required to register within three (3) business days with the Department if they have:

1. Pled guilty to, been found guilty of, or who has been found not guilty by reason of insanity to any Sex Offense under Waganakising Odawak Tribal Code, Title IX. Criminal Laws, unless the initial conviction occurred in Tribal Court.

2. Who has pled guilty to, been found guilty of, or who has been found not guilty by reason of insanity, to any attempt, solicitation or conspiracy to commit a crime that requires or would require that person to register as a sex offender under federal law, or under the law of any state, other Indian Tribe, territory, commonwealth, foreign country or other jurisdiction.

**C.** The Tribe has requires sex offenders to register with the department, if such individual have entered a consensual relationships within the tribe or with its members through commercial dealing, contracts, leases or other arrangements, or such individuals conduct has threatened or has a direct effect on the political integrity, economic security, or the health or welfare of the tribe.

(Source: WOS 2012-008, August 5, 2012, Section IV)

## **9.805 OFFENSES REQUIRING REGISTRATION**

The following offenses are subject to the requirements of this Statute including attempt and conspiracies:

**A.** Tribal Offenses: Sex Offense under Waganakising Odawak Tribal Code, Title IX. Criminal Laws.

**B. Foreign Offenses within the United States jurisdiction:**

1. 18 U.S.C. §1591 (sex trafficking of children).
2. 18 U.S.C. §1801 (video voyeurism of a minor).
3. 18 U.S.C. §2241 (aggravated sexual abuse).
4. 18 U.S.C. §2242 (sexual abuse).
5. 18 U.S.C. §2243 (sexual abuse of a minor or ward).
6. 18 U.S.C. §2244 (abusive sexual contact).
7. 18 U.S.C. §2245 (offenses resulting in death).
8. 18 U.S.C. §2251 (sexual exploitation of children).
9. 18 U.S.C. §2251A (selling or buying of children).
10. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor).
11. 18 U.S.C. §2252A (material containing child pornography).
12. 18 U.S.C. §2252B (misleading domain names on the internet).
13. 18 U.S.C. §2252C (misleading words or digital images on the internet).
14. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States).
15. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity).
16. 18 U.S.C. §2422 (Coercion and Enticement of a Minor for Illegal Sexual Activity).

17. 18 U.S.C. §2423 (Transportation of Minors for Illegal Sexual Activity, Travel With the Intent to Engage in Illicit Sexual Conduct with a Minor, Engaging in Illicit Sexual Conduct in Foreign Places).

18. 18 U.S.C. §2424 (failure to file factual statement about an alien individual).

19. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

**D. Other Foreign Offenses.** Any conviction for a sex offense involving any conduct which was obtained under the laws of Canada, the United Kingdom, Australia, New Zealand, and any foreign country where the United States State Department, in its Country Reports on Human Rights Practices, has concluded that an independent judiciary generally (or vigorously) enforced the right to a fair trial in that country during the year in which the conviction occurred.

**E. Military Offenses.** Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of PL 105-119 (10 U.S.C. 951 note).

**F. Juvenile Offenses or Adjudications.** Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. §2241(a)(b)) and committed by a minor who is fourteen (14) years of age or older.

**G. Any Jurisdiction Offenses.** Any sex offense committed in any jurisdiction that involves:

1. Any type of degree of genital, oral, or anal penetration.
2. Any sexual touching of or contact with a person's body, either directly or through the clothing.
3. Kidnapping of a minor.
4. False imprisonment of a minor.
5. Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in

sexual conduct.

6. Use of a minor in a sexual performance.
7. Solicitation of a minor to practices prostitution.
8. Possession, production, or distribution of child pornography.
9. Criminal sexual conduct involving a minor (where the elements of the offense involve physical contact with the victim), or the use of the internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was below eighteen (18) years of age at the time of the offense
10. Any conduct that by its nature is a sex offense against a minor
11. Any offense similar to those outlined in United States Code:
  - a. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion).
  - b. 18 U.S.C. §1801 (video voyeurism of a minor).
  - c. 18 U.S.C. §2241 (aggravated sexual abuse).
  - d. 18 U.S.C. §2242 (sexual abuse).
  - e. 18 U.S.C. §2244 (abusive sexual contact).
  - f. 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution).
  - g. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

(Source: WOS 2012-008, August 5, 2012, Section V)

## **9.806 LEVELS OF RISK TO THE COMMUNITY**

**A.** Sex offenders present various "Levels of Risk" to the Tribal community. The Tribe shall assign a tier to each offender based on the tier allocated within this Statute, whether the person is convicted on a new charge, incarcerated, recaptured or changes their residency, employment or school enrollment within LTBB's jurisdiction, based on the following classifications, such tier assignments may be appeal to the Tribal Court:

**1.** Tier I: Level of Concern; lower risk to re-offend within the community at large and includes such offense, including convictions for attempt or conspiracy to commit such offenses as:

- a.** False imprisonment of a minor.
- b.** Video voyeurism of a minor.
- c.** Possession or receipt of child pornography, and the following federal offenses:
  - d.** 18 U.S.C. § 1801 (video voyeurism of a minor).
  - e.** 18 U.S.C. § 2252 (receipt or possession of child pornography).
  - f.** 18 U.S.C. §2252A (receipt or possession of child pornography).
  - g.** 18 U.S.C. §2252B (misleading domain name).
  - h.** 18 U.S.C. §2252C (misleading words or digital images).
  - i.** 18 U.S.C. § 2422(a) (coercion to engage in prostitution).
  - j.** 18 U.S.C. § 2423(b) (travel with the intent to engage in illicit conduct).
  - k.** 18 U.S.C. § 2423(c) (engaging in illicit conduct in foreign places).
  - l.** 18 U.S.C. §2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain).

- m.** 18 U.S.C. §2424 (filing factual statement about an alien individual).
  - n.** 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).
  - o.** Any comparable military offense specified by the Secretary of Defense under Section 115(a)(8)(c)(i) of Public Law 105-119 (U.S.C. § 951 note).
- 2.** Tier II: Level of Concern; moderate risk to re-offend within the community at large and includes such offense, including convictions for attempt or conspiracy to commit such offences as:
- a.** A person previously convicted of a Tier I offense who current sex offense conviction is punishable by more than one year imprisonment.
  - b.** The use of minors in prostitution (to include solicitations).
  - c.** Enticing a minor to engage in criminal sexual activity.
  - d.** A non-forcible sexual act with a minor sixteen (16) or seventeen (17) years old.
  - e.** Sexual contact with a minor thirteen (13) years or older.
  - f.** The use of a minor in a sexual performance.
  - g.** The production or distribution of child pornography, or the following federal offenses:
  - h.** 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion).
  - i.** 18 U.S.C. § 2244 (abusive sexual contact, victim thirteen (13) years or older).
  - j.** 18 U.S.C. § 2251 (sexual exploitation of children).

- k.** 18 U.S.C. § 2251A (selling or buying children).
- l.** 18 U.S.C. § 2252 (sale or distribution of child pornography).
- m.** 18 U.S.C. §2252A (sale or distribution of material containing child pornography).
- n.** 18 U.S.C. § 2260 (producing child pornography for import).
- o.** 18 U.S.C. § 2421 (transportation for prostitution).
- p.** 18 U.S.C. § 2422(b) (coercing a minor to engage in illicit conduct).
- q.** 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).
- r.** 18 U.S.C. §2423(d) (arranging, inducing procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain).
- s.** Any comparable military offense specified by the Secretary of Defense under Section 115(a)(8)(c)(i) of Public Law 105-119 (U.S.C. § 951 note).

**3.** Tier III: Level of Concern; high risk to re-offend within the community at large and includes such offence, including convictions for attempt or conspiracy to commit such offences as:

- a.** Any person convicted of a Tier II offense whose current sex offense conviction is punishable by more than one year imprisonment.
- b.** Non-parental kidnapping of a minor.
- c.** Any sexual act with another.
- d.** Sexual contact with a minor under thirteen (13) years of age, or the following federal offenses:

- e. 18 U.S.C. § 2241 (aggravated sexual abuse).
- f. 18 U.S.C. § 2242 (sexual abuse).
- g. 18 U.S.C. § 2243 (sexual abuse of a minor).
- h. 18 U.S.C. § 2244 (abusive sexual contact, victim under thirteen (13) years of age).
- i. Any comparable military offense specified by the Secretary of Defense under Section 115(a)(8)(c)(i) of Public Law 105-119 (U.S.C. § 951 note).

**B. Verifications and In-person Appearances.** A sex offender who is or should be registered shall, at a minimum, appear in person at the Department for purposes of keeping registration current in accordance with the following time frames:

1. Tier I offenses include those offenses punishable by less than one year of imprisonment. Persons convicted of such offenses must register at least once a year for fifteen (15) years.
2. Tier II and Tier III offenses include offenses punishable by a term of imprisonment of one year or greater. Tier II sex offenders must register every six months for twenty-five (25) years.
3. Tier III sex offenders have lifetime registration requirements and must register at least every three (3) months.
4. At each in-person appearance, the Department shall:
  - a. Obtain a current photograph of the sex offender.
  - b. Review of Information. At each in-person appearance, the sex offender shall review existing information for accuracy.

**C. Notification.** If any new information or change in information is obtained at an in person verification, and upon entry of the sex offender's information in to the registry, that

information is immediately forwarded to all other registration jurisdictions of the information or change in information.

(Source: WOS 2012-008, August 5, 2012, Section VI)

### **9.807 REDUCTION IN REGISTRATION PERIODS**

**A.** A sex offender may have their period of registration reduced as follows:

1. A Tier I offender may have their period of registration and verification reduced by five (5) years if they have maintained a clean record for ten (10) consecutive years.

2. A Tier III offender may have their period of registration and verification reduced to twenty-five (25) years if they were adjudicated delinquent of an offense as a juvenile which required Tier 3 registration and they have maintained a clean record for twenty-five (25) consecutive years.

**B.** A person has a clean record if:

1. They have not been convicted of any offense for which a maximum sentence of imprisonment for one (1) year or more may be imposed.

2. They have not been convicted of any sex offense.

3. They have successfully completed, without revocation, any period of supervised release, probation, or parole.

4. They have successfully completed an appropriate sex offender treatment program certified by the Tribal Court or by the United States Attorney General.

**C.** Petition to Tribal Court. Any person, who meets the requirement of section A and B, who is required to register as a sex offender may petition the Tribal Court for a show cause hearing to determine if a reduction in term of registration may be granted. In the petition, the petitioner shall provide clear and convincing evidence that the petitioner is not a risk to commit a new violation for any violent crime or any crime related to the requirements of registration as a sex offender based upon:

**D.** The Tribal Court may grant a hearing if it finds that the petition is sufficient; and the person meets the eligibility requirements.

**E.** The Tribal Court may exempt the petitioner from the registration requirement only after a hearing on the petition in open court. The Tribal Court shall base its decision only upon a finding by clear and convincing evidence that the petitioner meets the reduction requirements as set forth in this Section.

(Source: WOS 2012-008, August 5, 2012, Section VII)

### **9.808 RELEASE OF INFORMATION, COMMUNITY NOTIFICATION AND IMMUNITY**

**A.** The Department is authorized to release relevant and necessary information regarding sex offenders to the public when such information is reasonably necessary for protection of the Tribal community.

**B.** The Department shall monitor or utilize the SORNA Exchange Portal for inter-jurisdictional change of residence, employment or student status and whenever a sex offender registers or updates their information with the Department, the Department shall:

- 1.** Immediately notify the State of Michigan, per the Memorandum of Agreement (MOA), and ensure the information is updated on Michigan Sex Offender Registry (MSOR).
- 2.** Immediately notify any agency, department, or program within the Tribe that is responsible for criminal investigation, prosecution, or sex offender supervision functions, including but not limited to, police, whether State of Michigan, BIA, Tribal, or FBI, Tribal Prosecutor, and Tribal Probation.
- 3.** Immediately notify any and all other registration jurisdictions due to the sex offender's residency, school attendance, or employment.
- 4.** Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under section

3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a). Within seventy-two (72) hours of the registration of a sex offender, the Department shall notify the individuals, groups and organizations that may be at risk by any reasonable method based on the level of risk.

**C.** Community Notification. The Department shall ensure there is an automated community notification process in place that ensures the following:

1. Upon a sex offender's registration or update of information with the Tribe, the public registry website is immediately updated and posted within three (3) business days.
2. Email notice is available to the general public to notify them when a sex offender commences residence, employment, or school attendance with the Tribe, within a specified zip code, or within a certain geographic radius. This email notice shall include the sex offender's identity.

**D.** The Department is immune from liability for damages for any discretionary decision to release relevant and necessary information.

(Source: WOS 2012-008, August 5, 2012, Section VIII)

### **9.809 SEX OFFENDER REGISTRATION REQUIREMENTS**

**A.** Duties. A sex offender who is required to register with the Department shall provide all of the information detailed as follows:

1. The date of all arrests.
2. The date of all convictions.
3. The sex offender's status of parole, probation, or supervised release.
4. The sex offender's registration status.
5. Any outstanding arrest warrants.

6. The sex offender's actual date of birth.
7. Any other date of birth used by the sex offender.
8. DNA sample, if the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS).
9. CODIS. Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile in to CODIS.
10. Driver's License. The Department shall obtain, and the sex offender shall provide, all of the sex offender's valid driver's licenses issued by any jurisdiction for the purpose of photocopying.
11. Identification Cards. The Department shall obtain, and the sex offender shall provide, a photocopy of any identification card, including the sex offender's Tribal enrollment card issued, by any jurisdiction.
12. Passports. The Department shall obtain, and the sex offender shall provide, a photocopy of any passports used by the sex offender.
13. Immigration Documents. The Department shall obtain, and the sex offender shall provide, a photocopy of any and all immigration documents.
14. Employment. The Department shall obtain, and the sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions and the name of the sex offender's employer.
15. The address of the sex offender's employer, and similar information related to any transient or day labor employment.
16. Finger and Palm Prints. The Department shall obtain, and the sex offender shall provide, both finger prints and palm prints of the sex offender.
17. Internet Names. The Department shall obtain, and the sex offender shall provide,

the following information related to the sex offender's internet related activity and any and all email addresses used by the sex offender, any and all instant Message addresses and identifiers, and any and all other designations or monikers used for self-identification in internet communications or postings, and any and all designations used by the sex offender for the purpose of routing or self- identification in internet communications or postings.

**18. Name.** The Department shall obtain, and the sex offender shall provide, the following information related to the sex offender's name:

- a.** The sex offender's full primary given name.
- b.** Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used.
- c.** Any and all ethnic or Tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.

**19. Phone Numbers.** The Department shall obtain, and the sex offender shall provide, any and all telephone numbers included but not limited to:

- a.** Any and all land line telephone numbers.
- b.** Any and all cellular telephone numbers.
- c.** Any and all Voice Over Internet Protocol (VOIP) telephone numbers.

**20. Photograph.** The Department shall obtain a current photograph of the sex offender.

**21. Physical Description.** The Department shall obtain, and the sex offender shall provide, an accurate description of the sex offender as follows:

- a.** A physical description.

**b.** A general description of the sex offender's physical appearance or characteristics.

**c.** Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

**22.** Professional Licenses. The Department shall obtain, and the sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

**23.** Address. The Department shall obtain, and the sex offender shall provide, the following information related to the sex offender's residence:

**a.** The address of each residence at which the sex offender resides or will reside.

**b.** Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.

**24.** School Location. The Department shall obtain, and the sex offender shall provide, the following information related to the sex offender's school:

**a.** The address of each school where the sex offender is or will be a student.

**b.** The name of each school the sex offender is or will be a student.

**25.** Social Security. The Department shall obtain, and the sex offender shall provide, the following information:

**a.** A valid social security number for the sex offender.

**b.** Any social security number the sex offender has used in the past, valid or otherwise.

**26.** Lodging Information. The Department shall obtain, and the sex offender shall

provide, the following information when the sex offender will be absent from his residence for 7 days or more:

- a.** Identifying information of the temporary lodging locations including addresses and names.
- b.** The dates the sex offender will be staying at each temporary lodging location.

**27.** Travel Abroad.

- a.** In the event the sex offender intends to travel abroad the sex offender shall notify the Department at least twenty-one (21) days in advance of travel.
- b.** Upon such notification the Department shall:
  - i.** Immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of the updated information.
  - ii.** Immediately notify the U.S. Marshals Service.
  - iii.** Immediately update National Crime Information Center (NCIC)/MSOR information.
- c.** Recognizing that some sex offenders may commute to Canada for work on a daily basis or have family residing in Canada, the Department shall develop policies to address such employment and family matters.

**28.** Offense Information. The Department shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

**29.** **Vehicle** Information. The Department shall obtain, and the sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:

- a.** License plate numbers.

- b.** Registration numbers or identifiers.
- c.** General description of the vehicle to include color, make, model, and year.
- d.** Any permanent or frequent location where any covered vehicle is kept.

**D.** Digitization. All information obtained shall be, at a minimum, maintained by the Department in digitized format.

**E.** Electronic Database. A sex offender registry shall be maintained in an electronic database by the Department or its designee and shall be in a form capable of electronic transmission, or otherwise electronically accessible by other jurisdictions.

(Source: WOS 2012-008, August 5, 2012, Section IX)

#### **9.810 INITIAL REGISTRATION**

**A.** Jurisdiction of Conviction. A sex offender must initially register in the jurisdiction where the sex offender was convicted of the sex offense regardless of the sex offender's actual or intended residency.

**B.** Jurisdiction of Incarceration. A sex offender must register in each jurisdiction in which the sex offender is incarcerated while completing any sentence for a sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.

**C.** Timing. A sex offender required to register with the Tribe under this Statute shall do so in the following timeframe:

1. If incarcerated, before release from imprisonment for the registration offense.
2. If not incarcerated, within three (3) business days of sentencing for the registration offense.
3. When an offender is convicted and/or sentenced in another state, territory, tribe or country, or in a federal or military court, and chooses to reside, work, or attend

school within the Tribe's jurisdiction, the registration must occur within three (3) business days of the sex offender establishing residence, employment or school attendance within the jurisdiction.

**D.** Duties of Department. The Department shall ensure the following:

1. Any sex offender incarcerated or sentenced by Tribal Court shall complete their initial registration with the Tribe.
2. Any sex offender initially registering with the Tribe is informed of their duties under SORNA and this Statute to register and such other duties under SORNA and this Statute are explained.
3. The sex offender reads and signs a form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement.
4. That the sex offender is registered and shall enter the sex offender's information into the registry and NCIC/MSOR.
5. That upon entry of the sex offender's information in to the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.

(Source: WOS 2012-008, August 5, 2012, Section X)

**9.811 RETROACTIVE CLASSES OF OFFENDERS**

**A.** The following sex offenders shall be required to register with the Department:

1. Sex offenders that are currently incarcerated or under supervision, either for the predicate sex offense or for some other crime.
2. Sex offenders that are already registered or subject to a pre-existing sex offender registration requirement under the Tribe's jurisdiction.

3. Sex offenders who have reentered the Tribe's criminal justice system because of a conviction for some other felony crime, (whether or not it is a sex offense).

**B.** The initial registration of these sex offenders shall take place in accordance with the following, upon enactment of this Statute:

1. Tier I: within one (1) year.
2. Tier II: within six (6) months.
3. Tier III: within three (3) months.

(Source: WOS 2012-008, August 5, 2012, Section XI)

## **9.812 UPDATES AND CHANGE OF INFORMATION**

**A.** Residence Jurisdiction:

1. Sex offenders who reside within the Tribe's jurisdiction shall immediately appear in person to update any of the following information if it changes:

- a. Name.
- b. Residence.
- c. Employment.
- d. School attendance.
- e. Termination of residence.

2. Sex offenders who reside within the Tribe's jurisdiction shall immediately contact the Tribe and update any of the following information if it changes:

- a. E-mail addresses.

- b. Instant Message (IM) addresses.
- c. Any other designations used in internet communications, postings, or telephone communications.
- d. Vehicle information.
- e. Temporary lodging information.

3. The Department shall immediately notify any other jurisdiction where the sex offender is either registered, or is required to register the sex offender's intent to relocate to another country. The Department shall also notify the U. S. Marshals Service and immediately update NCIC/MSOR.

**B. Employer Jurisdiction:** When a sex offender is employed within the Tribe's jurisdiction, but neither resides nor attends school within the Tribe's jurisdiction, the sex offender shall immediately appear in person to update any of the following:

- 1. Employment related information.
- 2. Termination of employment.

**C. School Jurisdiction:** When a sex offender attends school within the Tribe's jurisdiction, but neither resides nor works within the Tribe's jurisdiction, the sex offender shall immediately appear in-person to update the following:

- 1. School related information.
- 2. Termination of school.

(Source: WOS 2012-008, August 5, 2012, Section XII)

### **9.813 REGISTRY WEBSITE**

**A. Website.** The Department or designee shall use and maintain a public sex offender registry website. The registry website shall also include links to sex offender safety and

education resources.

**B.** Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.

**C.** Warnings. The registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.

**D.** Search Capabilities. The registry website shall have the capability of conducting searches by name, county, city, zip code, and geographic radius.

(Source: WOS 2012-008, August 5, 2012, Section XIII)

#### **9.814 REQUIRED AND PROHIBITED INFORMATION**

**A.** Required Information. The following information shall be made available to the public on the sex offender registry website:

1. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded.
2. All sex offenses for which the sex offender has been convicted.
3. The sex offense(s) for which the offender is currently registered.
4. The address of the sex offender's employer(s).
5. The name of the sex offender including all aliases.
6. A current photograph of the sex offender.
7. A physical description of the sex offender.
8. The residential address and, if relevant, a description of a habitual residence of

the sex offender.

9. All addresses of schools attended by the sex offender.

10. The sex offender's vehicle license plate number along with a description of the vehicle.

**B.** Prohibited Information. The following information shall not be available to the public on the sex offender registry website:

1. Any arrest that did not result in conviction.

2. The sex offender's social security number.

3. Any travel and immigration documents.

4. The identity of the victim.

5. Internet identifiers.

**C.** Witness Protection. For sex offenders who are under a witness protection program, the Tribal police may honor the request of the United States Marshal Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

(Source: WOS 2012-008, August 5, 2012, Section XIV)

## **9.815 FAILURE TO APPEAR FOR REGISTRATION AND ABSCONDING**

**A.** Failure to Appear. In the event a sex offender fails to register with the tribe as required by this Statute shall be deemed an absconded sex offender, the Department shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance with the tribe that the sex offender failed to appear for registration.

**B.** Absconded Sex Offenders. If the Department receives information that a sex offender has absconded the Department shall make an effort to determine if the sex offender has actually absconded.

1. In the event no determination can be made, the Department shall ensure any other appropriate law enforcement agency is notified.
2. If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, the Department shall be informed that the sex offender has failed to appear and register.
3. If an absconded sex offender cannot be located then the Department shall take the following actions:
  - a. Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located.
  - b. Seek a Show Cause and Warrant for the sex offender's arrest.
  - c. Notify the U.S. Marshals Service.
  - d. Update NCIC/MSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located.

**C.** Failure to Register. In the event a sex offender who is required to register due to their residency, employment or school attendance status fails to do so or otherwise violate a registration requirement of this Statute shall be deemed an absconded sex offender, the Department shall take all appropriate follow-up measures to determine if the sex offender is actually residing, employed or attending school within the Tribe's jurisdiction.

(Source: WOS 2012-008, August 5, 2012, Section XV)

## **9.816 VIOLATIONS AND PENALTIES**

**A.** No person, required to register as a sex offender, shall knowingly fail to register as a sex offender with the Department and shall be deemed an absconded sex offender.

- B.** No person, required to register as a sex offender, shall knowingly fail to update their information as a sex offender with the Department as required by this Statute shall be deemed an absconded sex offender.
- C.** No person, required to register as a sex offender, shall knowingly fail to notify the Department of any changes of jurisdiction or the leaving of the Tribal jurisdiction.
- D.** No person shall knowingly furnish, or cause to be furnished, any false or misleading information to be included on the Sex Offender Registry.
- E.** No person shall, without prior approval of the Department, remove, alter, mutilate or destroy any notice to the Tribal community or Sex Offender Registry information.
- F.** A person found in violation of this Statute will be issued a civil infraction ticket to appear before the Tribal Court.
- G.** The Tribal Court may assess such fines and costs and other remedies as deemed appropriate, not to exceed five-thousand dollars (\$5,000).
- H.** If a sex offender fails to register after receiving adequate notice, the Tribal Court may issue a Civil Bench Warrant for the personal appearance before the Court and may detain the person until any fines, costs or other remedies are satisfied.
- I.** The Tribal Court may determine if a parent or legal guardian of a sex offender that is a minor child shall be responsible for any fines, costs or other remedies.

(Source: WOS 2012-008, August 5, 2012, Section XVI)

### **9.817 IMPLEMENTATION**

This Statute shall be implemented within one hundred eighty days (180) days from the Effective Date of this Statute.

(Source: WOS 2012-008, August 5, 2012, Section XVII)

## **9.818 SEVERABILITY**

If any section, subsection, paragraph, sentence, phrase or portion of this Statute is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(Source: WOS 2012-008, August 5, 2012, Section XVIII)

## **9.819 EFFECTIVE DATE**

Effective upon the signature of the Executive, or 30 days from submission to the Executive branch, or if the Executive vetoes the legislation, then upon Tribal Council override of the veto.

(Source: WOS 2012-008, August 5, 2012, Section XIX)