

**TITLE XXXII SEX OFFENDER REGISTRATION**

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## CHAPTER 1. DEFINITIONS

### §32-1-1 Definitions

For solely the purposes of this Title, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

1. “Convicted” or a variant thereof, means being subjected to penal consequences based on the final judgment on a verdict or a finding of guilty, a plea of guilty, or a plea of nolo contendere when used with respect to a Sex Offense, and includes (a) a juvenile prosecuted and found guilty as an adult for a Sex Offense or (b) adjudicated delinquent as a juvenile for that offense, but only if the offender is 14 years of age or older at the time of the offense and the offense adjudicated was comparable to or more severe than aggravated sexual abuse (as described in Section 2241 of Title 18 of the United States Code), or was an attempt or conspiracy to commit such an offense.
2. “Criminal Offense” means a federal, state, local, tribal, foreign, or military offense (to the extent specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note) or other criminal offense.
3. “Employee” includes an individual who is self-employed or works for any other entity, whether compensated or not.
4. “Exception means any exception for which sex offender may be eligible under Section 32-2-4, 32-3-1, Section 32-3-2, and Section 32-4-2.
5. “Immediate” and “immediately” shall be defined as within three business days.
6. “Imprisonment” means incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. This term shall be interpreted broadly rather than a narrow technical sense, to include, for example, confinement in a state “prison” as well as in a local “jail” or mental institution.
7. “Jurisdiction” refers to the fifty (50) states, the District of Columbia, the U.S. territories, and Indian tribes that elect to function as registration jurisdictions under SORNA.
8. “Loiter” means standing or sitting idly whether in or out of a vehicle, or remaining in or around property, not their own, without permission and a lawful reason.
9. “Minor” means an individual who has not attained the age of 18 years.
10. “Residence” means, with respect to an individual, the location of the individual’s home or other place where the individual habitually lives or sleeps.
11. “Residing on the Reservation” shall mean any person who maintains a permanent or temporary residence, including students, temporary employees and military personnel on assignment.
12. “School” means a public or private daycare, childcare facility, preschool, elementary school, secondary school, trade school, professional school, or institute of higher learning.

13. “School Official” means the principal, director of schools, director of educational programs, or a member of the school board.
14. “Sexual Act” means:
  - a. contact between the penis and the vulva or the penis and the anus, and for purposes of this definition contact involving the penis occurs upon penetration, however slight;
  - b. contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
  - c. the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
  - d. the intentional touching, not through the clothing, of the genitalia of another person that has not attained the age of 18 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
15. “Sexual contact” is defined the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desires of another person.
16. “Sex Offense”
  - a. Generally means:
    - i. a criminal offense in any jurisdiction that has an element involving a sexual act or sexual contact with another;
    - ii. a criminal offense in any jurisdiction that is a specified offense against a minor;
    - iii. a Federal offense, including but not limited to:
      1. Sex Trafficking of Children (18 U.S.C. §1591),
      2. Aggravated Sexual Abuse (18 U.S.C. §2241),
      3. Sexual Abuse (18 U.S.C. §2242)
      4. Video Voyeurism of a Minor (18 U.S.C. §1801)
      5. Sexual Abuse of a Minor or Ward (18 U.S.C. §2243),
      6. Abusive Sexual Contact (18 U.S.C. §2244),
      7. Offenses Resulting in Death (18 U.S.C. §2245),
      8. Sexual Exploitation of Children (18 U.S.C. §2251),
      9. Selling or Buying of Children (18 U.S.C. §2251A),
      10. Material Involving the Sexual Exploitation of Minors (18 U.S.C. §2252),
      11. Material Containing Child Pornography (18 U.S.C. §2252A),
      12. Misleading Domain Names on the Internet (18 U.S.C. §2252B),
      13. Misleading Words or Digital Images on the Internet (18 U.S.C. §2252C),
      14. Production of Sexually Explicit Depictions of a Minor for Import in to the United States (18 U.S.C. §2260),
      15. Transportation of a Minor for Illegal Sexual Activity (18 U.S.C. §2421),
      16. Coercion and Enticement of a Minor for Illegal Sexual Activity (18 U.S.C. §2422),
      17. Transportation of Minors for Illegal Sexual Activity, Travel With the Intent to Engage in Illicit Sexual Conduct with a Minor, Engaging in Illicit Sexual Conduct in Foreign Places (18 U.S.C. §2423),
      18. Failure to File Factual Statement about an Alien Individual (18 U.S.C. §2424), and
      19. Transmitting information about a Minor to further Criminal Sexual Conduct (18 U.S.C. §2425),

20. (including an offense prosecuted under section 1152 or 1153 of Title 18 of the United States Code) under section 1591, or chapter 109A, 110 (other than section 2257, 2257A, or 2258), or 117, of Title 18 of the United States Code.
    - iv. a military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note);
    - v. any tribal offense consistent with the above sections  
or
    - vi. an attempt or conspiracy to commit an offense described in clauses (i) through (iv);
  - b. Foreign Convictions are a Sex Offense for the purposes of this Title if it was obtained with sufficient safeguards for fundamental fairness and due process for the accused. There shall be a presumption that convictions in Canada, the United Kingdom, Australia, and New Zealand have sufficient safe guards for fundamental fairness and due process for the accused.
  - c. Offenses involving Consensual Sexual Conduct are not a Sex Offense for the purposes of this Title if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least thirteen (13) years old and the offender was not more than four (4) years older than the victim.
17. “Sex Offender” means an individual who was convicted of, been acquitted by reason of insanity of, adjudicated delinquent of, plead nolo contendere to, plead guilty, or been found guilty of any Sex Offense or attempted Sex Offense.
  18. “SORNA” means the Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006 P.L. 108-248).
  19. “Specified Offense Against a Minor” means an offense that involves any of the following:
    - a. an offense (unless committed by a parent or guardian) involving kidnapping a minor;
    - b. an offense (unless committed by a parent or guardian) involving false imprisonment of a minor;
    - c. solicitation of a minor to engage in sexual conduct;
    - d. use of a minor in a sexual performance;
    - e. solicitation of a minor to practice prostitution;
    - f. video voyeurism of a minor as described in 18 U.S.C. §1801;
    - g. possession, production, or distribution of child pornography;
    - h. criminal sexual conduct involving a minor, or the use of the Internet to facilitate or attempt such conduct;
- OR
- i. any conduct that by its nature is a Sex Offense against a minor.

20. “Student” means an individual who enrolls in or attends a public or private daycare, childcare facility, preschool, educational institution, including but not limited to a secondary school, trade or professional school, or institution of higher education.
21. “Tier I Sex Offender” means a Sex Offender other than a Tier II or Tier III Sex Offender.
- a. Punishable by imprisonment for less than one (1) year, or a violation of Choctaw Tribal Code, and;
    - i. Is comparable to or more severe than the following offenses, or an attempt or conspiracy to commit such an offense:
      1. 18 U.S.C. §1801 (video voyeurism of a minor);
      2. 18 U.S.C. §2252 (receipt or possession of child pornography);
      3. 18 U.S.C. §2252A (receipt or possession of child pornography);
      4. 18 U.S.C. §2252B (misleading domain names on the internet);
      5. 18 U.S.C. §2252C (misleading words or digital images on the internet);
      6. 18 U.S.C. §2422(a) (coercion to engage in prostitution);
      7. 18 U.S.C. §2423(b) (travel with the intent to engage in illicit conduct);
      8. 18 U.S.C. §2423(c) (engaging in illicit conduct in foreign places);
      9. 18 U.S.C. §2423(d) (arranging, inducing, procuring or facilitating the travel in interstate commerce of an adult for the purpose of engaging in illicit conduct for financial gain);
      10. 18 U.S.C. §2424 (failure to file factual statement about an alien individual); or
      11. 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct); or
    - b. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 3.01(A),(B), or (C) shall be considered a “Tier I” offense.
22. “Tier II Sex Offender” means a Sex Offender other than a Tier III Sex Offender whose Sex Offense is:
- a. A violation of the Choctaw Tribal Code such as: Sexual Assault in violation of §3-3-29; Sexual Exploitation of Children in violation of §3-3-11; Sexual Exploitation of Children by Prostitution in violation of §3-3-12; or
  - b. attempt or conspiracy to commit such an offense punishable by imprisonment for more than one (1) year, or a violation of the Choctaw Tribal Code, and:
    - i. is comparable to or more severe than the following offenses, when committed against a minor, or an attempt or conspiracy to commit such an offense against a minor:
      1. 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion);
      2. 18 U.S.C. §2244 (abusive sexual contact, where the victim is 13 years of age or older);
      3. 18 U.S.C. §2251 (sexual exploitation of children);
      4. 18 U.S.C. §2251A (selling or buying of children);
      5. 18 U.S.C. §2252 (material involving the sexual exploitation of a minor);
      6. 18 U.S.C. §2252A (production or distribution of material containing child pornography);

7. 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States);
8. 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity);
9. 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution);
10. 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

OR

ii. involves:

1. Solicitation or use of a minor to practice prostitution;
2. Enticing a minor to engage in criminal sexual activity;
3. Sexual contact with a minor ages thirteen (13) to eighteen (18);
4. Use of a minor in a sexual performance;
5. The production or distribution of child pornography; or
6. A non-forcible sexual act with a minor sixteen (16) or seventeen (17) years old;

OR

- c. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 3.02(A),(B), or (C) shall be considered a “Tier II” offense.
- d. Occurs after the Sex Offender becomes a Tier I Sex Offender.

23. “Tier III Sex Offender” means a Sex Offender whose Sex Offense is:

- a. Rape in violation of §3-3-28; Criminal Sexual Penetration of a Minor in violation of §3-3-32; or attempt or conspiracy to commit such an offense;
- b. punishable by imprisonment for more than one (1) year, or a violation of Choctaw Tribal Code, and:
  - i. is comparable to or more severe than the following offenses, or an attempt or conspiracy to commit such an offense:

1. Sexual Contact with a Minor under the age of 13 (18 U.S.C. 2244);
  2. Sexual Act with a Minor under the age of 12 (18 U.S.C. 2241(c));
  3. Sexual Contact or Act with an individual who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate (18 U.S.C. 2241 and 2242);
  4. Abusive Sexual Contact (18 U.S.C. 2244); or
  5. Sexual abuse of a minor or ward (18 U.S.C. §2243);
  6. a sexual offense committed through the threat of violence (18 U.S.C. 2241);
- or

ii. involves:

1. kidnapping of a minor, unless committed by a parent or guardian;

2. a sexual act with another by force or threat;
3. a sexual act with another who has been rendered unconscious or involuntarily drugged, or who is otherwise incapable of appraising the nature of the conduct or declining to participate; or
4. Sexual contact with a minor 12 years of age or younger, including offenses that cover sexual touching of or contact with the intimate parts of the body, either directly or through the clothing;

OR

- c. Certain Military Offenses. Any military offense specified by the Secretary of Defense under section 115(a)(8)(C)(i) of Public Law 105-119 (codified at 10 U.S.C. §951 note) that is similar to those offenses outlined in Section 3.03(A),(B), or (C) shall be considered a “Tier III” offense.
- d. Occurs after the offender becomes a Tier II Sex Offender.

## CHAPTER 2. REGISTRATION

### §32-2-1 Sex Offender Registry

The Department of Public Safety shall maintain a central registry of Sex Offender information as required by this Title and shall adopt such rules and regulations necessary to carry out this section. The Department of Public Safety shall provide written notice to all inmates, parolees, and probationers under their supervision that are required to register pursuant to this Title.

### §32-2-2 Registration Requirements

1. Any person convicted of any Sex Offense or attempted Sex Offense or who has been acquitted by reason of insanity for any Sex Offense or attempted Sex Offense in the Mississippi Band of Choctaw Indians’ Tribal Court shall register with the Department of Public Safety.
2. Any person residing, employed, or enrolled in school on the Choctaw Indian Reservation who has been convicted of any Sex Offense or attempted Sex Offense or who has been acquitted by reason of insanity for any Sex Offense or attempted Sex Offense or adjudicated delinquent for any Sex Offense or attempted Sex Offense shall register with the Department of Public Safety. Registration shall not be required for an offense that is not a registrable Sex Offense or for an offender who is under fourteen (14) years of age.
3. Any person required to register under this chapter shall submit the following information at the time of the registration:
  - a. CRIMINAL HISTORY. The following information related to the sex offender’s criminal history:
    - i. The date of all arrests;
    - ii. The date of all convictions;
    - iii. The sex offender’s status of parole, probation, or supervised release;
    - iv. The sex offender’s registration status; and
    - v. Any outstanding arrest warrants.



- b. DATE OF BIRTH. The sex offender's actual date of birth, and any other date of birth used by the sex offender.
- c. DNA. If not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide a sample of his DNA. The DNA sample obtained from the sex offender shall be submitted for submission in CODIS.
- d. DRIVER'S LICENSES, IDENTIFICATION CARDS, PASSPORTS, AND IMMIGRATION DOCUMENTS.
  - i. Driver's License. A covered sex offender shall provide all of the sex offender's valid driver's licenses issued by any jurisdiction and a photocopy of any such licenses shall be made;
  - ii. Identification Cards. A covered sex offender shall provide all of the sex offender's identification cards including the sex offender's tribal enrollment card issued by any jurisdiction and a photocopy shall be made;
  - iii. Passports. A covered sex offender shall provide any passports used by the sex offender, and a photocopy shall be made; and
  - iv. Immigration Documents. A covered sex offender shall provide any and all immigration documents used by the sex offender, and a photocopy shall be made.
- e. EMPLOYMENT. The following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:
  - i. The name of the sex offender's employer;
  - ii. The address of the sex offender's employer; and
  - iii. Similar information related to any transient or day labor employment.
- f. FINGER AND PALM PRINTS. Finger prints shall be obtained from covered sex offenders and shall be submitted to IAFIS, and palm prints shall be obtained from covered sex offenders and shall be submitted to FBI Next Generation Identification Program.
- g. INTERNET IDENTIFICATION.
  - i. The following information related to the sex offender's internet related activity:
    - 1. Any and all email addresses used by the sex offender;
    - 2. Any and all Instant Message addresses and identifiers;
    - 3. Any and all other designations or monikers used for self-identification in internet communications or postings; and
    - 4. Any and all designations used by the sex offender for the purpose of routing or self-identification in internet communications or postings, including but not limited to social network identifications, twitter accounts, video posting site identifications.
- h. NAME. The following information related to the sex offender's name:
  - i. The sex offender's full primary given name;
  - ii. Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used; and
  - iii. Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.

- i. **PHONE NUMBERS.** Any and all telephone numbers and any other designations used by sex offenders for purposes of routing or self-identification in telephonic communications including but not limited to:
  - i. Any and all cellular telephone numbers;
  - ii. Any and all land line telephone numbers; and
  - iii. Any and all Voice over IP (VOIP) telephone numbers.
- j. **PHOTOGRAPH.** A covered sex offender shall permit his photograph to be TAKEN:
  - i. Every 90 days for Tier III sex offenders;
  - ii. Every 180 days for Tier II sex offenders; and
  - iii. Every year for Tier I sex offenders.
  - iv. Update Requirements: a digitized photograph shall be collected at each appearance.
- k. **PHYSICAL DESCRIPTION.** An accurate description of the sex offender as follows:
  - i. A physical description;
  - ii. A general description of the sex offender's physical appearance or characteristics; and
  - iii. Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.
- l. **PROFESSIONAL LICENSES.** All licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.
- m. **RESIDENCE ADDRESS.** The following information related to the sex offender's residence:
  - i. The address of each residence at which the sex offender resides or will reside; and
  - ii. Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.
- n. **SCHOOL LOCATION.** The following information related to the sex offender's school:
  - i. The address of each school where the sex offender is or will be a student; and
  - ii. The name of each school the sex offender is or will be a student.
- o. **SOCIAL SECURITY NUMBER.** The following information:
  - i. A valid social security number for the sex offender; and
  - ii. Any social security number the sex offender has used in the past, valid or otherwise.
- p. **TEMPORARY LODGING**
  - i. **Lodging Information.** The following information when the sex offender will be absent from his residence for seven (7) days or more:
    - 1. Identifying information of the temporary lodging locations including addresses and names; and
    - 2. The dates the sex offender will be staying at each temporary lodging location;
    - 3. The registered sex offender shall provide the information in Section 4.17 (1) and (2) no later than three days before his scheduled travel. The information shall be provided in person.
- q. **INTERNATIONAL TRAVEL.** Sex offenders must inform their residence jurisdictions 21 days in advance if they intend to travel outside of the United States. Jurisdictions must notify the U.S. Marshals Service and immediately notify any other jurisdiction where the sex offender is either

registered, or is required to register, of that updated information. Update also must be made to NCIC/NSOR.

- r. **OFFENSE INFORMATION.** The text of each provision of law defining the criminal offense(s) for which the sex offender is registered.
  - s. **VEHICLE INFORMATION.** The following information related to all vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:
    - i. License plate numbers;
    - ii. Registration numbers or identifiers;
    - iii. General description of the vehicle to include color, make, model, and year; and
    - iv. Any permanent or frequent location where any covered vehicle is kept.
4. **Duties.** A sex offender covered by this code who is required to register with the tribe pursuant to §32-2-2(1) and (2) shall provide all of the information detailed in this chapter to the Department of Public Safety and the Department of Public Safety shall obtain all of the information detailed in this chapter from covered sex offenders who are required to register with the tribe in accordance with this code and shall implement any relevant policies and procedures.
- a. All information obtained under this code shall be, at a minimum, maintained by the Department of Public Safety in a digitized format.
  - b. A sex offender registry shall be maintained in an electronic database by the Department of Public Safety and shall be in a form capable of electronic transmission.
  - c. The Sex Offender reads, or has read to them, and signs a form stating that the duty to register has been explained to them and that the Sex Offender understands the registration requirement,
  - d. Upon entry of the sex offender's information into the registry database, the Department of Public Safety immediately forwards that information to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.
5. The sex offender's information is entered in NCIC/NSOR.
6. The Department of Public Safety shall verify employment, residency, and school information provided by the Sex Offender.

### **§32-2-3 Time For Registration of Sex Offenders**

- 1. A person required to register on the basis of a conviction, adjudication of delinquency or acquittal by reason of insanity entered shall register within three (3) business days of the date of judgment unless the person is immediately confined or committed, in which case the person shall register when released in accordance with the procedures established by the Department of Public Safety.
- 2. If a person who is required to register under this section is released from prison or placed on parole or supervised release, the offender has the duty to register prior to release and also to immediately report to the Department of Public Safety to perform the registration duties at the time of release.

3. If a person is required to register due to an earlier conviction under this Title and has presented themselves before any criminal court of the Mississippi Band of Choctaw Indians, that person shall be notified of their duty to register and they must acknowledge such duty in writing.
4. A sex offender moving to or returning to the Choctaw Indian Reservation from another jurisdiction shall provide written notification to the Department of Public Safety at least ten (10) business days before the person first resides in or returns to a community in the Choctaw Reservation and shall register, in person, with the Department of Public Safety within three (3) business days after first residing in or returning to a community of the Choctaw Reservation.
5. A person, other than a person confined in a correctional or juvenile detention facility or involuntarily committed on the basis of mental illness who is required to register on the basis of a Sex Offense for which a conviction, adjudication of delinquency or acquittal by reason of insanity was entered prior to passage of this Title, shall register with the Department of Public Safety no later than ninety (90) calendar days following passage of this Title.
6. Any person required to register under this chapter shall present themselves in person to the Department of Public Safety within three (3) business days whenever any information under § 32-2-2 shall change. The Department of Public Safety shall notify all other required registering agencies of such changes within three (3) business days.
7. Notwithstanding any other provision of the Code to the contrary, during a declaration of emergency, any person who has been required to register as a sex offender as provided in Title XXXII who enters the Reservation to reside for any period of time is required, within the first twenty-four (24) hours of entrance, to notify the Director of Public Safety or the Choctaw Sex Offender Registry and to report to the Department of Public Safety to complete the required registration duties.

#### **§32-2-4 Duration of Registration**

1. Full Registration Period – a Sex Offender shall keep the required registration information current with the Department of Public Safety for the full registration period, excluding any time the Sex Offender is in custody or civilly committed, unless the offender is allowed a reduction under subsection (2). The full registration period is:
  - a. 15 years, if the offender is a Tier I Sex Offender;
  - b. 25 years, if the offender is a Tier II Sex Offender; and
  - c. the life of the offender, if the offender is a Tier III Sex Offender.
2. Reduced Period for Clean Record
  - a. Clean Record – the full registration period shall be reduced as described in paragraph (c) for a Sex Offender who maintains a clean record for the period described in paragraph (b) by:
    - i. Not being convicted of any offense for which imprisonment for more than one year may be imposed;
    - ii. Not being convicted of any Sex Offense;
    - iii. Successfully completing any periods of supervised release, probation, and parole; and

- iv. Successfully completing an appropriate Sex Offender treatment program certified by the Tribe or by the United States Attorney General.
- b. Period.
    - i. A Tier I Sex Offender, the period during which the clean record shall be maintained is 10 years; and
    - ii. A Tier III Sex Offender adjudicated delinquent for the offense which required registration in a sex registry under this Title, the period during which the clean record shall be maintained is 25 years.
  - c. Reduction.
    - i. A Tier I Sex Offender, the reduction is 5 years; and
    - ii. A Tier III Sex Offender adjudicated delinquent, the reduction is from life to that period for which the clean record under paragraph (b) is maintained.
- 3. Registration in any other jurisdiction does not reduce the time duration requirement, as required in subsection (1), for maintaining registration within the bounds of the Choctaw Indian Reservation.
  - 4. Incarceration in any jurisdiction does not reduce the time duration requirement, as required in subsection (1), for maintaining registration within the bounds of the Choctaw Indian Reservation.

**§32-2-5 In Person Verification and Reporting Changes in Information and International Travel**

- 1. A Sex Offender shall appear in person, and allow the Department of Public Safety to take a current photograph, shall assist the department in the collection of information in the registry, and shall verify all information contained in the registry:
  - a. once a year, if the offender is a Tier I Sex Offender;
  - b. every six (6) months, if the offender is a Tier II Sex Offender;
  - c. every three (3) months, if the offender is a Tier III Sex Offender; and
- 2. Within three (3) business days of changes in the following required registration information, the Sex Offender must report in person and provide the changes to the Department of Public Safety:
  - a. Name;
  - b. Address;
  - c. Employment;
  - d. School or Residence;
  - e. Termination of Residence;
  - f. Email Addresses, Instant Message Addresses and any other designations used in internet communications, postings, or telephone communications;
  - g. Vehicle Information; and
  - h. Temporary Lodging Information.

3. The Department of Public Safety will immediately notify all jurisdictions in which the Sex Offender resides, is employed or attends school of the updated information and enter the updated information into the NSOR.
4. Sex offenders must inform their residence jurisdictions twenty-one (21) days in advance if they intend to travel outside of the United States. Jurisdictions must immediately notify the U.S. Marshals Service and INTERPOL and immediately notify any other jurisdiction where the sex offender is either registered, or is required to register, of that updated information and enter the updated information into the NSOR.

### **§32-2-6 Mandatory Disclosure**

1. A person convicted of a Sex Offense who volunteers for an organization in which volunteers have direct, private or unsupervised contact with minors shall notify the organization of the person's conviction at the time of volunteering. Such notification must be in writing to the organization. Any organization which accepts volunteers must notify volunteers of this disclosure requirement upon application of the volunteer to serve or prior to acceptance of any of the volunteer's service, whichever occurs first.
2. If the organization, after notification by the offender as provided in subsection (1), accepts the offender as a volunteer, the organization must notify the parents or guardians of any minors involved in the organization of the offender's registration.
3. Any person required to register must disclose regardless of the date of conviction.
4. If a registered Sex Offender is currently volunteering for such an organization, the Sex Offender must resign or notify the organization immediately upon receipt of notice.

### **§32-2-7 Registrant Official Determination of Exceptions**

There are some exceptions allowed as defined in Section 32-1-1(4). It is the duty of the Sex Offender to request in writing to the Registrant Official any exception for which they may be eligible. There shall be a presumption that no exception applies without a formal written request and determination by the Registrant Official.

### **§32-2-8 Administrative Review of Registrant Official Determination**

1. Administrative Review of any exception.
  - a. If the Sex Offender requests any exception not included in the order of the tribal court, the Sex Offender shall submit a formal request in writing to the Registrant Official, and after a review the Registrant Official shall determine whether or not to issue an exception.
  - b. If the Sex Offender desires to appeal the determination of their claimed exception then they may file a written request for review to the Director of Public Safety and the Tribal Attorney General to be considered by the Review Board.
2. Procedure of Administrative Review.

- a. The Sex Offender or their legal representative shall make a written request for an administrative review to the Director of Public Safety and the Attorney General.
- b. The letter of request for review to be considered must:
  - i. Be sent via US certified mail and post marked prior to the Sex Offender's first mandated in person verification as required in this chapter;
  - ii. Be notarized;
  - iii. Explain the request being made of the Review Board
  - iv. Contain a copy of the order of judgment, the order of incarceration or any other official court document detailing the date of conviction and the offense convicted. If no such documentation can be obtained, the offender must detail the steps taken to obtain the documents, certify they are unable to obtain the documents by any reasonable means and detail the conviction date and the offense committed;
  - v. Contain a copy of the statute violated resulting in registration;
  - vi. Contain a copy of all the Sex Offender's convictions of sex crimes with date of conviction and the language of the statute;
  - vii. Contain a list of all jurisdictions and point of contact in which the Sex Offender must register and the classification the Sex Offender is in that jurisdiction;
  - viii. Contain contact information of the Sex Offender;
  - ix. Contain any documents supporting the offender's request and all the documentation submitted must be verifiable, notarized, or certified copies.
3. The Review Board shall consist of the Director of the Department of Public Safety, the Attorney General or his designee, and the Tribal Background Adjudicator.
4. The Sex Offender shall have no right to attend the meeting in which their request will be reviewed.  
The Review Board shall issue a written decision regarding the request for an exception to the Sex Offender and the Registrant Official prior to the second required in person verification as required in this chapter.
5. The decision of the Review Board is an administrative function and not subject to appeal to the tribal court.

### CHAPTER 3. ZONES OF RESTRICTION

#### §32-3-1 **Prohibition Against Sex Offender Being Present in or Within a Certain Distance of Properties Utilized by Minors**

1. Unless exempted under section (2), it is unlawful for a person required to register as a Sex Offender under this Title:
  - a. to be present in any school building, on real property comprising any school, or in any conveyance owned, leased or contracted by a school to transport students to or from school or a school-related activity when persons under the age of eighteen (18) are present in the school building, on the school grounds or in the school conveyance;

- b. to be present in any building or on any real property while being utilized by any afterschool program, tribally or federally funded youth education programs including but not limited to the Starbase Atlantis program, school sports program, youth recreation league, boys and girls club; or
- c. to loiter within 150 feet of any school building or real property of a school as described under subsections (a) or (b).

2.

- a. A person required to register as a Sex Offender who is a parent or guardian of a student attending the school and who complies with subsection (3) may be present on school property if the parent or guardian is:
  - i. attending a conference at the school with school personnel to discuss the progress of the Sex Offender's child academically or socially;
  - ii. participating in child review conferences in which evaluation and placement decisions may be made with respect to the Sex Offender's child regarding special education services;
  - iii. attending conferences to discuss other student issues concerning the Sex Offender's child such as retention and promotion;
  - iv. transporting the Sex Offender's child to and from school; or
  - v. present at the school because the Sex Offender has requested to be present for an event or any other reason relating to the welfare of the child.
- b. Section (1) of this chapter shall not apply to a Sex Offender who is legally enrolled in a particular school or is enrolled in a school-sponsored educational program located at a particular school when the Sex Offender is present at that school.

3.

- a. In order to exercise the exemption under section (2), a parent or guardian who is required to register as a Sex Offender must notify the principal of the school of the Sex Offender's presence at the school unless the offender:
  - i. has written permission to be present from a school official, or
  - ii. the principal has granted ongoing permission, in writing, for regular visits of a routine nature.
- b. If permission is granted by a school official, the school official or school board president must inform the principal of the school where the Sex Offender will be present. Notification includes the nature of the Sex Offender's visit and the hours when the Sex Offender will be present in the school, and the Sex Offender is responsible for notifying the principal's office upon arrival and upon departure. If the Sex Offender is to be present in the vicinity of children, the Sex Offender has the duty to remain under the direct supervision of a school official.
- c. A Sex Offender may seek a written waiver from the Chief of this zone of restriction if they are employed by the Tribe and will be under constant supervision by an immediate supervisor provided the Sex Offender:
  - i. provides the Chief a copy of their registry information, including but not limited to the sex crime requiring registration,



- ii. certifies that their work requires them to be within the zone of restriction and their supervisor supplies a letter stating the Sex Offender's employment requires waiver of this chapter,
  - iii. obtains written permission of the Chief and gives a copy of such to the supervisor and the Registry Official,
  - iv. is not an absconder and meets all other provisions of this title, and
  - v. such waiver does not violate applicable federal or tribal law.
4. Nothing in this section shall be construed to infringe upon the constitutional right of a Sex Offender to be present in a school building that is being used as a polling place for the sole purpose of voting.

**§32-3-2 Prohibition on Offenders Residing Within Two Thousand Five Hundred Feet Within a School**

- 1. Any person since passage of this Title who has been classified as a Sex Offender shall not reside within two thousand five hundred feet (2500) of any school, which is in existence at the time the individual begins to reside at the location.
- 2. If such Sex Offender has already established a residence and a school is subsequently built or placed within two thousand five hundred (2500) feet of such person's residence, then such person shall, prior to one week of the opening of such school, notify the Department of Public Safety where such school is located that he or she is now residing within two thousand five hundred (2,500) feet of such school and shall provide verifiable proof to the Department of Public Safety that he or she resided there prior to the opening of such school.

**CHAPTER 4. EXCLUSION AND ABSCONDERS**

**§32-4-1 Nonmember Exclusion**

- 1. Any nonmember Sex Offender within the boundaries of the Choctaw Indian Reservation shall be excluded pursuant to §20-1-1(5) of this code. This section shall not preclude the nonmember's duty to register. The exclusion order shall contain the following exemptions:
  - a. To answer a summons or subpoena by the Choctaw Tribal Court;
  - b. To be a defendant in any Choctaw Tribal Court; and
  - c. Any other exemption the court deems necessary for the administration of justice.
- 2. Any nonmember Sex Offender excluded from the reservation who must return pursuant to an exemption must notify the Department of Public Safety no less than twenty-four (24) hours prior to their return to the Choctaw Indian Country.

**§32-4-2 Member Exclusion**

- 1. Any member Tier III Sex Offender convicted after passage of this Title may no longer be entitled to reside on the Choctaw Indian Reservation, as mentioned under §20-1-1, and may be excluded

from the Choctaw Indian Reservation pursuant to Title XX of this code. The exclusion order shall contain the following exemptions:

- a. to answer a summons or subpoena by the Choctaw Tribal Court;
  - b. to be a defendant in any Choctaw Tribal Court;
  - c. to attend funerals of immediate family members;
  - d. to receive medical services at the Choctaw Health Center;
  - e. to visit immediate family members admitted at Choctaw Health Center during regularly scheduled visiting hours;
  - f. to vote;
  - g. to attend school; and
  - h. any other exemption the court deems necessary for the administration of justice.
2. Any member Sex Offender excluded from the reservation who must return pursuant to an enumerated exemption must notify the Department of Public Safety no less than twenty-four (24) hours prior to their return to the Choctaw Indian Country.

### **§32-4-3 Absconders**

If any person required to register under this Title is believed to have absconded, then the Department of Public Safety shall endeavor to determine if the Sex Offender has actually absconded. If no determination can be made or the Department of Public Safety does determine that they have absconded then they shall notify the appropriate investigative law enforcement agency.

The Department of Public Safety shall update the Registry Website to show that the offender is now an absconder.

The Department of Public Safety shall seek a warrant for the arrest of the absconder through the appropriate law enforcement agency and notify the US Marshals.

The Department of Public Safety shall notify any other required registering jurisdiction and any jurisdiction that notified the Department of Public Safety of the Sex Offender.

The Department of Public Safety shall enter the Sex Offender information into the National Crime Information Center Wanted Person File.

The Department of Public Safety must update the NCIC/NSOR to reflect the Sex Offender's status as an absconder or unlocatable.

## CHAPTER 5. PUBLICATION & NOTIFICATION

### §32-5-1 Publication

The Department of Public Safety shall use and maintain the Choctaw Registry, public sex offender registry website.

1. The following information shall be made available to the public on the sex offender registry website:
  - a. Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
  - b. All sex offenses for which the sex offender has been convicted,
  - c. The sex offense(s) for which the offender is currently registered,
  - d. The address of the sex offender's employer(s),
  - e. The name of the sex offender including all aliases,
  - f. A current photograph of the sex offender,
  - g. A physical description of the sex offender,
  - h. The residential address and, if relevant, a description of a habitual residence of the sex offender,
  - i. All addresses of schools attended by the sex offender,
  - j. The sex offender's vehicle license plate number along with a description of the vehicle, and
  - k. Any other information required by the Department of Justice and information deemed necessary for the protection of the public.
2. The following information shall not be available to the public on the sex offender registry website:
  - a. Any arrest that did not result in conviction,
  - b. The sex offender's social security number,
  - c. Any travel and immigration documents,
  - d. The identity of the victim, and
  - e. Internet identifiers.

Additionally, the Department shall utilize the Exchange Portal for inter-jurisdictional change of residence, employment or student status.

3. The Choctaw registry website will contain all field search capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website and shall participate in that website as provided by the Attorney General of the United States.

4. The Choctaw registry website shall include links to sex offender safety and education resources.
5. The Choctaw registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
6. The Choctaw registry website shall include the following warning:

WARNING

*This information is made available for the purpose of protecting the public. It is not to be used for the purpose of harassing or intimidating anyone. A person who uses registry information to commit a criminal act against another person is subject to arrest and prosecution under the Choctaw Tribal Code.*

Further:

1. Individuals may obtain, for a fee, a list of registered Sex Offenders from the Tribal Department of Public Safety.
2. The Tribe may, at its discretion, publish names and/or pictures of all registered Sex Offenders in local media.
3. Records maintained pursuant to this chapter shall be open to law enforcement agencies which shall be authorized to release relevant and necessary information regarding Sex Offenders to the public.
4. Information disclosed pursuant to this subsection shall not include any information that would identify the victim.

## **§ 32-5-2 Mandatory Publication and Notification**

Within three (3) business days of receipt, the Department of Public Safety shall disclose using the Choctaw Registry website, the name, address or location, most recent photograph, if available, date of photograph, place of employment, address of school attended, vehicle description and license plate numbers, sex offense for which convicted, date and place of such conviction, hair, eye color, height, race, sex and age of any registrant, and any other information deemed necessary for the protection of the public to:

1. each school, public housing agency, and community center in each area in which the Sex Offender resides, is an employee, or is a student;
2. Social Service entities responsible for protecting minors in the child welfare system;
3. volunteer organizations in which contact with minors or other vulnerable individuals might occur;
4. any organization, company, or individual who requests such notification pursuant to procedures established by the jurisdiction;
5. to the registering authority of any jurisdiction in which a Sex Offender plans on residing, working, or going to school;
6. any jurisdiction which notifies the Department of Public Safety of a date in which it is the Sex Offender's intent to reside, work, or go to school on Choctaw Indian Country and who fails to register pursuant to this Title; and
7. any qualified entity pursuant to the National Child Protection Act of 1993, pursuant to section 5119a of Title 42 of the United States Code.

**§32-5-3            Publication to National Sex Offender Registry**

Within three (3) business days the Department of Public Safety shall provide all such information as required by the National Sex Offender Registry or other appropriate database held by the Federal Bureau of Investigation, the United States Marshals Service, or any other required federal agency. The Director of the Department of Public Safety may in his discretion provide information to any other database for the safety of the public.

**§32-5-4            Publication to Other Law Enforcement Agencies**

Within three (3) business days the Department of Public Safety shall provide all registrant information to the appropriate law enforcement agency and probation agency, if appropriate, in each area in which the Sex Offender resides, is an employee, or is a student. Online access to all registrant information is considered sufficient access.

**CHAPTER 6. IMMUNITY**

**§32-6-1            No Waiver of Immunity**

Nothing under this chapter shall be construed as a waiver of sovereign immunity for the Mississippi Band of Choctaw Indians, its departments, agencies, corporations, enterprises, employees, or agents.

**§32-6-2            Good Faith**

Any person acting under good faith of this Title shall be immune from any civil liability arising out of such actions.

**CHAPTER 7. MANDATORY CIVIL SANCTIONS**

**§32-7-1            Mandatory Civil Sanctions**

The Attorney General shall recover the costs of the Tribe and community associated with the monitoring of the Sex Offender and enforcement of this Title by filing a motion in the Tribal Civil Court to sanction a Sex Offender for each violation of a provision of this Title in the amount of five hundred dollars (\$500.00). The court shall enforce this provision by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, civil contempt and garnishment of any distribution, tribal distribution, dividends, salary or any other income.

## CHAPTER 8. CRIMINAL SANCTIONS

### §32-8-1 Failure to Register

Any person required to register under this Title within the time specified under this Title shall be guilty of a Class B offense.

### §32-8-2 Providing False or Misleading Registration Information

Any person required to register under this Title who knowingly provides false or misleading information required under §32-2-2 shall be guilty of a class B offense.

### §32-8-3 Failure to Update Registration Information

Any person required to register under this Title who fails to update their registration information in violation of §32-2-5 shall be guilty of a class B offense.

### §32-8-4 Failure to Appear for Periodic Registration

Any person required to appear for periodic in person verification under §32-2-5 and fails to comply shall be guilty of a Class B offense.

### §32-8-5 Violation of School Zone Restriction

Any Sex Offender who violates §32-3-1 is guilty of a Class A offense.

It is a defense to prosecution under this section that the Sex Offender did not know and could not reasonably know that the property or conveyance fell within the proscription of this section. Ignorance of the law is not a defense.

### §32-8-6 Violation of Residency Restrictions

Any Sex Offender who violates §32-3-2 is guilty of a Class B offense.

It is a defense to prosecution under this section that the Sex Offender did not know and could not reasonably know that the property or conveyance fell within the proscription of this section. Ignorance of the law is not a defense.

**§32-8-7 Repeat Offenders**

Any second or subsequent violation under §32-8-(1 – 6) occurring within the mandatory registration period shall be elevated to a Class A offense and the offender shall be sentenced to a mandatory minimum of thirty (30) days in detention.

**§32-8-8 Hindrance of Sex Offender Registration**

A person is guilty of a Class B offense if they:

1. knowingly harbor or knowingly attempts to harbor, or knowingly assist another person in harboring or attempting to harbor a Sex Offender who is in violation of this Title;
2. knowingly assist a Sex Offender in eluding a law enforcement agency that is seeking to find the Sex Offender to question the Sex Offender about, or to arrest the Sex Offender for, noncompliance with the requirements of this Title; or
3. provide information to a law enforcement agency regarding a Sex Offender which the person knows to be false.

**§32-8-9 Misuse of Registration Information**

A person is guilty of a Class B offense if they:

1. willfully misuse or alter public record information relating to a Sex Offender or sexual predator, or a person residing or working at an address reported by a Sex Offender, including information displayed by law enforcement agencies on web sites.
2. sale or exchange of Sex Offender information for profit.