

Case No. 15-10958-A

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**UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT**

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MICHAEL A. McGUIRE,  
*Plaintiff-Appellant,*

v.

LUTHER STRANGE, Attorney General, State of Alabama, *et al.*,  
*Defendants-Cross Appellants.*

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On Appeal from the United States District Court  
for the Middle District of Alabama  
No. 2:11-CV-1027-WKW

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**PLAINTIFF-APPELLANT'S MOTION FOR LEAVE TO FILE  
HIS SUPPLEMENTAL BRIEF OUT OF TIME**

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**Certificate of Interested Persons and Corporate Disclosure Statement**

Pursuant to Federal Rule of Appellate Procedure 26.1 and Eleventh Circuit Rule 26.1-1, undersigned counsel for Plaintiff-Appellant Michael A. McGuire certifies that the following listed persons and parties have an interest in the outcome of this case:

1. Luther Strange, Defendant-Appellee, Attorney General of Alabama;
2. John Richardson, Defendant-Appellee, Director, Alabama Department of Public Safety;
3. Derrick Cunningham, Defendant-Appellee, Sheriff, Montgomery County Sheriff's Office;
4. Todd Strange, Mayor, City of Montgomery, Alabama;
5. Andrew L. Brasher, Office of the Alabama Attorney General;
6. William G. Parker, Office of the Alabama Attorney General;
7. James W. Davis, Office of the Alabama Attorney General;
8. Laura E. Howell, Office of the Alabama Attorney General;
9. Winfield J. Sinclair, Office of the Alabama Attorney General;
10. Thomas T. Gallion, III, Haskell Slaughter & Gallion, LLC, Attorney for

- Defendants Cunningham and Montgomery County, Alabama Sheriff's Office;
11. Constance C. Walker, Haskell Slaughter & Gallion, LLC, Attorney for Defendants Cunningham and Montgomery County, Alabama Sheriff's Office;
  12. Charles McDowell Crook, Jr., Haskell Slaughter & Gallion, LLC, Attorney for Defendants Cunningham and Montgomery County, Alabama Sheriff's Office;
  13. Tyrone C. Means, Thomas Means Gillis & Seay, PC, Attorney for Defendants Cunningham and Montgomery County, Alabama Sheriff's Office;
  14. Joseph Haran Lowe, Attorney for the Alabama Department of Public Safety;
  15. Frank McCollum, Attorney for the Alabama Department of Public Safety;
  16. Stacy Reed, Montgomery, Alabama City Attorney's Office;
  17. Joseph M. McGuire, Attorney for Michael A. McGuire, Plaintiff-Appellant;
  18. Phil Telfeyan, Attorney for Michael A. McGuire, Plaintiff-Appellant;
  19. Honorable William Keith Watkins, Chief United States District Judge, Middle District of Alabama;
  20. Michael A. McGuire, Plaintiff-Appellant.

/s/ Joseph Mitchell McGuire    /s/ Phil Telfeyan

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**APPELLANT-CROSS APPELLEE'S MOTION FOR LEAVE TO FILE  
SUPPLEMENTAL BRIEF OUT OF TIME (OPPOSITION UNKNOWN)**

Appellant-Cross Appellee, Michael A. McGuire, respectfully moves the Court to allow him to file his Supplemental Brief out of time. He supports his motion as follows:

On July 12, 2017, both undersigned counsel made several attempts to access the ECF filing system prior to the deadline for submitting Mr. McGuire's supplemental brief.<sup>1</sup> Neither of Mr. McGuire's counsel was successful in their attempts to access the system. As a result, Mr. McGuire's Supplemental Brief was not filed on time. Counsel for Mr. McGuire was subsequently able to access the filing system from an alternate location.

Appellant McGuire submits with this motion his Supplemental Brief, attached hereto. No harm to opposing parties will result from the out-of-time filing, as the filing was made contemporaneous to the filing deadline.

Appellant McGuire requests that the Court grant his motion for leave to file his Supplemental Brief out of time. Because of the late hour during which Mr. McGuire submitted this filing, his counsel was unable to reach opposing counsel and their opposition is unknown.

Respectfully submitted this, the 13th day of July, 2017.

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<sup>1</sup> The filed brief is time-stamped, reflecting completion prior to the filing deadline. Both attorneys for Mr. McGuire attempted to file the brief prior to 12:00 a.m. EDT.

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**Certificate of Compliance**

Pursuant to Federal Rule of Appellate Procedure 27(d), undersigned counsel hereby certifies that this motion complies with the length limits of Fed.R.App.P. 27(d)(2)(A), because this motion contains 264 words, and excluding the accompanying documents authorized by Rule 27(a)(2)(B).

/s/ Joseph Mitchell McGuire    /s/ Phil Telfeyan

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I certify that on July 13, 2017, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to the following counsel:

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Case No. 15-10958-A

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PLAINTIFF-APPELLANT'S SUPPLEMENTAL BRIEF

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17. Joseph M. McGuire, Attorney for Michael A. McGuire, Plaintiff-Appellant;
18. Phil Telfeyan, Attorney for Michael A. McGuire, Plaintiff-Appellant;
19. Honorable William Keith Watkins, Chief United States District Judge, Middle District of Alabama;
20. Michael A. McGuire, Plaintiff-Appellant.

/s/ J. Mitch McGuire      /s/ Phil Telfeyan  
Attorneys for Plaintiff-Appellant

**Statement Regarding Oral Argument**

Plaintiff-Appellant respectfully suggests that additional oral argument be permitted in this case. Plaintiff-Appellant's challenge to Alabama's sex-offender restrictions raises a novel and substantial legal question: Is it possible for any set of sex-offender restrictions to exceed the prohibition of the *Ex Post Facto* Clause and, if so, did Alabama violate this provision when it enacted "the most comprehensive, debilitating sex-offender scheme in the land." *McGuire v. Strange*, 83 F. Supp. 3d 1231, 1236 (M.D. Ala. 2015). This fundamental question is one of first impression not only in this Circuit, but across the country. Indeed, "Alabama's scheme goes miles beyond the minimum federal requirements of the Sex Offender Registration Act ('SORNA'), recently reviewed in this Circuit in *United States v. W.B.H.*" *Id.* at 1268. Alabama's pervasive and debilitating restrictions are so unique that "no court has ever been faced with analyzing *in toto* the general effects of a scheme this expansive." *Id.*

Although this Court has already heard argument, recent holdings from both this Court and the Sixth Circuit have shed additional light on the punitive impact of schemes less debilitating than ASORCNA. Due to the novelty and importance of the issues, Plaintiff-Appellant respectfully submits that oral argument is necessary to ensure the highest level of advocacy by all parties in this case, in order to give this Court maximum opportunity for the highest level of consideration.

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## **I. Introduction**

This Court should hold that the Alabama Sex Offender Registration and Community Notification Act (“ASORCNA”) violates the *Ex Post Facto* Clause of the United States Constitution; Alabama’s recent amendments make the scheme even more punitive than before. ASORCNA remains “the most comprehensive, debilitating sex offender scheme, by far, in the land.” *McGuire v. Strange*, 83 F. Supp. 3d 1231, 1251 (M.D. Ala., 2015, Watkins, C.J.). Its provisions continue to restrict every aspect of registrants’ lives: where they can live, with whom they can associate, how they can earn a living. It even invades the intimacy of family life by forbidding sex offenders from spending time with relatives under the age of 18. It does not distinguish between violent sex offenders, teenagers who engaged in consensual sexual intercourse, and those who committed their crimes against another adult decades ago. Its punitive restrictions are unconstitutional.

The recent amendments to ASORCNA do not moot any aspect of Plaintiff-Appellant’s *ex post facto* challenge because the severely debilitating scheme remains almost entirely intact. Furthermore, some of the recent amendments have tightened the grip that ASORCNA places on those subject to it, worsening the punishment imposed on registrants. In short, by creating heightened residency restrictions, further limitations on visiting relatives, and other amendments, Alabama has made the most debilitating scheme in the country even more punitive.

## **II. Summary of Responses to Questions Posed by this Court**

On June 14, 2017, this Court ordered the parties to file supplemental briefs and enumerated eight questions. Plaintiff-Appellant's answers are summarized in this section and covered more fully in the remainder of the brief.

### **1. The Amendments to ASORCNA Have Not Mooted Plaintiff-Appellant's Challenge to Its Constitutionality (Question 1)**

The ASORCNA amendments leave intact the vast majority of the statutory scheme's most punitive features and make several restrictions even more onerous. Because "a superseding statute or regulation moots a case only to the extent that it removes challenged features of the prior law," *Coral Springs St. Sys. v. City of Sunrise*, 371 F.3d 1320, 1342–43 (11th Cir. 2004), and because the amendments to ASORCNA have not removed any of the onerous restrictions on registrants, no part of this case is moot. *See infra* pp. 15–32.

### **2. The Amended Definitions of "Reside" and "Residence" Make ASORCNA More Restrictive (Question 2)**

The new definitions of "reside" and "residence" make ASORCNA's residency restriction even more burdensome on former offenders. The definition of "residence" has become vastly more expansive and inclusive: being at a place for more than four hours a day for three days in a row, or more than four hours a day for ten total days in a calendar month, establishes a "residence," meaning that registrants may unwittingly establish multiple residences Ala. Code § 15-20A-4(20),

Addendum A at 10). In contrast to the plain English usage, a “person does not have to conduct an overnight visit to reside at a place,” *id.*, so attending 10 four-hour baseball games in one month establishes a residence at the baseball stadium. By effectively limiting a registrant’s presence in a place to four hours per day — a new restriction — ASCORNA further limits the amount of time registrants can spend with their families, burdens their ability to visit anyone for longer than two days, and increases the practical difficulty of complying with ASORCNA. *See infra* pp. 15–18.

**3. The Amended Definition of “Employment” Makes ASORCNA More Restrictive (Question 3)**

The revised definition of “employment” expands the restriction on registrants by further detailing the definition of volunteer work, which remains prohibited. Ala. Code § 15-20A-4(5), Addendum A at 7. It prohibits registrants from working or volunteering in any capacity for any organization within the restricted zones. This revision provides no relief to registrants. *See infra* pp. 18–20.

**4. Substituting a “Travel Notification Document” for a “Travel Permit” Does Nothing to Change the Punitive Travel Restrictions (Question 4)**

The amendments that replaced “travel permits” with “travel notifications,” but they equally burden a registrant’s right to travel. Ala. Code §15-20A-15, Addendum A at 7–8. Under the revised scheme, offenders must still register with the sheriff before leaving town and must detail all of their travel plans accurately, or risk felony

charges. In fact, the new “travel notifications” require more information than the “travel permits” they replace, thus increasing the burden on registrants. No matter what Alabama calls the piece of paper, ASORCNA registrants commit a felony by traveling out of their home county for more than two days without obtaining certification from law enforcement, which violates their constitutional right to travel.

*See infra* pp. 20–26.

**5. The Requirement to Carry a Branded Driver’s License Remains, and Codification of the Pre-Existing Right to Carry a Passport Does Nothing to Lessen the Punitive Effects of ASORCNA (Question 5)**

ASORCA still requires all registrants to carry a branded driver’s license at all times, emblazoned in all-red, all capital letters with “CRIMINAL SEX OFFENDER.” The branded license still does not distinguish between registrants who committed one crime versus repeat offenders, those whose victims were adults versus juveniles, those whose only crime was decades ago versus recently, or those whose only offenses are misdemeanors versus felonies. The amendment highlights that registrants can also carry a passport, but this change has no practical effect because registrants are still required to produce branded driver’s licenses in most instances. Ala. Code § 15-20A-18(c), Addendum A at 41. The humiliation and embarrassment of the branding requirement remains. *See infra* pp. 26–28.

**6. Other Amendments to ASORCNA Have Damaging Effects (Question 6)**

The amendments to ASORCNA create many punitive effects by the interaction of the various provisions. For example, combining the new definition of “residency” with the travel restriction would prevent registrants from traveling to a hotel in a restricted zone, because they would have established a residence there. If a registrant in Montgomery wanted to stay at the Hyatt Regency Hotel in Birmingham from Friday evening at 8:00 p.m. until early Sunday morning, that registrant would have committed a felony by establishing a “residence” by being in the same location four hours per day for three days in a row. The punitive impacts of the amendments only multiply as additional iterations are considered; as the statute begins enforcement, registrants will experience punishment well beyond the sentences they have already served. *See infra* pp. 28–32.

**7. This Case Should Not Be Remanded to the District Court (Question 7)**

The case should not be remanded to the district court, as no further factual findings are necessary for this Court to find that ASORCNA is unconstitutional. Neither party raised any factual issues on appeal (the only issues before this Court are legal), and review of the legal issues is *de novo*. *See infra* p. 39.

**8. This Court’s Decision in *Doe v. Miami-Dade County* Establishes that ASORNCA’s Residency Restrictions Violate the *Ex Post Facto Clause* (Question 8)**

This Court’s decision in *Doe v. Miami-Dade County*, 846 F.3d 1180 (11th Cir. 2017), illustrates that Alabama’s residency restrictions are an unconstitutional

violation of the *Ex Post Facto* Clause. In *Miami-Dade*, this Court reversed a district court's dismissal of a challenge against a residency restriction in a Florida sex offender registration scheme. The Florida provision was even less aggressive than Alabama's; unlike Alabama's (which applies to all registrants, regardless of their victim's age), Florida's provision was limited to those who had harmed minors. This Court voiced concerns that such a statute may be overly debilitating, excessive in relation to its purpose, and not rationally related to its purpose.

In addition to applying to all registrants (regardless of victim's age), ASORCNA's restrictions are more punitive because they include childcare centers and home daycares in addition to schools, resulting in over 80% of the city of Montgomery being off-limits to registrants. *McGuire v. Strange*, 83 F. Supp. 3d at 1241. Additionally, unlike the Florida statute, ASORCNA provides no protection for registrants who established their homes before the law was passed. *See infra* pp. 7–10.

### **III. Argument**

ASORCNA remains “the most comprehensive, debilitating sex-offender scheme in the land.” *McGuire*, 83 F. Supp. At 1236 (finding ASORCNA “includes not only most of the restrictive features used by various other jurisdictions, but also unique additional requirements and restrictions nonexistent elsewhere.”). It far surpasses any individual state scheme and “goes miles beyond the minimum federal

requirements of the Sex Offender Registration Act (“SORNA”).” *Id.* at 1251. ASORCNA is “unique and novel in scope,” there remain 115 ways to violate the statute (all Class C felonies), and the burdens last for life. *Id.* ASORCNA’s unparalleled restrictions are unconstitutional because (A) the revised version of ASORCNA is more punitive than schemes rejected by numerous courts across the country, (B) both the intent and effects of the revised version of ASORCNA are punitive, and (C) the revised version ASORCNA fails on each of the *Mendoza-Martinez* factors for assessing whether a law is punitive.

**A. Numerous Courts Have Stricken Down Sex Offender Registry Regimes that Are Less Punitive than ASORCNA**

Although no court has considered a scheme as debilitating as ASORCNA, many courts have stricken down sex-offender registration laws that were *less* severe than Alabama’s scheme. *See, e.g., In re Taylor*, 343 P.3d 867, 879 (Cal. 2015) (striking down 2,000-foot residency restrictions because they “cannot survive even the more deferential rational basis standard of constitutional review”); *Riley v. New Jersey State Parole Bd.*, 98 A.3d 544, 559 (N.J. 2014) (invalidating registration requirements for a twenty-four hour GPS monitoring device for former sex offenders); *Starkey v. Oklahoma Dept. of Corrections*, 305 P.3d 1004 (Okla. 2013); *Hevner v. State*, 919 N.E.2d 109 (Ind. 2010); *F.R. v. St. Charles County Sheriff’s Dept.*, 301 S.W.3d 56 (Mo. 2010); *State v. Simnick*, 779 N.W.2d 335 (Neb. 2010); *Com. v. Baker*, 295 S.W.3d 437 (Ky. 2009); *State v. Letalien*, 985 A.2d 4 (Me. 2009);

*Doe v. State*, 189 P.3d 999 (Alaska 2008) (striking down registration and notification provisions as violating the state’s *ex post facto* protection); *ACLU of NM v. City of Albuquerque*, 137 P.3d 1215, 1229 (N.M. Ct. App. 2006) (invalidating restrictions on sex offenders being left alone with children as well as striking down restrictions that required DNA samples and dental imprints from registrants); *State v. Myers*, 923 P.2d 1024 (Kan. 1996) (holding that allowing the public unlimited access to registered information of sex offenders was excessive and gave the registration law a punitive effect); *Doe v. Dep’t of Publ. Safety & Corr. Servs.*, 62 A.3d 123, 143 (Md. 2013) (plurality opinion) (holding that Maryland’s sex offender registration scheme could not be applied retroactively because it had “essentially the same effect upon Petitioner’s life as placing him on probation and imposing the punishment of shaming for life.”); *Doe v. Sex Offender Registry Bd.*, 882 N.E.2d 298 (Mass. 2008) (holding that retroactive imposition of sex offender registration requirement on plaintiff, without an opportunity for individual determination of dangerousness, violated his right to due process under Massachusetts Constitution); *Doe v. State*, 111 A.3d 1077 (N.H. 2015) (holding that lifetime requirements including quarterly registration, without opportunity for review, and online publication of sex offender information were punitive in nature and could not be applied retroactively); *Mikaloff v. Walsh*, 2007 WL 2572268 (N.D. Ohio Sept. 4, 2007) (holding that a law prohibiting sex offenders from residing within 1,000 feet of a school to be an

unconstitutional *ex post facto* law); *Wallace v. State*, 905 N.E.2d 371 (Ind. 2009); *Coppolino v. Noonan*, 102 A.3d 1254 (Pa. 2014).

This Court too has held that sex offender registry laws less burdensome than ASORCNA create constitutional concerns. *Doe v. Miami-Dade Cty.*, 846 F.3d 1180, 1186 (11th Cir. 2017) (finding the statute to “raise plausible claims that the County's residency restriction is so punitive in effect that it violates the *ex post facto* clauses of the federal and Florida Constitutions.”). In *Miami-Dade*, this Court allowed an *ex post facto* challenge to proceed against a Florida residency restriction less severe than ASORCNA’s — Florida’s only applied to people convicted of sexual offenses involving minors. *Id.* at 1182–83. In addition to the fact that ASORCNA applies to registrants whose only victim was an adult, ASORCNA’s zone of exclusion is tied to schools, daycares, and home daycares — not just the schools at issue in Florida. And unlike in Florida, ASORCNA gives no protection to those who established their residence before ASORCNA; if someone established a residence in 1950 near a school that was opened in 1949 and become a registrant in 2011 when ASORCNA was passed, that person would be guilty of a felony. Thus, ASORCNA has broader restrictions than those in the Florida statute that this Court recently found suspect, making the unconstitutionality of this statute more apparent.

The Sixth Circuit recently struck down Michigan’s sex-offender registration scheme — much less debilitating than Alabama’s — that included a residency

restriction barring offenders from living within 1,000 feet of a school, quarterly registration requirements based on the offense, and a three-tier division system based on the offense committed. *Does #1-5 v. Snyder*, 834 F.3d 696, 698 (6th Cir. 2016). The Sixth Circuit found that the legislature did not declare a punitive intent, but that the regulations amounted to a criminal penalty anyway, rendering the scheme unconstitutional. *Id.* at 705 (stating that *Smith* should not be “understood as writing a blank check to states to do whatever they please in this arena”). All of the restraints in Michigan were equal or less severe than those found in ASORCNA. ASORCNA’s zone of exclusion is greater (2,000 feet), its restrictions apply to daycares and home daycares (not just schools), and it is not tiered by offense. The United States government believes the Sixth Circuit was correct in striking down a statute less severe than ASORCNA. Br. Of Amicus Curiae at 9–10, *Snyder v. John Does #1-5*, No. 16-768 (U.S. July 7, 2017).

The United States government, numerous state and federal courts, the Sixth Circuit, and even this Court have recognized the punitive effects of laws less severe than ASORCNA. These precedents make clear that ASORCA imposes punishment in violation of the *Ex Post Facto* Clause.

**B. The Recent Amendments Only Make ASORCNA More Restrictive, Highlighting the Punitive Intent and Effects**

The revised version of ASORCNA violates the *Ex Post Facto* Clause because it has both (i) punitive intent and (ii) punitive effects.

**i. ASORCNA Violates the *Ex Post Facto* Clause Because the Alabama Legislature Intended Life-Long Punishment of Former Sex Offenders**

As a whole, ASORCNA is harsher than any sex offender registry statute ever enacted in the United States, revealing the Alabama legislature’s intent to punish former sex offenders for life. Although ASORCNA purports to be civil, the legislature’s label “is not always dispositive.” *Allen v. Illinois*, 478 U.S. 364, 369, (1986). ASORCNA employs the broadest application of any sex offender scheme in United States history, *McGuire v. Strange*, 83 F. Supp., at 1251, thus supplying “the clearest proof that the statutory scheme [is] so punitive [] in purpose . . . as to negate [the State’s] intention to deem it ‘civil.’” *Kansas v. Hendricks*, 521 U.S. 346, 361, (1997) (quotation marks and citations omitted). ASORCNA invades every aspect of the lives of registrants, regulating their existence so closely that their personal liberties are reduced to almost nothing.

The Alabama legislature set up a regime that can only be described as punitive. The statute covers people who have committed any of over 30 enumerated offenses listed in Ala. Code § 15-20A-5 and treats them all the same, regardless of whether the crimes happened recently or decades ago, whether they were violent, whether they were against children, whether they were repeat offenses, or whether they were repeated misdemeanors or felonies. Ala. Code § 15-20A-5, Addendum A at 13–17. Moreover, ASORCNA provides for limitless retroactivity, effectuating

the statute's backward reach in perpetuity and, with few exceptions, applies to registrants for life. Ala. Code §§ 15-20A-3; Ala. Code § 15-20A-5, Addendum A at 13–17.. The statute captures registrants, like Mr. McGuire, who have, many for decades since release from custody and parole, atoned for their crimes, have not committed subsequent crimes, and have never harmed a child.

ASORCNA's unprecedented combination of restrictions and requirements are boundless. The statute requires that registrants be subject to residency and employment restrictions. Ala. Code §§ 15-20A-11, -13, Addendum A at 29–33, 35–36. It brands the registrant's driver's license in large red letters with the label CRIMINAL SEX OFFENDER. Ala. Code § 15-20A-18, Addendum A at 40–41. It mandates an in-person reporting schedule which is unmatched across the country. Ala. Code §15-20A-2(1). Relief from the statute is available only to the seriously ill. Ala. Code §15-20A-23, Addendum A at 47. These provisions are the hallmarks of a life sentence.

Regardless of what it claims, the Alabama legislature cannot have enacted such a sweeping statute without intending to punish former sex offenders. *See Miami-Dade Cnty.*, 846 F.3d at 1184. Because the legislature must have intended for such an invasive regime to be punitive, ASORCNA violates the *Ex Post Facto* Clause. ASORCNA's provisions reveal that the Alabama legislature intended to punish registrants in spite of its statements to the contrary.

Although the legislative findings attempt to disguise the fact that the Alabama intended for ASORCNA to impose life-long punishment on former sex offenders, its punitive intent is apparent. When faulty rationales for a statute are “a sham or mere pretext, there [is] an indication of the forbidden purpose to punish.” *Kansas v. Hendricks*, 521 U.S. 346, 371 (1997) (Kennedy, J., concurring). Here, the provided public safety rationales are far from credible, demonstrating the true legislative intent to impose a punishing regime on registrants.

Despite the legislature’s claim that “increasing numbers coupled with the danger of recidivism place society at risk,” Ala. Code § 15-20A-2(1), ample research shows that sexual offenders are among the least likely to reoffend. Only one to two percent of sex offenders commit another sex offense. Rachel E. Kahn, Gina Ambroziak, Karl Hanson & David Thornton, *Release from the Sex Offender Label*, Archives of Sexual Behavior (Feb. 2017). At such low rates, sexual offenders’ risk of recidivism cannot be differentiated from that of “out of the blue” sexual crimes committed by persons convicted for non-sexual crimes. *Id.* at 2. Mr. McGuire is a case in point: he committed one crime 32 years ago; in the intervening decades he has married, lived as a model citizen, and returned to Alabama to take care of his aging mother. It is unclear, therefore, what possible public safety purpose could be served by maintaining “constant contact between sex offenders and law enforcement” and “obtaining information for identifying, monitoring, and tracking

sex offenders.” Ala. Code § 15-20A-2(1). Rather, such surveillance is a punitive reminder that registrants will always be pariahs in society. *See Does #1-5 v. Snyder*, 834 F.3d at 702 (referring to “traditional shaming punishments”).

The findings relating to homeless registrants also indicate punitive intent. The legislature asserts that the number of homeless sex offenders is growing and they “need to be monitored more frequently for the protection of the public . . . [because they] present a growing concern for law enforcement due to their mobility.” Ala. Code § 15-20A-2(3). But the growing number of homeless registrants results from ASORCNA’s draconian restrictions on where former offenders can live — limitations made more stringent by the recent amendments — that force registrants into homelessness (as the district court found, Mr. McGuire looked at 60 properties seeking a place to live, none of which were compliant). Once caught in the homelessness trap, ASORCNA burdens registrants with more onerous registration requirements. Ala. Code §15-20A-12(b), Addendum A at 33. Such an obvious consequence can only be the result of legislative design.

If there were any doubt about the legislature’s intent to punish former sex offenders, the recent amendments dispel it because they fail to provide meaningful relief to registrants. In many cases, the amendments have increased the burden on registrants by further reducing their ability to find housing, maintain employment, travel, and even simply spend time with their families. The legislature has revealed

its true intent to punish former sex offenders.

**ii. ASORCNA’S Debilitating Effects Are So Punitive that They Override Any Putative Civil Intent**

In addition to the fact that the legislature’s intent was punitive, the debilitating effects of ASORCNA are so punitive that they override any purported civil intent. ASORCNA’s punitive effects are most vividly displayed in seven categories of restraints in the statutory scheme: (i) residency restrictions, (ii) employment restrictions, (iii) travel restrictions, (iv) branding of driver’s licenses, (v) excessive reporting requirements, (vi) 115 Class C felonies, and (vii) lifetime application and limitless retroactivity without offense-based delineation. Each of the factors survives the recent amendments, and several are more punitive than before.

**a. The Recent Amendments Make ASORCNA’s Residency Regulations More Restrictive and More Punitive**

The recent amendments to the residency restrictions in ASORCNA have multiplied the punitive effects of the scheme. The new definitions of “reside” and “residence,” along with other pertinent amendments, did not remove the fundamental barriers: As before, registrants may not live in 80 percent of Montgomery. As before, the revised version severely limits the amount of time registrants can spend with their spouses and other family members at their homes. As before, registrants like Mr. McGuire are made homeless by ASORCNA.

The amendments to ASORCNA have tightened the already unconstitutional restraints. The new definitions of “reside” and “residence” combine to include every instance in which a living situation was already considered a “residence” under the prior law, while also expanding the definition of “residence” to include any location where a person spends more than four hours per day in a place for three consecutive days, or for ten days cumulatively in a calendar month. Ala. Code §15-20A-4(20), Addendum A at 10. As a result, a registrant can establish dozens of residences in places without ever spending the night; a homeless registrant (like Mr. McGuire) who sleeps under a bridge but visits his wife for more than four hours per day has established a new residence with his wife. Someone who frequents a public park, takes long jogs on the same public track, or attends baseball games at the same stadium could establish a “residence” at all of those locations. The new definition proscribes even more activity than before.

The revised statute violates Mr. McGuire’s right to family association by effectively limiting the time he can spend with his wife at home to 40 hours a month and never three consecutive days for over four hours. *Id.* Separating a person from his loved ones is a traditional form of punishment. *Mendoza-Martinez*, 372 U.S. 168–69. Mr. McGuire cannot visit his brother, nieces and nephews, despite the fact that has never harmed a child and poses no danger to children. Further, ASORCNA now defines residence by duration of stay, meaning registrants must be wary of the

location of their hotels when traveling. If Mr. McGuire were to take a trip to Mobile with his wife and stay in a hotel within 2,000 feet of a school for three days or more, the hotel would become his residence and he would therefore be in violation of the residency restriction. Ala. Code §§15-20A-4(20)-(21), Addendum A at 10; §15-20A-11(a), Addendum A at 10. Under the new law, registrants cannot take family vacations without risking a felony charge, infringing upon their right to travel. Ala. Code §15-20A-11(i), Addendum A at 33. Such a restriction has no rational connection to a non-punitive purpose.

The newly-added definition of “Overnight Visit” also adds to the punitive nature of ASORCNA by severely limiting registrants’ ability to do everyday activities. In the recent amendments, the legislature clarified the definition of “Overnight Visit” to be “any presence between the hours of 10:30pm and 6:00am” Ala. Code §15-20A-4(14), Addendum A at 9. No registrant — regardless of whether the victim was an adult — is allowed to conduct an “overnight visit” with a minor, so the consequences of this strict new definition are debilitating. Ala. Code §15-20A-11(d), Addendum A at 30–31. It would be a felony for a registrant to attend midnight religious services if children were present. It would be a felony for a registrant like Mr. McGuire to stay at his brother’s house, where his niece and nephew live, until 11:00pm to see the end of a football game. It would be a felony for Mr. McGuire to arrive at his brother’s house at 5:45am for an early-morning

fishing trip with the family. By forbidden any presence in any location after 10:30pm or before 6am, the amendments have made ASORCNA even more punitive.

**b. The Recent Amendments Make ASORCNA's Employment Regulations More Restrictive and More Punitive**

The employment restrictions in ASORCNA remain punitive because the revision of the definition of "employment" was purely administrative and provides no practical relief to registrants. In nearly every way, the employment restrictions remain unconstitutionally onerous. The enormous zone of exclusion remains in place, and registrants are still barred from 85% of jobs in the city of Montgomery. *Id.* n.7. Keeping people from earning a living by restricting their employment opportunities is not rationally connected to a legitimate public policy and thus is punitive.

The definition of "employment" was revised not to provide relief to registrants, but as a matter of procedural clarification (1) to accommodate for the newly defined term "volunteer position" and (2) to add the provision that time spent traveling to work does not count as "employment." Ala. Code §15-20A-4(5), (32), Addendum A at 7, 13. The term "volunteer position," in turn, explains that registrants are barred uniformly from doing any form of volunteer work for any organization, business, government, or otherwise, within the restricted zone. *Id.*;

Ala. Code §15-20A-13(a), Addendum A at 35. The two definitions combine to make it impossible for registrants to contribute productively to society within the restricted zone.

The legislature also clarified the standard of evidence for requests for relief from the employment restriction but grounds for relief remain the same and thus punitive. Ala. Code §15-20A-25(f), Addendum A at 58. The great majority of offenders are disqualified from applying for relief at all. Ala Code §15-20A-25(a)(1)–(7), Addendum A at 56. For most registrants, there is still no consideration given to the actual danger they pose to society; instead a blanket prohibition prevents all registrants from working in the majority of the urban areas of the state for life. The legislature refuses to acknowledge that a person such as Mr. McGuire may be rehabilitated and no longer present a danger to society, even thirty years after the only crime he ever committed.

Alabama struck the word “apply” from §15-20A-13(a), so registrants no longer run the risk of being charged with a felony for submitting their resume to an employer located in a restricted zone, but this provides little practical relief. Ala Code §15-20A-13(a), Addendum A at 35. The affirmative restraints that make ASORCNA unconstitutionally debilitating are still in place. It remains illegal for registrants to accept employment within 2,000 feet of a school or childcare facility. Ala. Code §15-20A-13(b), Addendum A at 35. Registrants are still barred from

approximately 85% of jobs Montgomery. *McGuire v. Strange*, 83 F. Supp. 3d 1231, 1241 n.7 (M.D. Ala. 2015). There is still no grandfather clause to protect registrants who obtained their employment before ASORCNA was enacted. Ala Code §15-20A-13(d), Addendum A at 35.

**c. The Recent Amendments Made ASORCNA's Travel Regulations More Restrictive and More Punitive**

Although travel “permits” are now termed “notification documents,” this change in nomenclature has not altered the punitive nature of the restrictions; in fact, ASORCNA amendments have worsened travel restrictions. ASORCNA still bars spontaneous travel because registrants must notify the sheriff’s office before leaving the county for more than two nights. Ala. Code § 15-20A-15(a), Addendum A at 37. The Alabama Department of Public Safety, charged with enforcing ASORCNA’s provisions, requires travel forms to be completed at least three business days in advance of travel. Ala. Code §15-20A-4(9), Addendum A at 8; *McGuire*, 83 F. Supp. 3d at 1241. In other words, if a registrant plans a three-day weekend (*i.e.*, Friday through Sunday) in another county or state, she or he must obtain two permits the Tuesday before traveling.

This ban on spontaneous travel is unacceptable as the travel is a fundamental right. *See, e.g., Shapiro v. Thompson*, 394 U.S. 618, 629 (1969) (“[T]he nature of our Federal Union and our constitutional concepts of personal liberty unite to require that all citizens be free to travel throughout the length and breadth of our land

uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement.”); *Johnson v. City of Cincinnati*, 310 F.3d 484, 498 (6th Cir. 2002) (“[T]he Constitution protects a right to travel locally through public spaces and roadways.”); *Spencer v. Casavilla*, 903 F.2d 171, 174 (2d Cir.1990) (recognizing that the Constitution “protects the right to travel freely within a single state”); *Lutz v. City of York*, 899 F.2d 255, 268 (3d Cir. 1990) (holding that “the right to move freely about one’s own neighborhood or town” is a fundamental liberty interest protected by the Due Process Clause).

Merely imposing a barrier to travel — even without prohibiting travel outright — violates a fundamental right. *See, e.g., Jones v. Helms*, 452 U.S. 412, 419 (1981) (“[A] State may neither tax nor penalize a citizen for exercising his right to leave one State and enter another.”). Taking away the fundamental right of freedom of movement is one of the traditional aims of punishment, highlighting that the legislature’s attempt to require a permit from registrants is punitive.

The change from a “permit” to a “notification document” is simply a new name for the same punitive system. As the trial court noted: “[T]he Supreme Court has recognized for centuries that what something is *called* and what something actually *is* may be two different things. . . . Hence, we have the ancient observation that ‘[t]he Constitution deals with substance not shadows. Its inhibition was levelled at the *thing*, not the *name*.’” *McGuire*, 83 F. Supp. 3d 1231, 1247-1248 (quoting

*Weaver v. Graham*, 450 U.S. 24, 28 (1981)). Travel notifications will not operate any differently than travel permits. Regardless of whether the document is called a “permit” or a “notification,” if an officer feels that the proposed travel will, for some reason, pose a risk, the registrant will not be allowed to travel. Allowing a law enforcement officer to decide whether to grant or deny the travel notification form is an affirmative disability that is punitive.

Travel notification forms may restrict travel even more than with the former travel “permits,” as individuals must now include more information. In addition to reporting travel dates and lodging information, registrants must now list their intended destinations and other “information reasonably necessary to monitor a sex offender who plans to travel.” Ala. Code. § 15-20A-15(b), Addendum A at 37. As all travel destinations and accommodations must be reported and “[n]o sex offender shall provide false information on the travel notification document,” trips must be carefully planned and those plans must be meticulously followed. Ala. Code. §15-20A-15(d), Addendum A at 38. Innocuous changes in travel plans can trigger felony ASORCNA violations for even the most well-intentioned individuals. For example, if a registrant listed Tuscaloosa as his only travel destination on his travel registration form, but along the way decided to stop at a favorite restaurant in Birmingham for lunch, this would be a felony violation. *Id.* Additionally, if the same registrant arrived at his hotel in Tuscaloosa and finds it is infested with cockroaches, it would

be a felony to choose a new hotel, as the new hotel was not listed in advance on the registrant's travel form. *Id.*

ASORCNA's new residency restrictions further impede registrant's right to travel by dramatically reducing lodging opportunities. According to ASORCNA's new amendment, residences are established by "spending more than four hours a day at the *place* on three or more consecutive days," with "*place*" including hotels and the homes of friends or relatives. Ala. Code § 15-20A-4(20), Addendum A at 10. Suppose a registrant arrived at a Marriot in downtown Birmingham at 8:00 p.m. on Thursday night to attend a conference for work the next day. By the time she checked out on Saturday morning, the registrant would have committed a felony. She spent four hours in the hotel on three consecutive days, making it her new residence. Ala. Code. §15-20A-11(a)(g), Addendum A at 29–30, 32–33; Ala. Code. §15-20A-4(20), Addendum A at 10. The overly expansive definition of "residence" thus makes felonious many intended travel destinations.

Furthermore, travel restrictions substantially limit registrant's ability to spend time with their families. For example, if a registrant seeks to spend Thanksgiving weekend with his family, he must first check whether the home is within the zone of exclusion. If it is, then the he cannot stay there for the weekend, or even visit for four hours a day while staying elsewhere. Furthermore, if Thanksgiving dinner (or the football games) runs past 10:30pm, he has committed a felony by remaining in

the presence of nieces and nephews. Ala. Code. §15-20A-11(d), Addendum A at 30 (“No adult sex offender shall . . . conduct an overnight visit with a minor.”); §15-20A-4(14), Addendum A at 9 (an overnight visit includes “[a]ny presence between the hours of 10:30 p.m. and 6:00 a.m.”). Thus, family visits are riddled with risks of felony violations. Although registrants are supposedly permitted to travel for more than three days, as a practical matter, the numerous felony consequences make travel virtually impossible. Anything longer than a short day-trip to visit family risks a Class C felony.

Travel is even more limited for low-income travelers under ASORCNA. To avoid a felony, the registrant must carefully research the “zone of exclusion” and then pay whatever it costs to afford lodging outside this zone, even if that means considerable cost and inconvenience. Furthermore, even though travel notifications are only required for out of county travel, due to residency restrictions, even travel *within the county* is limited. If an individual living outside the “zone of exclusion” wishes to visit a friend for three days, he or she must notify law enforcement, even though that friend is both within the county and outside of the zone of exclusion, as these three days constitute a change in address. Ala. Code. § 15-20A-10(e)(2), Addendum A at 28. If the friend’s home *is* inside the zone of exclusion, then the visit is a felony. Ala. Code. §15-20A-11 (a), (g), Addendum A at 32-33.

For international travel, the restrictions are equally harsh, and ASCORCNA’s

added exception for emergency travel does little to loosen these restrictions. Individuals must report to the sheriff's office twenty-one days prior to leaving the country for any reason other than a "family or personal medical emergency or a death in the family." Ala. Code. §15-20A-15(c), Addendum A at 37–38. Even in the case of a medical emergency or death, the individual must report to the sheriff's office before leaving the county. *Id.* The definition of "emergencies" covers only a limited portion of the reasons that a person may need to travel outside of the country "immediately" (which, again, means three business days, not truly immediately). If, for instance, a relative has been reported missing, this is not a medical emergency, and thus at least three weeks waiting is required before an individual can leave Alabama to help with the search.

The revised travel notification restrictions, in combination with the residency restrictions, unconstitutionally limit the fundamental right to both planned and spontaneous travel.

**d. The Recent Amendments Make ASORCNA's Branding Requirements More Restrictive and More Punitive**

ASORCNA's revised branding requirements do not diminish the humiliation and shaming of emblazoning driver's licenses with CRIMINAL SEX OFFENDER in bold, red, capital letters. The new ASORCNA regulations provide that while driver's licenses will continue to be branded and must be carried at all times, an

individual may also possess a passport, school ID, or employer ID. Ala. Code §15-20A-18(d), Addendum A at 42. This amendment does not change the punitive nature of the branding requirement because it simply states that registrants may have alternative forms of identification, which the state has no control over in any event.

ASORCNA's branding requirement still serves to highlight for the public a designation of a registrant's past crime. This form of public shaming is exactly the category of effects the Supreme Court has stated can run afoul of the Constitution by "stag[ing] a direct confrontation between the offender and the public" resulting in "face-to-face shaming." *Smith v. Doe*, 538 U.S. 84, 98 (2003). It is one of the quintessential traditional forms of punishment. *Mendoza-Martinez*, 372 U.S. 168.

The revised ASORCNA still creates stigma and humiliation. Registrants must either have a branded driver's license or, if they do not drive, a branded identification card. Ala. Code §15-20A-18(a), Addendum A at 40–41 ("Every adult sex offender who is a resident of this state shall obtain from the Alabama State Law Enforcement Agency, and always have in his or her possession, a valid driver license or identification card issued by the Alabama State Law Enforcement Agency."). Logically, if this branded identification must always be carried, it is likely to be the primary form of identification used in public interactions such as shopping, visiting a library, buying bus tickets or banking.

Using alternative identification is not always an option, and thus stigma and

humiliation are often guaranteed. For example, activities like renting a car or engaging in recreational motorsports require a driver's license. Furthermore, in common practice, a driver's license is the most universally required form of identification by banks, restaurants, shops, and employers. See Liz Klimas, *Why Is Retail Giant Target Trying to Scan Your Driver's License for This Seemingly Simple Purchase?*, *The Blaze* (Mar. 19, 2013) (noting that, in an official statement, a Target spokesperson said "those who do not want their cards swiped — or those without barcodes on IDs — can have their birth date entered manually. The clerk would need a supervisor to overrule the system to allow the number to be inputted manually though."), <http://www.theblaze.com/news/2013/03/19/why-does-target-require-a-scan-of-your-drivers-license-to-buy-nicotine-patches/>. Furthermore, Alabama has one of the lowest rates of passport ownership in the United States, with only one in five individuals owning passports and low-income individuals are particularly unlikely to have passports. Richard Florida, *America's Great Passport Divide*, *The Atlantic* (Mar. 15, 2011), <https://www.theatlantic.com/national/archive/2011/03/americas-great-passport-divide/72399/>. Mr. McGuire should not be required to purchase a \$135 passport unless he plans to travel abroad. *Passport Fees*, U.S. Department of State, <https://travel.state.gov/content/passports/en/passports/information/fees.html>. A registrant should not be forced to purchase a passport to avoid being humiliated

when presenting identification during mundane daily activities. Moreover, student employment identification rarely, if ever, has an individual's date of birth, which is a typical purpose of identification. Thus, alternatives to branded licenses are really not alternatives at all.

ASORCNA's amendments do not diminish the humiliating effects of the branding provision. ASORCNA still operates to unconstitutionally punish former offenders through humiliation and shame of essentially a Scarlet Letter.

**e. The Recent Amendments Make ASORCNA's Reporting Requirements More Restrictive and More Punitive**

While the District Court eliminated the requirement that homeless registrants check in one a week, the recent amendment to ASCORNA did not decrease the reporting burden for individuals with residences. Registrants must still engage in onerous and duplicative registration with both the sheriff and the police department. Ala. Code §15-20A-10(f), Addendum A at 28. At trial, Mr. McGuire recalled examples of having to walk five miles from his bridge to the sheriff's department, five more miles to the police department, and ten more miles back to his bridge.

The recent ASORCNA amendments have increased registration requirements. Now, in addition to registering twice whenever a registrant changes his job, moves to a new residence, begins school, changes his name, changes any contact information, or travels for three or more days, now he must register whenever he

begins a volunteer opportunity. Ala. Code §15-20A-10(c)(e), Addendum A at 27–28. Each registration requires considerable paperwork. Registrants must fill out a twelve-page form at the sheriff’s department, identical in substance to the twelve-page form at the police department. *McGuire*, 83 F. Supp. 3d at 1239.. Failing to register quarterly, or register any of the aforementioned events, is a felony. Ala. Code §15-20A-10(j) at Addendum A at 29.

ASORCNA’s reporting requirements create an excessive burden for all registrants, including fees amounting to fines and duplicative forms with no function. Being forced to visit two different agencies a minimum of eight times per year puts registrants at frequent risk of direct confrontations with the public. Reporting at both the sheriff’s department and police department takes place in lobbies accessible by the public where members of the public have interacted with registrants. This kind of public confrontation is exactly the sort of effect recognized by the Supreme Court as punitive. *See Smith v. Doe*, 538 U.S. 84, 98 (2003).

**f. Registrants Are Still Threatened with 115 Class C Felonies**

The revised ASORCNA removed some felony offenses and added others, leaving the total at 115 felonies as found by the district court. *See* Addendum B. The arbitrariness of ASORCNA’s 115 felonies places registrants in an impossible position: they have no way of knowing if their actions constitute a felony or not. For example, because neither the sheriff’s office nor the police department publishes a

map of zones of exclusion, registrants lack a straightforward reference to know which employers are in compliant areas. The maze of compliance is further complicated by the ever-changing landscape of school, daycares, and home daycares that may open and close unpredictably. *McGuire*, 83 F. Supp. 3d at 1241 (“Accurately accounting for housing availability for sex offenders is, in short, an unresolvable nightmare for law enforcement. For registrants, who bear the burden of locating such housing under the penalty of several felony offenses should they make the wrong decision, keeping track is impossible, period.”).

**g. ASORCNA Still Burdens Registrants for Life Without Offense-Based Delineation**

All of the provisions discussed above — like the vast majority of ASORCNA’s provisions — apply to every registrant for life, without regard to how long ago the offense occurred, the nature of the offense, or almost any other factor. Ala. Code § 15-20A-3(a). Although a few provisions apply only to juvenile offenders until they reach the age of majority (at which point all of ASORCNA’s general provisions apply for life, see Ala. Code § 15-20A-28(c), Addendum A at 65) all of the provisions regarding adult offenders apply for life, meaning that the only way to get off the registry is to earn a pardon or to die.

The limitations to the lifetime registration requirements cover only a tiny fraction of the individuals adversely affected by this requirement. Restrictions are only relaxed if the individual is “terminally ill, permanently immobile, has a

debilitating medical condition requiring substantial care or supervision, or requires placement in a residential health care facility.” Ala. Code. §15-20A-23(a), Addendum A at 45. Even then, a substantially ill individual may still be subject to residency restrictions if it is determined that they “pose a substantial risk of perpetrating any future sexual offense.” Id. No clear criteria are provided for determining what constitutes “substantial care or supervision” or when an individual poses a “substantial risk” of reoffending. As the law stands, if Mr. McGuire fell ill due to sleeping under a cold, wet bridge, he likely could not seek leniency under ASORCNA and, at best, would have to go before a judge and try to demonstrate his “debilitating” illness. Ala. Code. § 15-20A-23–25, Addendum A at 45–60.

**C. ASORCNA’s Provisions Satisfy Each Relevant *Mendoza-Martinez* Factor**

In addition to the punitive effects evident from the revised scheme, ASORCNA violates each of the *Mendoza-Martinez* factors because (i) ASORCNA creates affirmative disabilities and restraints, (ii) ASORCNA’s provisions are not rationally connected to any nonpunitive purpose, (iii) ASORCNA’s restrictions are excessive with respect to any purported nonpunitive purpose, (iv) ASORCNA’s limitation resemble historical forms of punishment, and (v) ASORCNA promotes traditional aims of punishment.

**i. ASORCNA Creates Affirmative Disabilities and Restraints on Registrants**

ASORCNA's residency, employment, and travel restrictions are each an "affirmative disability or restraint." *Smith*, 538 U.S. at 97. Indeed, these restrictions directly restrain Mr. McGuire's freedoms of finding a place to live, choosing a job, and traveling outside of the county. All spontaneous travel is prohibited, and the new residency restrictions make virtually all travel disqualified as creating a new "residence." Even ASORCNA's reporting requirements create an affirmative disability, forcing Mr. McGuire to walk or get a ride for 20 miles just to fill out duplicative forms. *McGuire v. Strange*, 83 F. Supp. 3d 1231, 1241 (M.D. Ala. 2015).

**ii. ASORCNA is Not Rationally Connected to Any Nonpunitive Purpose**

ASORCNA's provisions are not "rationally [] connected" to any non-punitive intent. *Smith*, 538 U.S. at 97. Indeed, the very premises on which ASORCNA is based are completely false. ASORCNA's preamble assumes that sex offenders have a high rate of recidivism, but this claim could not be further from the truth. *See* Ala. Code § 15-20A-2. Compared to other offenders, many sex offenders have an astonishingly low likelihood of re-offending. *McGuire*, 83 F. Supp. 3d at 1248. ASORCNA's restrictions bear no connection to the stated purpose, and they apply regardless of the kind of crime a registrant committed, the age of the victim, or how long ago the offense was. For example, requiring registrants such as Mr. McGuire to get complete a travel notification document before he leaves the county has no rational connection to protecting minors because Mr. McGuire has never even been

accused of committing any kind of crime — sexual or otherwise — against a minor. In fact, Mr. McGuire has not committed any crime in the past 30 years. Alabama has no rational reason to think that one-time offenders who have been offense-free for decades are likely to recidivate, but ASORCNA imposes life-long registration requirements. There is no basis on which to think that monitoring Mr. McGuire’s travel will protect minors, as he has never harmed a young person. Nevertheless, he and registrants like him must apply for travel permits three days in advance of traveling. There is no evidence that this restriction will promote public safety, so its practical effect is punitive.

There is no factual, academic, or scientific basis to believe that former sex offenders are any more likely to recidivate than other criminals. In fact, the peer-reviewed academic literature supports the opposite conclusion: sex offenders are less likely to commit future offenses. *See McGuire v. Strange*, 83 F. Supp. 3d 1231, 1260 (M.D. Ala. 2015) (“In fact, sex offenders were less likely than non-sex offenders to be rearrested for any offense.”) (quoting Catherine L. Carpenter, *Legislative Epidemics: A Cautionary Tale of Criminal Laws that Have Swept the Country*, 58 Buff. L. Rev. 1, 57–58 (2010)). The most recent studies acknowledge the heterogeneity of the broadly defined class and the relatively low, not “frighteningly high,” recidivism rates of sex offenders, particularly after years, post-conviction, of living offense-free in the community. See, Appx., Vol. 8, doc. 249,

p. 109 ln 2 : p. 117 ln 12 (Mr. McGuire’s expert, Dr. Letourneau, testimony.). It is therefore of no benefit, and even misleading, to highlight with red branding that a registrant is a “CRIMINAL SEX OFFENDER.” Even in the rare instance where a law enforcement officer is unable to confirm prior convictions via computer or dispatch, the branded driver’s license is not making the public any safer.

Just as applying excessively punitive provisions to someone who poses no risk to public safety cannot possibly promote public safety, ASORCNA’s lifetime application without any leniency or relief procedures fails to protect children or society. ASORCNA continues to apply even to a harmless individual like Mr. McGuire, who — now at 60 — has no avenue for obtaining relief under ASORCNA.

Rather than helping protect public safety, ASORCNA’s lifetime application actually hurts it. ASORCNA causes individuals like Mr. McGuire, who is no threat to anyone and who has never been a threat to a child, to live under a bridge because all of the 60 residences he checked were within Montgomery’s exclusion zone. For other offenders, ASORCNA increases instability in housing and employment, resulting in further homelessness and joblessness — certainly not positive factors when assessing public safety. Rather than protecting children, ASORCNA only hurts registrants, even those whose age, length of time after conviction, and lack of offenses against children would logically warrant relief from ASORCNA’s many restrictions.

**iii. ASORCNA is Excessive with Respect to its Purported Nonpunitive Purpose**

Additionally, ASORCNA's punitive effects are "excessive in relation to [any purported civil] purpose." *Smith*, 538 U.S. at 97. A law that forces Mr. McGuire to sleep under a bridge three decades after committing a single crime is excessive. A statute that forces him to turn down gainful employment is excessive. Interfering with his right to travel and to associate with his family is excessive. Nothing about ASORCNA is proportional to the harm it is designed to prevent.

**iv. ASORCNA Resembles Historical and Traditional Forms of Punishment**

ASORCNA's effects are analogous to the "tradition[al] [forms of] punishment." *Smith*, 538 U.S. at 97. The statute's residency restrictions foreclose over 80% of the housing stock in Montgomery. *McGuire v. Strange*, 83 F. Supp. 3d 1231, 1241 (M.D. Ala. 2015). ASORCNA's huge zone of exclusion has caused Mr. McGuire's homelessness. Combined with the employment restrictions, ASORCNA's residency restrictions banish Mr. McGuire from the community, and the Supreme Court has recognized banishment as a traditional form of punishment. *Smith*, 538 U.S. at 98. Another traditional form of punishment comes in the public shaming of Mr. McGuire's branded driver's license, which results in no other outcome than to embarrass him on a daily basis during routine tasks like shopping or going to the bank. The red branding "CRIMINAL SEX OFFENDER" functions

as the kind of “scarlet letter” that has been historically regarded as a form of punishment. *United States v. W.B.H.*, 644 F.3d 848, 855 (11th Cir. 2011). Finally, ASORCNA creates a regime more punitive than parole, requiring 112 registrations per year with a minimum of \$80 in annual fines. *Cf. Smith*, 538 U.S. at 101–02.

Many other of ASORCNA’s unprecedented number and life-controlling features resemble probation or parole. The frequent in-person reporting requirements exceed, or at minimum, resemble the requirements of most parole obligations. When working in concert with ASORCNA’s debilitating restrictions on residency, employment, travel, branded identification, active state dissemination of community notification fliers, homelessness, multi-agency registration and multi-agency fee requirements and, lifetime adherence, the control Alabama has over Mr. McGuire’s personal liberty is more restrictive than parole.

Furthermore, registrants must contend with burdens unknown to probationers. The branded identification requirements and dissemination of community notifications fliers are integral features of the statute. They are, in effect, modern-day forms of colonial shaming and humiliation. *Id.*; *Cf. Smith v. Doe*, 538 U.S. 84, 99 (2003) (“[T]he [Alaska statute] does not make the publicity and the resulting stigma an integral part of the objective of the regulatory scheme.”). The branded identification requirement forces Mr. McGuire to display the label of “CRIMINAL SEX OFFENDER,” inscribed on his state-issued identification, each time he is

required to present it. *McGuire v. Strange*, 83 F.Supp. 3d, at 1253. Each time Mr. McGuire moves from his bridge to a fixed residence and back to his bridge, the state disseminates community notification fliers, warning the public of his presence in the area. Ala. Code § 15-20A-21; see also, Appx., Vol 20, Trial Ex. 70 (Alabama flier distributed in Mr. McGuire’s community). These two are modern-day “badges of past criminality” which expose Mr. McGuire to daily face-to-face humiliation when he presents his identification, or whenever he locates a habitable bridge or home.

Like probationers and parolees, ASORCNA registrants are one false step away from returning to prison. ASORCNA creates 115 felonies for violating any of the myriad requirements under the statute with which former offenders must grapple. For instance, under ASORCNA’s revisions, it is a felony to work as an after-hours janitor at an amusement park. Ala. Code §15-20A-13(a), Addendum A at 35 (“No adult sex offender shall accept, or maintain employment . . . [at] any amusement or water park.”). It is a felony to fail to register as an usher at church. Ala. Code § 15-20A-4(5), Addendum A at 7 (Employment includes “a volunteer position for any period of time, regardless of whether the work is full-time, part-time, self-employment, or employment as an independent contractor or day laborer”). It is a felony to fail to report one’s username for checking grades online or renewing library books. Ala. Code. §15-20A-7(9), Addendum A at 20 (requiring registration of all “designations or monikers used for self-identification in Internet communications or

postings other than those used exclusively in connection with a lawful commercial transaction”). These are just a few of the seemingly innocuous activities that now result in felony offenses. ASORCNA’s constant threat of returning to prison and constant surveillance make it akin to probation and parole.

**v. ASORCNA Promotes the Traditional Aims of Punishment**

ASORCNA’s cumulative effects serve the “traditional aims of punishment — retribution and deterrence.” *Smith*, 538 U.S. at 97. As the Kentucky Supreme Court persuasively explained, “When a restriction is imposed equally upon all offenders, with no consideration given to how dangerous any particular registrant may be to public safety, that restriction begins to look far more like retribution for past offenses than a regulation intended to prevent future ones.” *C’wealth v. Baker*, 295 S.W.3d 437, 444 (Ky. 2009) (finding 1,000-foot residency restriction to be unconstitutional punishment). ASORCNA’s restriction are not tailored to the crime, the offender, the victim, the length of time since the crime, or any other metric. They are a blunt and indiscriminate tool designed simply to punish registrants for past offenses.

**IV. Conclusion**

The amended ASORCNA is even more punitive than it was before. The residency, employment, and travel restrictions have been heightened, largely as the result of an overly expansive definition of “residence” that makes virtually all travel or any repeated activity run the risk of creating a new residence and new Class C

felony. The branding and reporting requirements are unchanged, as are the 115 Class C felonies and lifetime application with limitless retroactivity. This case need not be remanded to the district court, because no new factual findings are needed, no factual challenges are being made, and this Court is fully equipped to review the legal issues raised.

A law that causes even one person to be homeless is unacceptable. A law that causes perhaps dozens of people to be homeless is an outrage. A law that prevents someone from taking paying, socially productive work is an affront to a free society. A law that prevents someone from living with his wife, brother, or aging mom is irrational. A law that forces a person to sleep under a bridge is absurd.

A law that does all of these things on the basis of a single crime more than 30 years old is unconstitutional. Almost no state would even attempt such a blatant affront to the protections in the United States Constitution and, except for ASORCNA, no state has even come close. In light of the *Ex Post Facto* Clause, ASORCNA's cumulative and punitive effects simply cannot stand.

Respectfully Submitted,

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Dated: July 12, 2017

**Certificate of Compliance**

Pursuant to Federal Rule of Appellate Procedure 32(a), undersigned counsel hereby certifies that this brief complies with the type-volume limitation of Fed.R.App.P. 32(a)(7)(B) because this brief contains 9,267 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(a)(7)(B)(iii).

Undersigned counsel further certifies the brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in Times New Roman 14-point font.

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**Certificate of Service**

I certify that on July 12, 2017, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notice of such filing to the following counsel:

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**ADDENDUM A:  
2017 ASORCNA  
Statute**

1 SB301  
2 181699-6  
3 By Senators Figures and Ward  
4 RFD: Judiciary  
5 First Read: 14-MAR-17

1 SB301

2  
3  
4 ENGROSSED

5  
6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to sex offenses and sex offenders; to  
12 create the crimes of distributing a private image, sexting,  
13 sexual extortion, assault with bodily fluids, and directing a  
14 child to engage in sexual intercourse or deviate sexual  
15 intercourse, and to provide further for the crime of  
16 electronic solicitation of a child; to amend Sections  
17 13A-6-122, 15-20A-4, 15-20A-5, 15-20A-7, 15-20A-8, 15-20A-10,  
18 15-20A-11, 15-20A-12, 15-20A-13, 15-20A-14, 15-20A-15,  
19 15-20A-16, 15-20A-18, 15-20A-21, 15-20A-23, 15-20A-24,  
20 15-20A-25, 15-20A-26, 15-20A-27, 15-20A-28, 15-20A-31,  
21 15-20A-32, 15-20A-34, 15-20A-37, 15-20A-42, and 15-20A-43 of  
22 the Code of Alabama 1975, to add crimes to the list of  
23 enumerated sex offenses for purposes of registration and  
24 notification; to create a definition for reside, require  
25 certain sex offenders to notify law enforcement of each place  
26 the sex offender resides, and provide further for the  
27 notification requirements associated with establishing a

1 residence or residences and vacating a residence; to further  
2 specify information that may or may not appear on the public  
3 registry website; to provide further for the process by which  
4 a court may relieve certain sex offenders from registration  
5 and notification requirements; to specify additional  
6 procedures for payment of the filing fees associated with the  
7 petition for relief; to define the term volunteer position and  
8 to limit locations in which a sex offender may accept a  
9 volunteer position and to require certain sex offenders  
10 accepting a volunteer position to notify law enforcement; and  
11 in connection therewith would have as its purpose or effect  
12 the requirement of a new or increased expenditure of local  
13 funds within the meaning of Amendment 621 of the Constitution  
14 of Alabama of 1901.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. (a) A person commits the crime of  
17 distributing a private image if he or she knowingly posts,  
18 emails, texts, transmits, or otherwise distributes a private  
19 image with the intent to harass, threaten, coerce, or  
20 intimidate the person depicted when the depicted person has  
21 not consented to the transmission and the depicted person had  
22 a reasonable expectation of privacy against transmission of  
23 the private image.

24 (b) For purposes of this section, private image  
25 means a photograph, digital image, video, film, or other  
26 recording of a person who is identifiable from the recording  
27 itself or from the circumstances of its transmission and who

1 is engaged in any act of sadomasochistic abuse, sexual  
2 intercourse, sexual excitement, masturbation, breast nudity,  
3 as defined in Section 13A-12-190, genital nudity, or other  
4 sexual conduct. The term includes a recording that has been  
5 edited, altered, or otherwise manipulated from its original  
6 form.

7 (c) (1) For purposes of this section, a reasonable  
8 expectation of privacy includes, but is not limited to, either  
9 of the following circumstances:

10 a. The person depicted in the private image created  
11 it or consented to its creation believing that it would remain  
12 confidential.

13 b. The sexual conduct depicted in the image was  
14 involuntary.

15 (2) There is no reasonable expectation of privacy  
16 against the transmission of a private image made voluntarily  
17 in a public or commercial setting.

18 (d) It is a defense to distributing a private image  
19 if the distribution of the private image was made in the  
20 public interest, including, but not limited to, the reporting  
21 of unlawful conduct; the lawful and common practices of law  
22 enforcement, legal proceedings, or medical treatment; or a  
23 bona fide attempt to prevent further distribution of the  
24 private image.

25 (e) A violation of this section is a Class A  
26 misdemeanor. A subsequent adjudication or conviction under  
27 this section is a Class C felony.

1 Section 2. (a) A person commits the crime of sexual  
2 extortion if he or she knowingly causes another person to  
3 engage in sexual intercourse, deviate sexual intercourse,  
4 sexual contact, or in a sexual act or to produce any  
5 photograph, digital image, video, film, or other recording of  
6 any person, whether recognizable or not, engaged in any act of  
7 sadomasochistic abuse, sexual intercourse, deviate sexual  
8 intercourse, sexual excitement, masturbation, breast nudity,  
9 genital nudity, or other sexual conduct by transmitting any  
10 communication containing any threat to injure the body,  
11 property, or reputation of any person.

12 (b) Sexual extortion is a Class B felony.

13 Section 3. (a) A person commits the crime of assault  
14 with bodily fluids if he or she knowingly causes or attempts  
15 to cause another person to come into contact with a bodily  
16 fluid unless the other person consented to the contact or the  
17 contact was necessary to provide medical care.

18 (b) For purposes of this section, a bodily fluid is  
19 blood, saliva, seminal fluid, mucous fluid, urine, or feces.

20 (c) Assault with bodily fluids is a Class A  
21 misdemeanor; provided, however, a violation of this section is  
22 a Class C felony if the person commits the crime of assault  
23 with bodily fluids knowing that he or she has a communicable  
24 disease.

25 Section 4. (a) (1) A person commits the crime of  
26 directing a child to engage in sexual intercourse or deviate  
27 sexual intercourse if he or she knowingly entices, allures,

1 persuades, induces, or directs any person under the age of 12  
2 to engage in sexual intercourse or deviate sexual intercourse  
3 with another person under the age of 12.

4 (2) Directing a child to engage in sexual  
5 intercourse or deviate sexual intercourse is a Class A felony.

6 (b) (1) A person commits the crime of directing a  
7 child to engage in sexual contact if he or she knowingly  
8 entices, allures, persuades, induces, or directs any person  
9 under the age of 12 to engage in sexual contact with another  
10 person under the age of 12.

11 (2) A violation of this section is a Class C felony.

12 Section 5. Sections 13A-6-122, 15-20A-4, 15-20A-5,  
13 15-20A-7, 15-20A-8, 15-20A-10, 15-20A-11, 15-20A-12,  
14 15-20A-13, 15-20A-14, 15-20A-15, 15-20A-16, 15-20A-18,  
15 15-20A-21, 15-20A-23, 15-20A-24, 15-20A-25, 15-20A-26,  
16 15-20A-27, 15-20A-28, 15-20A-31, 15-20A-32, 15-20A-34,  
17 15-20A-37, 15-20A-42, and 15-20A-43 of the Code of Alabama  
18 1975, are amended to read as follows:

19 "§13A-6-122.

20 "In addition to the provisions of Section 13A-6-69,  
21 a person who, knowingly, ~~with the intent to commit an unlawful~~  
22 ~~sex act,~~ entices, induces, persuades, seduces, prevails,  
23 advises, coerces, lures, or orders, or attempts to entice,  
24 induce, persuade, seduce, prevail, advise, coerce, lure, or  
25 order, by means of a computer, on-line service, Internet  
26 service, Internet bulletin board service, weblog, cellular  
27 phone, video game system, personal data assistant, telephone,

1 facsimile machine, camera, universal serial bus drive,  
2 writable compact disc, magnetic storage device, floppy disk,  
3 or any other electronic communication or storage device, a  
4 child who is at least three years younger than the defendant,  
5 or another person believed by the defendant to be a child at  
6 least three years younger than the defendant to meet with the  
7 defendant or any other person for the purpose of engaging in  
8 sexual intercourse, ~~sodomy, or to engage in a~~ deviate sexual  
9 intercourse, sexual contact, sexual performance, obscene  
10 sexual performance, ~~or~~ sexual conduct, or genital mutilation  
11 ~~for his or her benefit or for the benefit of another, or~~  
12 directs a child to engage in sexual intercourse, deviate  
13 sexual intercourse, sexual contact, sexual performance,  
14 obscene sexual performance, sexual conduct, or genital  
15 mutilation, is guilty of electronic solicitation of a child.  
16 Any person who violates this section commits a Class B felony.

17 "§15-20A-4.

18 "For purposes of this chapter, the following words  
19 shall have the following meanings:

20 "(1) ADULT SEX OFFENDER. A person convicted of a sex  
21 offense.

22 "(2) CHILD. A person who has not attained the age of  
23 12.

24 "(3) CHILDCARE FACILITY. A licensed child daycare  
25 center, a licensed childcare facility, or any other childcare  
26 service that is exempt from licensing pursuant to Section  
27 38-7-3, ~~provided that the licensed child daycare center,~~

1 ~~licensed childcare facility, or any other childcare service~~  
2 ~~and location are public record~~ if it is sufficiently  
3 conspicuous that a reasonable person should know or recognize  
4 its location or its address has ~~have~~ been provided to local  
5 law enforcement.

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

20 "(5) EMPLOYMENT. ~~Employment that~~ Compensated work or  
21 a volunteer position for any period of time, regardless of  
22 whether the work is full-time, part-time, self-employment, or  
23 ~~employment as an independent contractor or day laborer for any~~  
24 ~~period, whether financially compensated, volunteered, or for~~  
25 ~~the purpose of government or educational benefit~~ , provided  
26 that employment does not include any time spent traveling as a  
27 necessary incident to performing the work.

1           "(6) FIXED RESIDENCE. A building or structure,  
2           having a physical address or street number, that ~~adequately~~  
3           provides shelter ~~at~~ in which a person resides.

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

6           "~~(8) (7) HOMELESS. A person who has no~~ The state of  
7           lacking a fixed residence.

8           "~~(9) (8) IMMEDIATE FAMILY MEMBER. A~~ parent or  
9           ~~grandparent, parent, sibling, spouse, child of any age by~~  
10           ~~blood, adoption, or marriage, or grandchild;~~ child,  
11           grandchild, or sibling of any age by blood, adoption, or  
12           marriage; or spouse.

13           "~~(10) (9) IMMEDIATELY. Within three business days.~~

14           "~~(11) (10) JURISDICTION. Any state of the United~~  
15           ~~States, any United States territory, the District of Columbia,~~  
16           ~~or any federally recognized Indian tribe.~~

17           "~~(12) (11) JUVENILE SEX OFFENDER. An individual who~~  
18           ~~has not attained the age of 18 at the time of the offense and~~  
19           ~~who is adjudicated delinquent of a sex offense.~~

20           "~~(13) (12) LOCAL LAW ENFORCEMENT. The sheriff of the~~  
21           ~~county and the chief of police if the location subject to~~  
22           ~~registration is within the corporate limits of any~~  
23           ~~municipality, or, if applicable, the chief law enforcement~~  
24           ~~officer for a federally recognized Indian tribe.~~

25           "~~(14) (13) MINOR. A person who has not attained the~~  
26           ~~age of 18.~~

1                   "(14) OVERNIGHT VISIT. Any presence between the  
2 hours of 10:30 p.m. and 6:00 a.m.

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 agency with whom the  
16 sex offender registers required registration information.

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

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

3           "(20) RESIDE. To be habitually or systematically  
4 present at a place. Whether a person is residing at a place  
5 shall be determined by the totality of the circumstances,  
6 including the amount of time the person spends at the place  
7 and the nature of the person's conduct at the place. The term  
8 reside includes, but is not limited to, spending more than  
9 four hours a day at the place on three or more consecutive  
10 days; spending more than four hours a day at the place on 10  
11 or more aggregate days during a calendar month; or spending  
12 any amount of time at the place coupled with statements or  
13 actions that indicate an intent to live at the place or to  
14 remain at the place for the periods specified in this  
15 sentence. A person does not have to conduct an overnight visit  
16 to reside at a place.

17           "~~(20)~~ (21) RESIDENCE. ~~Each fixed residence or other~~  
18 ~~place where a person resides, sleeps, or habitually lives or~~  
19 ~~will reside, sleep, or habitually live. If a person does not~~  
20 ~~reside, sleep, or habitually live in a fixed residence,~~  
21 ~~residence means a description of the locations where the~~  
22 ~~person is stationed regularly, day or night, including any~~  
23 ~~mobile or transitory living quarters or locations that have no~~  
24 ~~specific mailing or street address. Residence shall be~~  
25 ~~construed to refer to the places where a person resides,~~  
26 ~~sleeps, habitually lives, or is stationed with regularity, A~~  
27 ~~fixed residence as defined by Section 15-20A-4 or other place~~

1 where the person resides, regardless of whether the person  
2 declares or characterizes such place as a residence.

3 ~~"(21)~~ (22) RESPONSIBLE AGENCY. The person or  
4 government entity whose duty it is to obtain information from  
5 a sex offender and to transmit that information to the Alabama  
6 State Law Enforcement Agency, police departments, and  
7 sheriffs. For a sex offender being released from state prison,  
8 the responsible agency is the Department of Corrections. For a  
9 sex offender being released from a county jail, the  
10 responsible agency is the sheriff of that county. For a sex  
11 offender being released from a municipal jail, the responsible  
12 agency is the chief of police of that municipality. For a sex  
13 offender being placed on probation, including conditional  
14 discharge or unconditional discharge, without any sentence of  
15 incarceration, the responsible agency is the sentencing court  
16 or designee of the sentencing court. For a juvenile sex  
17 offender being released from the Department of Youth Services,  
18 the responsible agency is the Department of Youth Services.  
19 For a sex offender who is being released from a jurisdiction  
20 outside this state and who is to reside in this state, the  
21 responsible agency is the sheriff of the county in which the  
22 offender intends to establish a residence.

23 ~~"(22)~~ (23) RISK ASSESSMENT. A written report on the  
24 assessment of risk for sexually re-offending conducted by a  
25 sex offender treatment program or provider approved by the  
26 Department of Youth Services. The report shall include, but  
27 not be limited to, the following regarding the juvenile sex

1 offender: Criminal history, mental status, attitude, previous  
2 sexual offender treatment and response to treatment, social  
3 factors, conditions of release expected to minimize risk of  
4 sexual re-offending, and characteristics of the sex offense.

5 ~~"(23)~~ (24) SCHOOL. A licensed or accredited public,  
6 private, or church school that offers instruction in grades  
7 ~~K-12~~ pre-K-12 if it is sufficiently conspicuous that a  
8 reasonable person should know or recognize its location or its  
9 address has been provided to local law enforcement. The  
10 definition does not include a private residence in which  
11 students are taught by parents or tutors or any facility  
12 dedicated exclusively to the education of adults unless that  
13 facility has a childcare facility as defined in subdivision  
14 (3).

15 ~~"(24)~~ (25) SENTENCING COURT. The court of  
16 adjudication or conviction.

17 ~~"(25)~~ (26) SEX OFFENDER. Includes any adult sex  
18 offender, any youthful offender sex offender, and any juvenile  
19 sex offender.

20 ~~"(26)~~ (27) SEX OFFENSE INVOLVING A CHILD. A  
21 conviction for any sex offense in which the victim was a child  
22 or any offense involving child pornography.

23 ~~"(27)~~ (28) SEX OFFENSE INVOLVING A MINOR. A  
24 conviction for any sex offense in which the victim was a minor  
25 or any offense involving child pornography.

26 ~~"(28)~~ (29) SEXUALLY VIOLENT PREDATOR. A person who  
27 has been convicted of a sexually violent offense and who is

1 likely to engage in one or more future sexually violent  
2 offenses or is likely to engage in future predatory sex  
3 offenses.

4 "~~(29)~~ (30) STUDENT. A person who is enrolled in or  
5 attends, on a full-time or part-time basis, any public or  
6 private educational institution, including a secondary school,  
7 trade or professional school, or institution of higher  
8 education.

9 "~~(30)~~ (31) TEMPORARY LODGING INFORMATION. Lodging  
10 information including, but not limited to, the name and  
11 address of any location where the person is staying when away  
12 from his or her residence for three or more days and the  
13 period of time the person is staying at that location.

14 "(32) VOLUNTEER POSITION. An arrangement whereby a  
15 person works without compensation for any period of time on  
16 behalf of a business, school, charity, child care facility, or  
17 other organization or entity, provided that a volunteer  
18 position does not include any time spent traveling as a  
19 necessary incident to performing the uncompensated work.

20 "~~(31)~~ (33) YOUTHFUL OFFENDER SEX OFFENDER. An  
21 individual adjudicated as a youthful offender for a sex  
22 offense who has not yet attained the age of 21 at the time of  
23 the offense.

24 "§15-20A-5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 "(14) Violation of the Alabama Child Pornography  
20 Act, as provided by Section 13A-12-191, 13A-12-192,  
21 13A-12-196, or 13A-12-197. The sentencing court may exempt  
22 from this chapter a juvenile sex offender adjudicated  
23 delinquent of a violation of the Alabama Child Pornography Act  
24 after the juvenile has been counseled on the dangers of the  
25 conduct for which he or she was adjudicated delinquent.

26 "(15) Unlawful imprisonment in the first degree, as  
27 provided by Section 13A-6-41, if the victim of the offense is

1 a minor, and the record of adjudication or conviction reflects  
2 the intent of the unlawful imprisonment was to abuse the minor  
3 sexually.

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

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

13 "(18) Kidnapping of a minor, except by a parent,  
14 guardian, or custodian, as provided by Section 13A-6-43 or  
15 13A-6-44.

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

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

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

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

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

26 "(24) Electronic solicitation of a child, as  
27 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) Sexual extortion, as provided by Section 4 of  
16 the act adding this amendatory language.

17 "(32) Directing a child to engage in a sex act, as  
18 provided in Section 5 of the act adding this amendatory  
19 language.

20 "~~(31)~~ (33) Any offense which is the same as or  
21 equivalent to any offense set forth above as the same existed  
22 and was defined under the laws of this state existing at the  
23 time of such conviction, specifically including, but not  
24 limited to, crime against nature, as provided by Section  
25 13-1-110; rape, as provided by Sections 13-1-130 and 13-1-131;  
26 carnal knowledge of a woman or girl, as provided by Sections  
27 13-1-132 through 13-1-135, or attempting to do so, as provided

1 by Section 13-1-136; indecent molestation of children, as  
2 defined and provided by Section 13-1-113; indecent exposure,  
3 as provided by Section 13-1-111; incest, as provided by  
4 Section 13-8-3; offenses relative to obscene prints and  
5 literature, as provided by Sections 13-7-160 through 13-7-175,  
6 inclusive; employing, harboring, procuring or using a girl  
7 over 10 and under 18 years of age for the purpose of  
8 prostitution or sexual intercourse, as provided by Section  
9 13-7-1; seduction, as defined and provided by Section  
10 13-1-112; a male person peeping into a room occupied by a  
11 female, as provided by Section 13-6-6; assault with intent to  
12 ravish, as provided by Section 13-1-46; and soliciting a child  
13 by computer, as provided by Section 13A-6-110.

14 ~~"(32)~~ (34) Any solicitation, attempt, or conspiracy  
15 to commit any of the offenses listed in subdivisions (1) to  
16 (31), inclusive.

17 ~~"(33)~~ (35) Any crime committed in Alabama or any  
18 other state, the District of Columbia, any United States  
19 territory, or a federal, military, Indian, or foreign country  
20 jurisdiction which, if it had been committed in this state  
21 under the current provisions of law, would constitute an  
22 offense listed in subdivisions (1) to (32), inclusive.

23 ~~"(34)~~ (36) Any offense specified by Title I of the  
24 federal Adam Walsh Child Protection and Safety Act of 2006  
25 (Pub. L. 109-248, the Sex Offender Registration and  
26 Notification Act (SORNA)).

1           "~~(35)~~ (37) Any crime committed in another state, the  
2 District of Columbia, any United States territory, or a  
3 federal, military, Indian, or foreign country jurisdiction if  
4 that jurisdiction also requires that anyone convicted of that  
5 crime register as a sex offender in that jurisdiction.

6           "~~(36)~~ (38) Any offender determined in any  
7 jurisdiction to be a sex offender shall be considered a sex  
8 offender in this state.

9           "~~(37)~~ (39) The foregoing notwithstanding, any crime  
10 committed in any jurisdiction which, irrespective of the  
11 specific description or statutory elements thereof, is in any  
12 way characterized or known as rape, carnal knowledge, sodomy,  
13 sexual assault, sexual battery, criminal sexual conduct,  
14 criminal sexual contact, sexual abuse, continuous sexual  
15 abuse, sexual torture, solicitation of a child, enticing or  
16 luring a child, child pornography, lewd and lascivious  
17 conduct, taking indecent liberties with a child, molestation  
18 of a child, criminal sexual misconduct, video voyeurism, or  
19 there has been a finding of sexual motivation.

20           "~~(38)~~ (40) Any crime not listed in this section  
21 wherein the underlying felony is an element of the offense and  
22 listed in subdivisions (1) to ~~(37)~~ (39), inclusive.

23           "~~(39)~~ (41) Any other offense not provided for in  
24 this section wherein there is a finding of sexual motivation  
25 as provided by Section 15-20A-6.

26           "§15-20A-7.

1           "(a) The following registration information, unless  
2 otherwise indicated, shall be provided by the sex offender  
3 when registering:

4           "(1) Name, including any aliases, nicknames, ethnic,  
5 or tribal names.

6           "(2) Date of birth.

7           "(3) Social Security number.

8           "(4) Address of each residence.

9           "(5) Name and address of any school the sex offender  
10 attends or will attend. For purposes of this subdivision, a  
11 school includes an educational institution, public or private,  
12 including a secondary school, a trade or professional school,  
13 or an institution of higher education.

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

17           "(7) The license plate number, registration number  
18 or identifier, description, and permanent or frequent location  
19 where all vehicles are kept for any vehicle used for work or  
20 personal use, including land vehicles, aircraft, and  
21 watercraft.

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

24           "(9) Any email addresses or instant message address  
25 or identifiers used, including any designations or monikers  
26 used for self-identification in Internet communications or

1 postings other than those used exclusively in connection with  
2 a lawful commercial transaction.

3 "(10) A current photograph.

4 "(11) A physical description of the sex offender  
5 including physical appearance, physical characteristics, and  
6 identifying marks such as scars and tattoos.

7 "(12) Fingerprints and palm prints.

8 "(13) A DNA sample. The DNA sample may be collected  
9 by the probation officer, sheriff, chief of police, or other  
10 responsible agency. Prior to collecting a DNA sample, the  
11 responsible agency shall determine if a DNA sample has already  
12 been collected for the sex offender by checking the Dru Sjodin  
13 National Sex Offender Public Registry website, the Alabama  
14 Department of Forensic Sciences DNATracker site, or with the  
15 Alabama State Law Enforcement Agency. If a DNA sample has not  
16 been previously collected for the sex offender, the  
17 responsible agency shall coordinate for the collection of a  
18 DNA sample with the sheriff of the county in which the  
19 registration is occurring. The collection of a DNA sample  
20 should be performed using materials recommended or provided by  
21 the Alabama Department of Forensic Sciences. The DNA sample  
22 shall be immediately forwarded by the entity collecting the  
23 sample to the Department of Forensic Sciences.

24 "(14) A photocopy of the valid driver license or  
25 identification card.

26 "(15) A photocopy of any and all passport and  
27 immigration documents.

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

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

8           "(18) A list of any and all Internet service  
9 providers used by the sex offender.

10           "(19) Any other information deemed necessary by the  
11 Secretary of the Alabama State Law Enforcement Agency.

12           "(b) The registering agency is not required to  
13 obtain any of the following information each time the sex  
14 offender verifies his or her required registration information  
15 if the registering agency verifies the information has already  
16 been collected and has not been changed or altered:

17           "(1) A current photograph.

18           "(2) Fingerprints or palm prints.

19           "(3) A DNA sample.

20           "(4) A photocopy of the valid driver license or  
21 identification card.

22           "(5) A photocopy of any and all passport and  
23 immigration documents.

24           "(c) The registration information shall be  
25 transmitted to the Alabama State Law Enforcement Agency in a  
26 manner determined by the secretary of the department and  
27 promulgated in rule by the secretary upon recommendation of an

1 advisory board consisting of representatives of the office of  
2 the Attorney General, District Attorneys Association, Chiefs  
3 of Police Association, Sheriffs Association, and the Alabama  
4 State Law Enforcement Agency. The advisory board members shall  
5 not receive any compensation or reimbursement for serving on  
6 the advisory board.

7 "(d) The required registration information shall  
8 include a form explaining all registration and notification  
9 duties, including any requirements and restrictions placed on  
10 the sex offender. This form shall be signed and dated by the  
11 sex offender. If the sex offender fails to sign the form, the  
12 designee of the registering agency shall sign the form stating  
13 that the requirements have been explained to the sex offender  
14 and that the sex offender refused to sign.

15 "(e) All required registration information shall be  
16 stored electronically in a manner determined by the Secretary  
17 of the Alabama State Law Enforcement Agency and shall be  
18 available in a digitized format by the Alabama State Law  
19 Enforcement Agency to anyone entitled to receive the  
20 information as provided in Section 15-20A-42.

21 "(f) Any person who knowingly fails to provide the  
22 required registration information, or who knowingly provides  
23 false information, pursuant to this section shall be guilty of  
24 a Class C felony.

25 "§15-20A-8.

26 "(a) All of the following registration information  
27 shall be provided on the public registry website maintained by

1 the Alabama State Law Enforcement Agency and may be provided  
2 on any community notification documents:

3 "(1) Name, including any aliases, nicknames, ethnic,  
4 or Tribal names.

5 "(2) Address of each residence.

6 "(3) Address of any school the sex offender attends  
7 or will attend. For purposes of this subdivision, a school  
8 includes an educational institution, public or private,  
9 including a secondary school, a trade or professional school,  
10 or an institution of higher education.

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

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

17 "(6) A current photograph.

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

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

21 "(9) The text of the criminal provision of any sex  
22 offense of which the sex offender has been adjudicated or  
23 convicted.

24 "(10) Status of the sex offender, including whether  
25 the sex offender has absconded.

1           "(b) None of the following information shall be  
2 provided on the public registry website or any other  
3 notification documents:

4           "(1) Criminal history of any arrests not resulting  
5 in conviction.

6           "(2) Social Security number.

7           "(3) Travel and immigration document numbers.

8           "(4) Victim identity.

9           "(5) ~~Internet identifiers~~ Any email addresses or  
10 instant message addresses or identifiers used by the sex  
11 offender.

12           "(6) Any Internet service providers used by the sex  
13 offender.

14           "(c) Any other required registration information may  
15 be included on the website as determined by the Secretary of  
16 the Alabama State Law Enforcement Agency.

17           "(d) All information shall immediately be posted on  
18 the public registry website upon receipt of the information by  
19 the Alabama State Law Enforcement Agency.

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

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

25           "(g) The website shall include instructions on how  
26 to seek correction of information that a person contends is  
27 erroneous.

1           "(h) The website shall include a warning that  
2 information on the site should not be used to unlawfully  
3 injure, harass, or commit a crime against any person named in  
4 the registry or residing or working at any reported address  
5 and that any such action may result in civil or criminal  
6 penalties. The website shall also include a warning that,  
7 prior to including the individual on the website, the Alabama  
8 State Law Enforcement Agency did not consider or assess the  
9 individual's specific risk of reoffense or current  
10 dangerousness; that inclusion on the website is based solely  
11 on an individual's conviction record and state law; and that  
12 the Legislature's purpose in providing this data is to make  
13 the information more easily available and accessible, not to  
14 warn about any specific individual.

15           "§15-20A-10.

16           "(a) (1) Immediately upon release from incarceration,  
17 or immediately upon conviction if the adult sex offender is  
18 not incarcerated, the adult sex offender shall appear in  
19 person and register all required registration information with  
20 local law enforcement in each county in which the adult sex  
21 offender resides or intends to reside, accepts or intends to  
22 accept employment, accepts or intends to accept a volunteer  
23 position, and begins or intends to begin school attendance.

24           "(2) An adult sex offender who registers pursuant to  
25 subdivision (1) shall have seven days from release to comply  
26 with the residence restrictions pursuant to subsection (a) of  
27 Section 15-20A-11.

1           "(b) Immediately upon establishing a new residence,  
2 accepting employment, accepting a volunteer position, or  
3 beginning school attendance, the adult sex offender shall  
4 appear in person to register with local law enforcement in  
5 each county in which the adult sex offender establishes a  
6 residence, accepts employment, accepts a volunteer position,  
7 or begins school attendance.

8           "(c) (1) Immediately upon transferring or terminating  
9 any residence, employment, or school attendance, the adult sex  
10 offender shall appear in person to notify local law  
11 enforcement in each county in which the adult sex offender is  
12 transferring or terminating residence, employment, or school  
13 attendance.

14           "(2) Whenever a sex offender transfers his or her  
15 residence, as provided in subdivision (1) from one county to  
16 another county, the sheriff of the county from which the sex  
17 offender is transferring his or her residence shall  
18 immediately notify local law enforcement in the county in  
19 which the sex offender intends to reside. If a sex offender  
20 transfers his or her residence, as provided in subdivision (1)  
21 from one county to another jurisdiction, the sheriff of the  
22 county from which the sex offender is transferring his or her  
23 residence shall immediately notify the chief law enforcement  
24 agency in the jurisdiction in which the sex offender intends  
25 to reside.

26           "(d) Immediately upon any name change, the adult sex  
27 offender shall immediately appear in person to update the

1 information with local law enforcement in each county in which  
2 the adult sex offender is required to register.

3 "(e) (1) Upon changing any required registration  
4 information, including by transferring or terminating a  
5 residence the adult sex offender shall immediately appear in  
6 person and update the information with local law enforcement  
7 in each county in which the adult sex offender resides.  
8 Provided, however, any changes in telephone numbers, email  
9 addresses, instant message addresses, or other on-line  
10 identifiers or Internet service providers may be reported to  
11 local law enforcement in person, electronically, or  
12 telephonically as required by the local law enforcement  
13 agency.

14 "(2) Notwithstanding any other provision of law  
15 regarding the establishment of residence, an adult sex  
16 offender has transferred or terminated his or her residence  
17 for purposes of subdivision (1) whenever the adult sex  
18 offender vacates his or her residence or fails to spend three  
19 or more consecutive days at his or her residence without  
20 previously notifying local law enforcement or completing a  
21 travel notification document pursuant to Section 15-20A-15.

22 "(f) An adult sex offender shall appear in person to  
23 verify all required registration information during the adult  
24 sex offender's birth month and every three months thereafter,  
25 regardless of the month of conviction, for the duration of the  
26 adult sex offender's life with local law enforcement in each  
27 county in which the adult sex offender resides.

1           "(g) At the time of registration, the adult sex  
2 offender shall be provided a form explaining any and all  
3 duties and restrictions placed on the adult sex offender. The  
4 adult sex offender shall read and sign this form stating that  
5 he or she understands the duties and restrictions imposed by  
6 this chapter. If the adult sex offender refuses to sign the  
7 form, the designee of the registering agency shall sign the  
8 form stating that the requirements have been explained to the  
9 adult sex offender and that the adult sex offender refused to  
10 sign.

11           "(h) For purposes of this section, a school includes  
12 an educational institution, public or private, including a  
13 secondary school, a trade or professional school, or an  
14 institution of higher education.

15           "(i) If an adult sex offender was convicted and  
16 required to register prior to July 1, 2011, then the adult sex  
17 offender shall begin quarterly registration after his or her  
18 next biannual required registration date.

19           "(j) Any person who knowingly violates this section  
20 shall be guilty of a Class C felony.

21           "§15-20A-11.

22           "(a) No adult sex offender shall establish a  
23 residence, or maintain a residence after release or  
24 conviction, ~~or establish any other living accommodation~~ within  
25 2,000 feet of the property on which any school, childcare  
26 facility, or resident camp facility is located unless  
27 otherwise exempted pursuant to Sections 15-20A-23 and

1 15-20A-24. For the purposes of this section, a resident camp  
2 facility includes any place, area, parcel, or tract of land  
3 which contains permanent or semi-permanent facilities for  
4 sleeping owned by a business, church, or nonprofit  
5 organization used primarily for educational, recreational, or  
6 religious purposes for minors and the location of the resident  
7 camp has been provided to local law enforcement. Resident camp  
8 does not include a private residence, farm, or hunting or  
9 fishing camp.

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

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

24 "(d) No adult sex offender shall ~~establish or~~  
25 ~~maintain a residence or any other living accommodation~~ reside  
26 or conduct an overnight visit with a minor. ~~For the purpose of~~  
27 ~~this subsection, living accommodation includes, but is not~~

1 ~~limited to, any overnight visit with a minor.~~ Notwithstanding  
2 the foregoing, an adult sex offender may reside with a minor  
3 if the adult sex offender is the parent, grandparent,  
4 stepparent, sibling, or stepsibling of the minor, unless one  
5 of the following conditions applies:

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

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

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

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

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

24 "(e) (1) Notwithstanding any other provision of law  
25 regarding establishment of residence, an adult sex offender  
26 shall be deemed to have established a residence ~~in any of the~~  
27 ~~following circumstances:~~

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

3           "~~(2) Wherever an adult sex offender~~ wherever he or  
4 she resides following release, regardless of whether the adult  
5 sex offender resided at the same location prior to the time of  
6 conviction.

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

10           "~~(4) Whenever an~~ (2) Notwithstanding any other  
11 provision of law regarding establishment of residence, an  
12 adult sex offender has transferred his or her residence for  
13 purposes of Section 15-20A-10(e) (1) whenever the adult sex  
14 offender vacates his or her residence or fails to spend three  
15 or more consecutive days at his or her residence without  
16 previously notifying local law enforcement or obtaining a  
17 travel ~~permit~~ notification document pursuant to Section  
18 15-20A-15.

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

26           "(g) An adult sex offender shall not be found in  
27 violation of subsection (a) on the basis of any address,

1 street number, place, or parcel that has been approved in  
2 writing by local law enforcement prior to establishing a  
3 residence. Local law enforcement shall promulgate, publicize,  
4 and enforce a policy that affords sex offenders a reasonable  
5 opportunity to obtain preapproval of a proposed residence.

6 "~~(g)~~ (h) For the purposes of this section, the  
7 2,000-foot measurement shall be taken in a straight line from  
8 nearest property line to nearest property line.

9 "~~(h)~~ (i) Any person who knowingly violates this  
10 section shall be guilty of a Class C felony.

11 "§15-20A-12.

12 "(a) An adult sex offender who no longer has a fixed  
13 residence shall be considered homeless and shall appear in  
14 person and report such change in fixed residence to local law  
15 enforcement where he or she is located immediately upon such  
16 change in fixed residence.

17 "(b) In addition to complying with the registration  
18 and verification requirements pursuant to Section 15-20A-10, a  
19 homeless adult sex offender who lacks a fixed residence, or  
20 who does not provide an address at a fixed residence at the  
21 time of release or registration, shall report in person once  
22 every seven days to law enforcement agency where he or she  
23 resides. If the sex offender resides within the city limits of  
24 a municipality, he or she shall report to the chief of police.  
25 If the adult sex offender resides outside of the city limits  
26 of a municipality he or she shall report to the sheriff of the

1 county. The weekly report shall be on a day specified by local  
2 law enforcement and shall occur during normal business hours.

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

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

9 "a. Name.

10 "b. Date of birth.

11 "c. Social Security number.

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

14 "e. A list of the locations where he or she plans to  
15 reside in the upcoming week with as much specificity as  
16 possible.

17 "(2) The registering agency is not required to  
18 obtain the remaining required registration information from  
19 the homeless adult sex offender each time he or she reports to  
20 the registering agency unless the homeless adult sex offender  
21 has any changes to the remaining required registration  
22 information.

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

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

3           "§15-20A-13.

4           "(a) No adult sex offender shall ~~apply for,~~ accept,  
5 or maintain employment ~~or vocation~~ or a volunteer position at  
6 any school, childcare facility, mobile vending business that  
7 provides services primarily to children, or any other business  
8 or organization that provides services primarily to children,  
9 or any amusement or water park.

10           "(b) No adult sex offender shall ~~apply for,~~ accept,  
11 or maintain employment or a volunteer position ~~for any~~  
12 ~~employment or vocation~~ within 2,000 feet of the property on  
13 which a school or childcare facility is located unless  
14 otherwise exempted pursuant to Sections 15-20A-24 and  
15 15-20A-25.

16           "(c) No adult sex offender, after having been  
17 convicted of a sex offense involving a child, shall ~~apply for,~~  
18 accept, or maintain employment ~~or vocation~~ or a volunteer  
19 position ~~for any employment or vocation~~ within 500 feet of a  
20 playground, park, athletic field or facility, or any other  
21 business or facility having a principal purpose of caring for,  
22 educating, or entertaining minors.

23           "(d) Changes to property within 2,000 feet of an  
24 adult sex offender's place of employment which occur after an  
25 adult sex offender accepts employment shall not form the basis  
26 for finding that an adult sex offender is in violation of this  
27 section.

1           "(e) It shall be unlawful for the owner or operator  
2 of any childcare facility or any other organization that  
3 provides services primarily to children to knowingly provide  
4 employment ~~employ~~ or ~~accept a~~ volunteer ~~services from~~  
5 position to an adult sex offender.

6           "(f) For purposes of this section, the 2,000-foot  
7 measurement shall be taken in a straight line from nearest  
8 property line to nearest property line.

9           "(g) Any person who knowingly violates this section  
10 shall be guilty of a Class C felony.

11           "§15-20A-14.

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

18           "(b) Any adult sex offender who enters this state to  
19 accept employment, ~~carry on a vocation,~~ or a volunteer  
20 position or to become a student shall immediately appear in  
21 person and register all required registration information with  
22 local law enforcement in the county where the adult sex  
23 offender accepts employment, ~~carries on a vocation,~~ or the  
24 volunteer position or becomes a student.

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

1           "(d) Within 30 days of initial registration, the  
2 adult sex offender shall provide each registering agency with  
3 a certified copy of his or her sex offense conviction;  
4 however, an adult sex offender shall be exempt from this  
5 subsection if the adult sex offender provides adequate  
6 documentation that the certified record is no longer available  
7 or has been destroyed.

8           "(e) Any person who knowingly violates this section  
9 shall be guilty of a Class C felony.

10           "§15-20A-15.

11           "(a) ~~Prior to~~ Immediately before an adult sex  
12 offender temporarily ~~leaving from~~ leaves his or her county of  
13 residence for a period of three or more consecutive days, the  
14 adult sex offender shall report ~~such information~~ in person  
15 ~~immediately prior to leaving his or her county of residence~~  
16 ~~for such travel~~ to the sheriff in each county of residence and  
17 complete and sign a travel notification document.

18           "(b) ~~The adult sex offender shall complete a travel~~  
19 ~~permit form immediately prior to travel and provide the~~ The  
20 travel notification document shall be a form prescribed by the  
21 Alabama State Law Enforcement Agency to collect dates of  
22 travel, the intended destination or destinations, and  
23 temporary lodging information, and any other information  
24 reasonably necessary to monitor a sex offender who plans to  
25 travel.

26           "(c) If a sex offender intends to travel to another  
27 country, he or she shall report in person to the sheriff in

1 each county of residence and complete a travel notification  
2 document at least 21 days prior to such travel. If the travel  
3 to another country is for a family or personal medical  
4 emergency or a death in the family, then the sex offender  
5 shall report in person to the sheriff in each county of  
6 residence immediately prior to travel. Any information  
7 reported to the sheriff in each county of residence shall  
8 immediately be reported to the United States Marshals Service  
9 and the Alabama State Law Enforcement Agency.

10 "(d) The travel ~~permit~~ notification document shall  
11 explain the duties of the adult sex offender regarding travel  
12 as prescribed by the Alabama State Law Enforcement Agency and  
13 a certification that the adult sex offender understands the-  
14 ~~The adult sex offender shall sign the travel permit stating~~  
15 ~~that he or she~~ duties required of him or her. ~~If the adult sex~~  
16 ~~offender refuses to sign the travel permit form, the travel~~  
17 ~~permit shall be denied~~ and that the information he or she  
18 provided on the travel notification document is true and  
19 correct. No sex offender shall provide false information on  
20 the travel notification document.

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

25 "(f) Upon return to the county of residence, the  
26 adult sex offender shall immediately report to the sheriff in  
27 each county of residence.

1           "(g) All completed travel ~~permits~~ notification  
2 documents shall be included with the adult sex offender's  
3 required registration information.

4           "(h) Any person who knowingly violates this section  
5 shall be guilty of a Class C felony.

6           "§15-20A-16.

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

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

15           "(c) No sex offender shall make any harassing  
16 communication, directly or indirectly, in person or through  
17 others, by phone, mail, or electronic means to the victim or  
18 any immediate family member of the victim.

19           "~~(c) Notwithstanding subsections (a) and (b), a~~ (d)  
20 A petition to exclude an adult sex offender from the  
21 requirements of subsections (a) and (b) of this section and  
22 Section 15-20A-11(b) may be filed in accordance with the  
23 requirements of Section 15-20A-24(c). The court shall conduct  
24 a hearing and ~~may~~ shall exclude an adult sex offender from the  
25 provisions of this section provided that:

26           "(1) The victim appears in court at the time of the  
27 hearing and requests the exemption in writing in open court.

1           "(2) The court finds by clear and convincing  
2 evidence that the victim's court appearance and written  
3 request pursuant to subdivision (1) were made voluntarily.

4           "(3) The victim is over the age of 19 at the time of  
5 the request.

6           "~~(3) The sex offense is an offense included in~~  
7 ~~Section 13A-6-62, 13A-6-64, 13A-6-65, or 13A-6-67, of if the~~  
8 ~~crime was committed in this state or any other jurisdiction~~  
9 ~~which, if had been committed in this state under the current~~  
10 ~~provisions of law, would constitute an offense listed in~~  
11 ~~Section 13A-6-62, 13A-6-64, 13A-6-65, or 13A-6-67.~~

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

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

20           "(e) Any person who knowingly violates this section  
21 shall be guilty of a Class C felony.

22           "§15-20A-18.

23           "(a) Every adult sex offender who is a resident of  
24 this state shall obtain from the Alabama State Law Enforcement  
25 Agency, and always have in his or her possession, a valid  
26 driver license or identification card issued by the Alabama  
27 State Law Enforcement Agency. If any adult sex offender is

1 ineligible to be issued a driver license or official  
2 identification card, the Alabama State Law Enforcement Agency  
3 shall provide the adult sex offender some other form of  
4 identification card or documentation that, if it is kept in  
5 the possession of the adult sex offender, shall satisfy the  
6 requirements of this section. If any adult sex offender is  
7 determined to be indigent, an identification card, or other  
8 form of identification or documentation that satisfies the  
9 requirements of this section, shall be issued to the adult sex  
10 offender at no cost. Indigence shall be determined by order of  
11 the court prior to each issuance of a driver license or  
12 identification card.

13 (b) The adult sex offender shall obtain from the  
14 Alabama State Law Enforcement Agency a valid driver license or  
15 identification card bearing a designation that enables law  
16 enforcement officers to identify the licensee as a sex  
17 offender within 14 days of his or her initial registration  
18 following release, initial registration upon entering the  
19 state to become a resident, or immediately following his or  
20 her next registration after July 1, 2011.

21 (c) Whenever the Alabama State Law Enforcement  
22 Agency issues or renews a driver license or identification  
23 card to an adult sex offender, the driver license or  
24 identification card shall bear a designation that, at a  
25 minimum, enables law enforcement officers to identify the  
26 licensee as a sex offender.

1 (d) Upon obtaining or renewing a driver license or  
2 identification card bearing a designation that enables law  
3 enforcement officers to identify the licensee as a sex  
4 offender, the adult sex offender shall relinquish to the  
5 Alabama State Law Enforcement Agency any other driver license  
6 or identification card previously issued to him or her by a  
7 state motor vehicle agency which does not bear any designation  
8 enabling law enforcement officers to identify the licensee as  
9 a sex offender. Nothing in this section shall require an adult  
10 sex offender to relinquish, or preclude an adult sex offender  
11 from possessing, any form of identification issued to him or  
12 her by an entity other than a state motor vehicle agency,  
13 including, but not limited to, the United States, a federal  
14 department or agency, a municipal or county government entity,  
15 an educational institution, or a private employer.

16 (e) No adult sex offender shall mutilate, mar,  
17 change, reproduce, alter, deface, disfigure, or otherwise  
18 change the form of any driver license or identification card  
19 which is issued to the adult sex offender by the Alabama State  
20 Law Enforcement Agency and which bears any designation  
21 enabling law enforcement officers to identify the licensee as  
22 a sex offender. An adult sex offender having in his or her  
23 possession a driver license or identification card issued to  
24 him or her by the Alabama State Law Enforcement Agency bearing  
25 any designation enabling law enforcement officers to identify  
26 the licensee as a sex offender which has been mutilated,  
27 marred, changed, reproduced, altered, defaced, disfigured, or

1 otherwise changed shall be prima facie evidence that he or she  
2 has violated this section.

3 (f) Any person who knowingly violates this section  
4 shall be guilty of a Class C felony.

5 "§15-20A-21.

6 "(a) Immediately upon the release of an adult sex  
7 offender or immediately upon notice of where the adult sex  
8 offender plans to establish, or has established a fixed  
9 residence, the following procedures shall apply:

10 "(1) In the Cities of Birmingham, Mobile,  
11 Huntsville, and Montgomery, the chief of police shall notify  
12 all persons who have a legal residence within 1,000 feet of  
13 the declared fixed residence of the adult sex offender and all  
14 schools and childcare facilities within three miles of the  
15 declared fixed residence of the adult sex offender that the  
16 adult sex offender will be establishing or has established his  
17 or her fixed residence.

18 "(2) In all other cities in Alabama with a resident  
19 population of 5,000 or more, the chief of police, or if none,  
20 then the sheriff of the county, shall notify all persons who  
21 have a legal residence within 1,500 feet of the declared fixed  
22 residence of the adult sex offender and all schools and  
23 childcare facilities within three miles of the declared fixed  
24 residence of the adult sex offender that the adult sex  
25 offender will be establishing or has established his or her  
26 fixed residence.

1           "(3) In all other municipalities with a resident  
2 population of less than 5,000, and in all unincorporated  
3 areas, the sheriff of the county in which the adult sex  
4 offender intends to reside shall notify all persons who have a  
5 legal residence within 2,000 feet of the declared fixed  
6 residence of the adult sex offender and all schools and  
7 childcare facilities within three miles of the declared fixed  
8 residence of the adult sex offender that the adult sex  
9 offender will be establishing or has established his or her  
10 fixed residence.

11           "(b) A community notification flyer shall be made by  
12 regular mail or hand delivered to all legal residences  
13 required by this section and include registration information  
14 pursuant to Section 15-20A-8. In addition, any other method  
15 reasonably expected to provide notification may be utilized,  
16 including, but not limited to, posting a copy of the notice in  
17 a prominent place at the office of the sheriff and at the  
18 police station closest to the declared fixed residence of the  
19 released adult sex offender, publicizing the notice in a local  
20 newspaper, posting electronically, including the Internet, or  
21 other means available.

22           "(c) Nothing in this chapter shall be construed as  
23 prohibiting the Secretary of the Alabama State Law Enforcement  
24 Agency, a sheriff, or a chief of police from providing  
25 community notification under the provisions of this chapter by  
26 regular mail, electronically, or by publication or  
27 periodically to persons whose legal residence is within the

1 guidelines of this chapter or more than the applicable  
2 distance from the residence of an adult sex offender.

3 "(d) When ~~an~~ a homeless adult sex offender ~~declares~~  
4 ~~that he or she is homeless~~ who lacks a fixed residence  
5 registers pursuant to Section 15-20A-12, notification shall be  
6 provided by posting a copy of the notice in a prominent place  
7 at the office of the sheriff and at the police station closest  
8 to the declared residence of the released adult sex offender,  
9 publicizing the notice in a local newspaper, or posting the  
10 notice electronically, including the Internet or other means  
11 available.

12 "§15-20A-23.

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

20 "(b) A petition for relief pursuant to this section  
21 shall be filed in the civil division of the circuit court of  
22 the county in which the sex offender seeks relief from the  
23 residency restriction.

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

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

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

6           "(3) Local law enforcement where the sex offender  
7 was adjudicated or convicted if the sex offender was  
8 adjudicated or convicted in this state.

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

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

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

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

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

24           "(5) A release allowing the prosecuting attorney or  
25 the court to obtain any other medical records or documentation  
26 relevant to the petition.

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

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

8           "(f) The court shall hold a hearing within 30 days  
9 of the filing of the petition. Upon request of the prosecuting  
10 attorney, and for good cause shown, the hearing may be  
11 continued to allow the prosecuting attorney to obtain any  
12 relevant records pertinent to the hearing. At the hearing the  
13 prosecuting attorney and the victim shall have the opportunity  
14 to be heard.

15           "(g) The court ~~may~~ shall issue an order releasing  
16 the sex offender from the residency restrictions pursuant to  
17 subsection (a) of Section 15-20A-11 if the court finds by  
18 clear and convincing evidence that the sex offender (1) is  
19 terminally ill, permanently immobile, has a debilitating  
20 medical condition requiring substantial care or supervision,  
21 or requires placement in a residential health care facility  
22 and (2) does not pose a substantial risk of perpetrating any  
23 future dangerous sexual offense ~~or that the sex offender is~~  
24 ~~not likely to reoffend~~. The court may relieve a sex offender  
25 from any residency restrictions indefinitely or for a specific  
26 period of time.

1           "(h) The court shall send a copy of any order  
2 releasing a sex offender from residency restrictions pursuant  
3 to subsection (a) of Section 15-20A-11 to the prosecuting  
4 attorney and the Alabama State Law Enforcement Agency.

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

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

15           "(k) If at any time the sex offender is no longer  
16 terminally ill, permanently immobile, or no longer suffers  
17 from a debilitating medical condition requiring substantial  
18 care or supervision or no longer requires placement in a  
19 residential health care facility, the sex offender shall  
20 immediately register in person with local law enforcement in  
21 each county of residence, ~~and~~ update all required registration  
22 information, and comply with the residency restriction  
23 pursuant to subsection (a) of Section 15-20A-11.

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

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

3 "(m) ~~The~~ Upon request of the state, the court may  
4 ~~petition the court to~~ reinstate the restrictions pursuant to  
5 subsection (a) of Section 15-20A-11 for good cause shown,  
6 including, but not limited to, whenever the grounds for a  
7 relief order issued pursuant to subsection (g) are revealed to  
8 be false or no longer true. No filing fee may be assessed for  
9 a petition filed under this subsection.

10 "(n) Notwithstanding any state or local rule  
11 assigning costs and fees for filing and processing civil and  
12 criminal cases, a sex offender's petition under this section  
13 shall be assessed a filing fee in the amount of two hundred  
14 dollars (\$200) to be distributed as provided in Section  
15 15-20A-46. The filing fee may be waived initially and taxed as  
16 costs at the conclusion of the case if the court finds that  
17 payment of the fee will constitute a substantial hardship. A  
18 verified statement of substantial hardship, signed by the sex  
19 offender and approved by the court, shall be filed with the  
20 clerk of court.

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

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

27 "§15-20A-24.

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

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

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

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

14           "(4) Sexual misconduct, as provided by Section  
15 13A-6-65.

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

20           "(6) Any solicitation, attempt, or conspiracy to  
21 commit any of the offenses listed in subdivisions (1) to (5),  
22 inclusive.

23           "(b) The sex offender shall prove by clear and  
24 convincing evidence all of the following to ~~be eligible for~~  
25 obtain relief under this section:

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

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

3           "(3) At the time of the commission of the sex  
4 offense, the sex offender was less than five years older than  
5 the victim.

6           "(c) If the petition for relief is filed after  
7 sentencing or disposition, the petition for relief shall be  
8 filed as follows:

9           "(1) If the adult or youthful offender sex offender  
10 was adjudicated or convicted in this state, the petition for  
11 relief shall be filed in the civil division of the circuit  
12 court where the adult or youthful offender sex offender was  
13 adjudicated or convicted.

14           "(2) If the adult or youthful offender sex offender  
15 was adjudicated or convicted in a jurisdiction outside of this  
16 state, the petition for relief shall be filed in the civil  
17 division of the circuit court in the county in which the adult  
18 or youthful offender sex offender resides.

19           "(3) If the juvenile sex offender was adjudicated in  
20 this state, the petition for relief shall be filed in the  
21 juvenile court.

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

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

1 "a. The prosecuting attorney in the county of  
2 adjudication or conviction, if the sex offender was  
3 adjudicated or convicted in this state.

4 "b. The prosecuting attorney of the county where the  
5 sex offender resides.

6 "c. Local law enforcement where the sex offender was  
7 adjudicated or convicted, if the sex offender was adjudicated  
8 or convicted in this state.

9 "d. Local law enforcement where the adult sex  
10 offender resides.

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

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

16 "(1) The offense that the sex offender was initially  
17 charged with and the offense that the sex offender was  
18 adjudicated or convicted of, if different.

19 "(2) A certified copy of the adjudication or  
20 conviction requiring registration including a detailed  
21 description of the sex offense, if the petition is filed upon  
22 completion of probation or a term of registration.

23 "(3) Proof of the age of the victim and the age of  
24 the sex offender at the time of the commission of the sex  
25 offense.

26 "(4) A list of each registering agency in each  
27 county and jurisdiction in which the sex offender is required

1 to or has ever been required to register, if the petition is  
2 filed upon completion of probation or a term of registration.

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

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

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

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

16 "(h) The court shall issue an order releasing the  
17 sex offender from some or all requirements of this chapter  
18 pursuant to subsection (i) if the court finds by clear and  
19 convincing evidence that the sex offender does not pose a  
20 substantial risk of perpetrating any future sex offense. In  
21 determining whether to grant relief, the court may consider  
22 any of the following:

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

27 "(2) Recommendations from the prosecuting attorney.

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

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

5           "(5) The relationship of the parties.

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

7           "(7) The protection of society.

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

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

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

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

23           "(l) ~~If~~ In addition to sex offenders adjudicated or  
24 convicted of a sex offense on or after July 1, 2011, a sex  
25 offender ~~was~~ adjudicated or convicted of any of the offenses  
26 specified in subsection (a) prior to July 1, 2011, ~~and~~ who  
27 meets the eligibility requirements specified in subsection

1 (b), except as otherwise provided for in subsection (k), ~~the~~  
2 ~~sex offender~~ may petition the court for relief pursuant to  
3 this section.

4 "(m) 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 or disposition, a sex offender's petition under  
8 this section shall be assessed a filing fee in the amount of  
9 two hundred dollars (\$200) to be distributed as provided in  
10 Section 15-20A-46. The filing fee may be waived initially and  
11 taxed as costs at the conclusion of the case if the court  
12 finds that payment of the fee will constitute a substantial  
13 hardship. A verified statement of substantial hardship, signed  
14 by the sex offender and approved by the court, shall be filed  
15 with the clerk of court.

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

19 "(o) Any person who knowingly provides false or  
20 misleading information pursuant to this section shall be  
21 guilty of a Class C felony.

22 "§15-20A-25.

23 "(a) A sex offender may petition at sentencing, or  
24 if after sentencing, a sex offender may file a petition in the  
25 civil division of the circuit court in the county where the  
26 sex offender seeks to accept or maintain employment for relief  
27 from the employment restrictions pursuant to subsection (b) of

1 Section 15-20A-13. A sex offender adjudicated or convicted of  
2 any of the following sex offenses shall not be entitled to  
3 relief under this section:

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

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

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

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

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

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

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

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

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

24 "a. The prosecuting attorney in the county of  
25 adjudication or conviction, if the sex offender was  
26 adjudicated or convicted in this state.

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

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

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

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

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

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

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

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

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

26 "(5) Justification as to why the court should grant  
27 relief.

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

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

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

11           "(f) The court shall issue an order releasing the  
12 sex offender from the requirements of the employment  
13 restrictions pursuant to subsection (b) of Section 15-20A-13  
14 if the court finds by clear and convincing evidence that the  
15 sex offender does not pose a substantial risk of perpetrating  
16 any future sex offense. The court may consider any of the  
17 following factors in determining whether to grant relief:

18           "(1) The nature of the offense.

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

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

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

24           "(g) If the court grants the petition, the court  
25 shall enter an order detailing the relief granted and provide  
26 a copy of the order to the prosecuting attorney where the

1 petition was filed and to the Alabama State Law Enforcement  
2 Agency.

3 "(h) A sex offender is not eligible for relief under  
4 this section if he or she was adjudicated or convicted of a  
5 sex offense previous to or subsequent to the offense of which  
6 he or she is petitioning the court for relief or has any  
7 pending criminal charges for any sex offense.

8 "(i) ~~The~~ Upon request of the state, the court may  
9 ~~petition the court to~~ reinstate the restrictions pursuant to  
10 subsection (b) of Section 15-20A-13 for good cause shown,  
11 including, but not limited to, whenever the grounds for a  
12 relief order issued pursuant to subsection (f) are revealed to  
13 be false or no longer true. No filing fee may be assessed for  
14 a petition filed under this subsection.

15 "(j) Notwithstanding any state or local law or rule  
16 assigning costs and fees for filing and processing civil and  
17 criminal cases, except when this relief is sought at the time  
18 of sentencing, a sex offender's petition under this section  
19 shall be assessed a filing fee in the amount of two hundred  
20 dollars (\$200) to be distributed as provided in Section  
21 15-20A-46. The filing fee may be waived initially and taxed as  
22 costs at the conclusion of the case if the court finds that  
23 payment of the fee will constitute a substantial hardship. A  
24 verified statement of substantial hardship, signed by the sex  
25 offender and approved by the court, shall be filed with the  
26 clerk of court.

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

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

7           "§15-20A-26.

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

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

23           "(c) Upon receiving the risk assessment, the  
24 juvenile probation office shall provide a copy of the risk  
25 assessment to the state and either the attorney for the  
26 juvenile sex offender or the parent, guardian, or custodian of  
27 the juvenile sex offender. In addition, the juvenile probation

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

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

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

17 "§15-20A-27.

18 "(a) In determining whether to apply notification  
19 requirements to a juvenile sex offender, the sentencing court  
20 shall consider any of the following factors relevant to the  
21 risk of re-offense:

22 "(1) Conditions of release that minimize the risk of  
23 re-offense, including, but not limited to, whether the  
24 juvenile sex offender is under supervision of probation,  
25 parole, or aftercare; receiving counseling, therapy, or  
26 treatment; or residing in a home situation that provides  
27 guidance and supervision.

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

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

8           "(4) Whether psychological or psychiatric profiles  
9 indicate a risk of recidivism.

10           "(5) The relationship between the juvenile sex  
11 offender and the victim.

12           "(6) The particular facts and circumstances  
13 surrounding the offense.

14           "(7) The level of planning and participation in the  
15 offense.

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

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

19           "(10) The response to treatment of the juvenile sex  
20 offender.

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

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

25           "(13) The protection of society.

26           "(14) Any other factors deemed relevant by the  
27 court.

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

4           "(1) If the risk of re-offense is low, notification  
5 that the juvenile sex offender will be establishing or has  
6 established ~~his or her~~ a fixed residence shall be provided by  
7 local law enforcement to the principal of the school where the  
8 juvenile sex offender will attend after release. This  
9 notification shall include the name, actual living address,  
10 date of birth of the juvenile sex offender, and a statement of  
11 the sex offense for which he or she has been adjudicated  
12 delinquent, including the age and gender of the victim. This  
13 information shall be considered confidential by the school and  
14 be shared only with the teachers and staff with supervision  
15 over the juvenile sex offender. ~~Whoever~~ Whoever, except as  
16 specifically provided herein, directly or indirectly discloses  
17 or makes use of or knowingly permits the use of information  
18 concerning a juvenile sex offender described in this section,  
19 upon conviction thereof, shall be guilty of a ~~Class A~~  
20 ~~misdemeanor~~ Class C felony within the jurisdiction of the  
21 juvenile court.

22           "(2) If the risk of re-offense is moderate,  
23 notification that the juvenile sex offender will be  
24 establishing, or has established, ~~his or her~~ a fixed residence  
25 shall be provided by local law enforcement to all schools and  
26 childcare facilities within three miles of the declared fixed  
27 residence of the juvenile sex offender. A community

1 notification flyer shall be mailed by regular mail or hand  
2 delivered to all schools or childcare facilities as required  
3 by this subsection. No other method may be used to disseminate  
4 this information.

5 "(3) If the risk of re-offense is high, the public  
6 shall receive notification as though the juvenile sex offender  
7 were an adult sex offender in accordance with Section  
8 15-20A-21.

9 "(c) The sentencing court shall enter an order  
10 stating whether the juvenile sex offender shall be subject to  
11 notification and the level of notification that shall be  
12 applied. The court shall provide a copy of the order to the  
13 prosecuting attorney and to the Alabama State Law Enforcement  
14 Agency.

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

17 "§15-20A-28.

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

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

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

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

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

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

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

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

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

20           "(c) A juvenile sex offender who is not subject to  
21 lifetime registration pursuant to subsection (a), shall be  
22 subject to this chapter for a period of 10 years from the ~~last~~  
23 ~~date of release from the offense subjecting the juvenile sex~~  
24 ~~offender to registration in accordance with this chapter~~ first  
25 registration.

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

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

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

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

18           "§15-20A-31.

19           "(a) During the time a juvenile sex offender is  
20 subject to the registration requirements of this chapter, the  
21 juvenile sex offender shall not ~~apply for,~~ accept, or maintain  
22 employment or ~~vocation,~~ or a volunteer position ~~for any~~  
23 ~~employment or vocation~~ at any school, childcare facility, or  
24 any other business or organization that provides services  
25 primarily to children.

26           "(b) It shall be unlawful for the owner or operator  
27 of any childcare facility or any other organization that

1 provides services primarily to children to knowingly ~~employ~~  
2 provide employment or ~~accept a~~ volunteer ~~services from~~  
3 position to a juvenile sex offender.

4 "(c) Any person who knowingly violates this section  
5 shall be guilty of a Class C felony.

6 "§15-20A-32.

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

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

25 "(c) Whenever a juvenile sex offender enters this  
26 state to establish a residence, he or she shall be subject to

1 the requirements of this chapter as it applies to juvenile sex  
2 offenders in this state.

3 "(d) Whenever a youthful offender sex offender, or  
4 equivalent thereto, enters this state to establish a  
5 residence, he or she shall be subject to the requirements of  
6 this chapter as it applies to youthful offender sex offenders  
7 in this state.

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

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

17 "§15-20A-34.

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

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

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

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

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

11           "a. The prosecuting attorney in the county of  
12 adjudication, if the juvenile sex offender was adjudicated  
13 delinquent in this state.

14           "b. The prosecuting attorney of the county in which  
15 the juvenile sex offender resides.

16           "c. Local law enforcement where the juvenile sex  
17 offender was adjudicated delinquent, if the juvenile sex  
18 offender was adjudicated delinquent in this state.

19           "d. Local law enforcement where the juvenile sex  
20 offender resides.

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

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

26           "(1) A certified copy of the adjudication of  
27 delinquency requiring registration.

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

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

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

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

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

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

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

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

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

1 the recommendations in the predisposition report and the  
2 juvenile sex offender's compliance with supervision  
3 requirements.

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

9 "(3) Recommendations from the prosecuting attorney.

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

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

17 "(6) Any criminal behavior of the juvenile sex  
18 offender before and after the adjudication of delinquency that  
19 requires reporting.

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

23 "(8) The protection of society.

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

25 "(h) If the court is satisfied by clear and  
26 convincing evidence that the juvenile sex offender is

1 rehabilitated and does not pose a threat to the safety of the  
2 public, the court ~~may~~ shall grant relief.

3 "(i) The court shall provide a copy of any order  
4 granting relief to the prosecuting attorney and to the Alabama  
5 State Law Enforcement Agency.

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

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

18 "(l) Notwithstanding any state or local law or rule  
19 assigning costs and fees for filing and processing civil and  
20 criminal cases, the fee for filing the petition for relief  
21 under this section shall be two hundred dollars (\$200) to be  
22 distributed as provided in Section 15-20A-46. The filing fee  
23 may be waived initially and taxed as costs at the conclusion  
24 of the case if the court finds that payment of the fee will  
25 constitute a substantial hardship. A verified statement of  
26 substantial hardship, signed by the sex offender and approved  
27 by the court, shall be filed with the clerk of court.

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

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

7           "§15-20A-37.

8           "(a) When a sex offender declares, and the county is  
9 notified that a sex offender intends to reside, ~~be employed~~  
10 maintain employment or a volunteer position, or attend school  
11 in the county and the sex offender fails to appear for  
12 registration, the county that received the notice shall  
13 immediately inform the sheriff of the county that provided the  
14 notice that the sex offender failed to appear for  
15 registration.

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

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

1 determine whether the sex offender absconded to the United  
2 States Marshals Service.

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

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

8 "(2) The sheriff of the county in which the sex  
9 offender has absconded shall immediately notify the United  
10 States Marshals Service and the Alabama State Law Enforcement  
11 Agency.

12 "(3) The Alabama State Law Enforcement Agency shall  
13 immediately update its public registry website to reflect that  
14 the sex offender has absconded.

15 "(4) The Alabama State Law Enforcement Agency shall  
16 immediately notify the Criminal Justice Information Center,  
17 who shall immediately notify the National Criminal Information  
18 Center.

19 "(5) The Alabama State Law Enforcement Agency shall  
20 immediately notify the National Sex Offender Registry to  
21 reflect that the sex offender has absconded and enter the  
22 information into the National Crime Center Wanted Person File.

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

1 volunteer position, or attend school, shall be guilty of a  
2 Class C felony.

3 "§15-20A-42.

4 "(a) Any jurisdiction or agency responsible for  
5 registering a sex offender shall immediately forward all  
6 required registration information and any changes to the  
7 required registration information received to the Alabama  
8 State Law Enforcement Agency in a manner determined by the  
9 Secretary of the Alabama State Law Enforcement Agency and  
10 promulgated in rule by the secretary upon recommendation of an  
11 advisory board consisting of representatives of the office of  
12 the Attorney General, District Attorneys Association, Chiefs  
13 of Police Association, Sheriffs Association, and the Alabama  
14 State Law Enforcement Agency. The advisory board members shall  
15 not receive any compensation or reimbursement for serving on  
16 the advisory board.

17 "(b) Upon notification or discovery of the death of  
18 a sex offender, the registering agency shall immediately  
19 notify the Alabama State Law Enforcement Agency.

20 "(c) The Alabama State Law Enforcement Agency shall  
21 immediately enter all registration information received into  
22 its sex offender database.

23 "(d) All information received by the Alabama State  
24 Law Enforcement Agency shall be immediately forwarded to the  
25 following by the Alabama State Law Enforcement Agency:

1           "(1) The National Criminal Information Center or any  
2 other law enforcement agency for any lawful criminal justice  
3 purpose.

4           "(2) The Sex Offender Registration and Notification  
5 Act Exchange Portal.

6           "(3) The National Sex Offender Registry.

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

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

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

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

16           "(8) The Attorney General's Office of Victim  
17 Assistance.

18           "(e) Upon request, all registration information  
19 shall be available in electric form to all federal, state,  
20 county, and municipal law enforcement agencies, prosecuting  
21 attorneys, probation officers, and any agency responsible for  
22 conducting employment-related background checks under the  
23 National Child Protection Act agencies in electronic form of  
24 1993 (42 U.S.C. 5119a).

25           "(f) No existing state laws, including, but not  
26 limited to, statutes that would otherwise make juvenile and  
27 youthful offender records confidential, shall preclude the

1 disclosure of any information requested by a responsible  
2 agency, a law enforcement officer, a criminal justice agency,  
3 the Office of the Attorney General, or a prosecuting attorney  
4 for purposes of administering, implementing, or enforcing this  
5 chapter. No state law shall preclude the disclosure of any  
6 information concerning a juvenile sex offender or youthful  
7 offender sex offender to the Department of Human Resources for  
8 the purpose of conducting an assessment with regard to a  
9 person as provided by law.

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

18 "(h) Notwithstanding any other provision of law to  
19 the contrary, a sex offender's Internet identifiers as  
20 described in subdivision (9) of subsection (a) of Section  
21 15-20A-7, and a sex offender's Internet service providers as  
22 described in subdivision (18) of subsection (a) of Section  
23 15-20A-7, may only be disclosed pursuant to federal law or to  
24 law enforcement for the purpose of administering,  
25 implementing, or enforcing this chapter or to prevent or  
26 investigate a crime by the sex offender based on an  
27 articulable basis for suspicion. In no event shall such

1 information be disclosed other than for one of the purposes  
2 identified in the preceding sentence. A violation of this  
3 subsection shall constitute a Class A misdemeanor.

4 "§15-20A-43.

5 "(a) Except as provided in Sections 15-20A-5,  
6 15-20A-16, 15-20A-23, 15-20A-24, 15-20A-25, 15-20A-34 or the  
7 former 15-20-21(4) (a), the ~~sex offender registration and~~  
8 ~~notification~~ requirements ~~required by~~ of this chapter are  
9 mandatory and shall not be altered, amended, waived, or  
10 suspended by any court. Any court order altering, amending,  
11 waiving, or suspending sex offender registration and  
12 notification requirements, except as provided in Sections  
13 15-20A-5, 15-20A-16, 15-20A-23, 15-20A-24, 15-20A-25,  
14 15-20A-34 or the former 15-20-21(4) (a), shall be null, void,  
15 and of no effect.

16 "(b) The Board of Pardons and Paroles shall not  
17 grant relief from any provisions of this chapter to any sex  
18 offender unless all three of the following conditions are met:

19 "(1) At the time of the commission of the sex  
20 offense, the sex offender was less than five years older than  
21 the victim.

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

24 "(3) The sex offense did not involve force and was  
25 only a crime due to the age of the victim."

26 Section 6. Although this bill would have as its  
27 purpose or effect the requirement of a new or increased

1 expenditure of local funds, the bill is excluded from further  
2 requirements and application under Amendment 621 because the  
3 bill defines a new crime or amends the definition of an  
4 existing crime.

5 Section 7. This act shall become effective on the  
6 first day of the third month following its passage and  
7 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate  
committee on Judiciary..... 14-MAR-17

Read for the second time and placed on the calen-  
dar..... 15-MAR-17

Read for the third time and passed as amended .... 13-APR-17

Yeas 29  
Nays 0

Patrick Harris,  
Secretary.

**ADDENDUM B:**  
**Felony List for 2017**  
**ASORCNA**

**Appendix A: List of 115 Felonies Created by ASORCNA and Applicable to R**

\*\*This list does not include felonies that apply to non-registrants. See, e.g., Ala. Code § 15-20A-13(e), 31(b)

<u>In Original</u>	<u>Ala. Code Section</u>	<u>Felony/Category of Felonies</u>	<u>#</u>
**	<b>15-20A-7(f)</b>	<b>CATEGORY: failing to provide any registration information</b>	<b>21</b>
**	15-20A-7(a)(1)	failing to provide name at registration	1
**	15-20A-7(a)(1)	failing to provide aliases or nicknames at registration	1
**	15-20A-7(a)(2)	failing to provide date of birth at registration	1
**	15-20A-7(a)(3)	failing to provide Social Security number at registration	1
**	15-20A-7(a)(4)	failing to provide address at registration	1
**	15-20A-7(a)(5)	failing to provide name and address of school at registration	1
**	15-20A-7(a)(6)	failing to provide name and address of employer at registration	1
**	15-20A-7(a)(7)	failing to provide a license plate number at registration	1
**	15-20A-7(a)(7)	failing to provide the location of all vehicles at registration	1
**	15-20A-7(a)(8)	failing to provide all telephone numbers at registration	1
**	15-20A-7(a)(9)	failing to provide all e-mail addresses at registration	1
**	15-20A-7(a)(10)	failing to provide a photograph at registration	1
**	15-20A-7(a)(11)	failing to provide a physical description, including scars, at registration	1
**	15-20A-7(a)(12)	failing to provide fingerprints and palm prints at registration	1
**	15-20A-7(a)(13)	failing to provide a DNA sample at registration	1
**	15-20A-7(a)(14)	failing to provide a photocopy of a driver's license at registration	1
**	15-20A-7(a)(15)	failing to provide a photocopy of all immigration documents at registration	1
**	15-20A-7(a)(16)	failing to provide all professional licenses at registration	1
**	15-20A-7(a)(17)	failing to provide a full criminal history at registration	1
NEW	15-20A-7(a)(18)	failing to provide a list of all internet service providers	1
**	15-20A-7(a)(19)	failing to provide any other information deemed necessary by DPS	1
**	<b>15-20A-9(b)</b>	<b>CATEGORY: failing to provide residency information upon release</b>	<b>1</b>
**	<b>15-20A-10(j)</b>	<b>CATEGORY: failing to register</b>	<b>15</b>
**	15-20A-10(a)(1)	failing to register in county of residence immediately upon release	1
**	15-20A-10(a)(1)	failing to register in county of employment immediately upon release	1

<b>In Original</b>	<b>Ala. Code Section</b>	<b>Felony/Category of Felonies</b>	<b>#</b>
**	15-20A-10(a)(1)	failing to register in county of schooling immediately upon release	1
<b>NEW</b>	15-20A-10(a)(1)	failing to register in country of volunteering immediately upon release	1
**	15-20A-10(a)(2)	failing to comply with residency restrictions within seven days of release	1
**	15-20A-10(b)	failing to register in new county of residence immediately upon change	1
**	15-20A-10(b)	failing to register in new county of employment immediately upon change	1
**	15-20A-10(b)	failing to register in new county of schooling immediately upon change	1
<b>NEW</b>	15-20A-10(b)	failing to register with county of volunteering immediately upon change	1
<b>NEW</b>	15-20A-10(c)	failing to register in old county of residence immediately upon change	1
<b>NEW</b>	15-20A-10(c)	failing to register in old county of employment immediately upon change	1
<b>NEW</b>	15-20A-10(c)	failing to register in old county of schooling immediately upon change	1
**	15-20A-10(d)	failing to update name with law enforcement immediately upon change	1
**	15-20A-10(e)	failing to update any registration information immediately upon change	1
**	15-20A-10(f)	failing to register quarterly	1
<b>NEW</b>	15-20A-10(g)	failing to explain all duties and restrictions at time of registration	1
**	<b>15-20A-11(h)</b>	<b>CATEGORY: failing to comply with residency restrictions</b>	<b>7</b>
**	15-20A-11(a)	establishing a residence within 2,000 feet of a school or daycare	1
**	15-20A-11(a)	maintaining a residence within 2,000 feet of a school or daycare	1
**	15-20A-11(b)	establishing a residence within 2,000 feet of a former victim	1
**	15-20A-11(b)	establishing a residence within 2,000 feet of a former victim's relative	1
**	15-20A-11(b)	maintaining a residence within 2,000 feet of a former victim	1
**	15-20A-11(b)	maintaining a residence within 2,000 feet of a former victim's relative	1
**	15-20A-11(d)	establishing a residence with any (non-excepted) minor	
<b>NEW</b>	15-20A-11(d)	conducting an over-night visit with any (non-excepted) minor	1
**	<b>15-20A-12(f)</b>	<b>CATEGORY: failing to comply with weekly homeless registrations</b>	<b>8</b>
**	15-20A-12(a)	failing to register immediately upon becoming homeless	1
**	15-20A-12(b)	failing to register every seven days if homeless	1
**	15-20A-12(d)(1)(a)	failing to provide name at any weekly registration	1
**	15-20A-12(d)(1)(b)	failing to provide date of birth at any weekly registration	1

<b>In Original</b>	<b>Ala. Code Section</b>	<b>Felony/Category of Felonies</b>	<b>#</b>
**	15-20A-12(d)(1)(c)	failing to provide Social Security number at any weekly registration	1
**	15-20A-12(d)(1)(d)	failing to provide past week's residences at any weekly registration	1
**	15-20A-12(d)(1)(e)	failing to provide future week's residences at any weekly registration	1
**	15-20A-12(e)	failing to register immediately upon getting out of homelessness	1
**	<b>15-20A-13(g)</b>	<b>CATEGORY: failing to comply with employment restrictions</b>	<b>10</b>
**	15-20A-13(a)	accepting a job at any organization that provides services to children	1
**	15-20A-13(a)	maintaining a job at any organization that provides services to children	1
**	15-20A-13(a)	volunteering at any organization that provides services to children	1
**	15-20A-13(b)	accepting a job within 2,000 feet of a school or daycare	1
**	15-20A-13(b)	maintaining a job within 2,000 feet of a school or daycare	1
**	15-20A-13(b)	volunteering within 2,000 feet of a school or daycare	1
**	15-20A-13(c)	applying for a job within 500 feet of a park	1
**	15-20A-13(c)	accepting a job within 500 feet of a park	1
**	15-20A-13(c)	maintaining a job within 500 feet of a park	1
**	15-20A-13(c)	volunteering within 500 feet of a park	1
**	<b>15-20A-14(e)</b>	<b>CATEGORY: failure to register upon entering state</b>	<b>5</b>
**	15-20A-14(a)	failure to register immediately upon entering state to reside	1
**	15-20A-14(b)	failure to register immediately upon entering state to work	1
<b>NEW</b>	15-20A-14(b)	failure to register immediately upon entering state to go to volunteer	1
**	15-20A-14(b)	failure to register immediately upon entering state to go to school	1
**	15-20A-14(d)	failure to provide conviction information within 30 days of entering state	1
**	<b>15-20A-15(h)</b>	<b>CATEGORY: failure to comply with travel restrictions</b>	<b>8</b>
**	15-20A-15(a)	failure to report any travel of three or more days	1
<b>NEW</b>	15-20A-15(a)	failure to complete and sign a travel form before traveling for 3+ days	1
**	15-20A-15(b)	failure to provide the dates of travel	1
**	15-20A-15(b)	failure to provide lodging information for travel	1
<b>NEW</b>	15-20A-15(b)	failure to provide the intended destination	1
<b>NEW</b>	15-20A-15(b)	failure to provide other information "reasonably necessary" to monitor	1

<b>In Original</b>	<b>Ala. Code Section</b>	<b>Felony/Category of Felonies</b>	<b>#</b>
**	15-20A-15(c)	failure to report 21 days in advance of international travel	1
**	15-20A-15(f)	failure to report immediately upon returning from travel	1
**	<b>15-20A-16(c)</b>	<b>CATEGORY: contact with former victims</b>	<b>4</b>
**	15-20A-16(a)	contacting former victim	1
**	15-20A-16(b)	knowingly coming within 100 feet of former victim	1
**	15-20A-16(c)	harassing former victim	1
**	15-20A-16(c)	harassing former victim's relative	1
**	<b>15-20A-18(f)</b>	<b>CATEGORY: branded driver's license</b>	<b>3</b>
**	15-20A-18(a)	failure to carry a branded driver's license at every moment	1
**	15-20A-18(b)	failure to immediately obtain a branded driver's license	1
**	15-20A-18(d)	failure to relinquish all non-branded driver's licenses	1
**	15-20A-18(e)	damaging the branded driver's license	1
**	<b>15-20A-20(g)</b>	<b>CATEGORY: altering electronic monitoring device</b>	<b>1</b>
**	<b>15-20A-23(p)</b>	<b>CATEGORY: failure to comply with residency relief requirements</b>	<b>6</b>
**	15-20A-23(d)(1)	providing a false or misleading description of offense when requesting relief	1
**	15-20A-23(d)(2)	providing a false or misleading list of all places registrant has every registered	1
**	15-20A-23(d)(3)	providing a false or misleading criminal record when requesting relief	1
**	15-20A-23(d)(4)	providing false or misleading documentation medical condition	1
**	15-20A-23(d)(5)	providing a false or misleading release when requesting relief	1
**	15-20A-23(d)(6)	providing false or misleading statements of any other requested information	1
<b>NEW</b>	15-20A-23(g)	providing false or misleading information regarding illness or incapacitation	1
**	<b>15-20A-24(o)</b>	<b>CATEGORY: failure to comply with registration relief requirements</b>	<b>6</b>
**	15-20A-24(e)(1)	providing a false or misleading description of offense when requesting relief	1
**	15-20A-24(e)(2)	providing a false or misleading record of conviction when requesting relief	1
**	15-20A-24(e)(3)	providing false or misleading proof of the age of the victim when requesting relief	1
**	15-20A-24(e)(4)	providing a false or misleading list of all places registrant has every registered	1
**	15-20A-24(e)(5)	providing a false or misleading criminal record when requesting relief	1
**	15-20A-24(e)(6)	providing false or misleading statements of any other requested information	1

<u>In Original</u>	<u>Ala. Code Section</u>	<u>Felony/Category of Felonies</u>	<u>#</u>
NEW	15-20A-24(m)	providing a false or misleading statement of hardship	1
**	<b>15-20A-25(l)</b>	<b>CATEGORY: failure to comply with employment relief requirements</b>	<b>6</b>
**	15-20A-25(c)(1)	providing a false or misleading description of offense when requesting relief	1
**	15-20A-25(c)(2)	providing a false or misleading list of all places registrant has every registered	1
**	15-20A-25(c)(3)	providing a false or misleading criminal record when requesting relief	1
**	15-20A-25(c)(4)	providing a false or misleading location of intended employment	1
**	15-20A-25(c)(5)	providing a false or misleading justification when requesting relief	1
**	15-20A-25(c)(6)	providing false or misleading statements of any other requested information	1
**	<b>15-20A-31(c)</b>	<b>CATEGORY: juvenile employment restrictions</b>	<b>3</b>
**	15-20A-31(a)	accepting a job at a school or daycare	1
**	15-20A-31(a)	maintaining a job at a school or daycare	1
**	15-20A-31(a)	volunteering at a school or daycare	1
**	<b>15-20A-32(f)</b>	<b>CATEGORY: juvenile failure to register upon entering state</b>	<b>5</b>
**	15-20A-32(a)	failure to register immediately upon entering state to reside	1
**	15-20A-32(a)	failure to register immediately upon entering state to work	1
**	15-20A-32(a)	failure to register immediately upon entering state to go to school	1
**	15-20A-32(a)	failure to register immediately upon entering state to volunteer	1
**	15-20A-32(b)	failure to provide conviction information within 30 days of entering state	1
**	<b>15-20A-34(n)</b>	<b>CATEGORY: juvenile failure to comply with registration relief requirements</b>	<b>6</b>
**	15-20A-34(d)(1)	providing a false or misleading record of adjudication when requesting relief	1
**	15-20A-34(d)(2)	providing false or misleading documentation of release date when requesting relief	1
**	15-20A-34(d)(3)	providing false or misleading evidence of treatment when requesting relief	1
**	15-20A-34(d)(4)	providing a false or misleading list of all places registrant has every registered	1
**	15-20A-34(d)(5)	providing a false or misleading criminal record when requesting relief	1
**	15-20A-34(d)(6)	providing false or misleading statements of any other requested information	1

Total number of felonies that apply to registrants: 115

Felonies that have general applicability: 79

<u>In Original</u>	<u>Ala. Code Section</u>	<u>Felony/Category of Felonies</u>	<u>#</u>
		Felonies that apply to homeless registrants only:	8
		Felonies that apply to juvenile offenders only:	14
		Felonies that apply for statutory rape only:	6
		Felonies that apply to the ill or incapacitated only:	6
		Felonies that apply to offenders against minors only:	1
		Felonies that apply to sexually violent predators only:	1