

TITLE 7 – CRIMES

CHAPTER 3 – SEX OFFENDER REGISTRATION AND NOTIFICATION

Legislative History: Title 7 Tohono O’odham Code Chapter 3, Sex Offender Registration and Notification, was enacted and codified effective April 1, 2011 by Resolution No. 11-109. 7 T.O.C. Chapter 3 repealed Ordinance 2000-02 “Sex Offender Registration and Notification Law,” provided that violations of Ordinance 2000-02 occurring before April 1, 2011 shall be prosecuted, construed, and punished in accordance with the savings provisions of 7 T.O.C. subsection 31002(B).

Title 7 Tohono O’odham Code Chapter 3 was amended by Resolution No. 11-143 effective April 7, 2011.

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TABLE OF CONTENTS

	Purpose	1
Article I	Creation of Registries	1
Section 3101	Sex Offender Registry	1
Article II	Terminology	1
Section 3201	Definitions	1
Article III	Covered Offenses	5
Section 3301	Covered Offenses.....	5
Section 3302	Registration in Another Jurisdiction.....	8
Article IV	Registration	8
Section 3401	Required Registration	8
Section 3402	Timing of Registration.....	9
Section 3403	Retroactive Registration	9
Section 3404	Keeping Registration Current	10
Section 3405	International Travel Notification	11
Section 3406	Failure to Appear for Registration and Absconding.....	11
Article V	Required Information	12
Section 3501	General Requirements	12
Section 3502	Name.....	12
Section 3503	Physical Description	12
Section 3504	Date of Birth	13
Section 3505	Social Security	13
Section 3506	Criminal History	13
Section 3507	Picture	13
Section 3508	Residence Address.....	14
Section 3509	DNA Sample.....	14
Section 3510	Driver’s Licenses, Identification Cards, Passports, and Immigration Documents	14
Section 3511	Employment Information.....	14
Section 3512	Finger and Palm Prints.....	15
Section 3513	Internet Identifiers	15
Section 3514	Phone Numbers.....	15
Section 3515	Professional Licensing Information.....	15
Section 3516	School	15
Section 3517	Temporary Lodging.....	16

Section 3518	Offense Information.....	16
Section 3519	Vehicle Information.....	16
Article VI	Verification and Appearance Requirements.....	16
Section 3601	Timing.....	16
Section 3602	Requirements for In Person Appearances.....	16
Section 3603	Verification and Appearance Policies and Procedures.....	17
Section 3604	Reduction in Registration.....	17
Article VII	Public Sex Offender Registry Website.....	18
Section 3701	Nation’s Public Sex Offender Registry Website.....	18
Section 3702	Required and Prohibited Information.....	18
Section 3703	Community Notification.....	19
Article VIII	Sovereign Immunity.....	21
Section 3801	Sovereign Immunity; Immunity from Civil Liability.....	21
Article IX	Violations and Penalties.....	21
Section 3901	Failure to Register and Penalties.....	21
Section 3902	Hindering Sex Offender Registration.....	21
Section 3903	Exclusion.....	22
Article X	Effective Date	
Section 31001	Effective Date.....	22
Section 31002	Savings Clause.....	22

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CHAPTER 3 - SEX OFFENDER REGISTRATION AND NOTIFICATION

PURPOSE

The purpose of this Chapter is to protect public health, safety, and welfare, to enhance the Nation's existing body of laws for sex offender registration and notification, and to implement the federal Sex Offender Registration and Notification Act (SORNA) (42 U.S.C. §16901 et seq.) within the boundaries of the Tohono O'odham Nation ("Nation"). This Chapter shall be interpreted liberally to comply with the terms and conditions of that Act as presently written or hereafter amended. This Chapter supersedes and replaces Ordinance 2000-02.

ARTICLE I -- CREATION OF REGISTRIES

Section 3101 Sex Offender Registry

- (A) The Tohono O'odham Police Department shall maintain and operate a sex offender registry pursuant to the provisions of this Chapter.
- (B) The Nation hereby establishes a public sex offender registry website, which the Tohono O'odham Department of Public Safety and Tohono O'odham Police Department shall maintain and operate pursuant to the provisions of this Chapter.

ARTICLE II – TERMINOLOGY

Section 3201 Definitions

The following definitions apply to this Chapter:

- (A) Convicted. An adult sex offender is "convicted" for the purposes of this Chapter if the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled.

A juvenile offender is "convicted" for purposes of this Chapter if the juvenile offender or child offender as defined in the Nation's Children's Code is either:

- (1) Prosecuted and found guilty as an adult for a sex offense; or
- (2) Is adjudicated delinquent as a juvenile for a sex 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 either (a) or (b) of section 2241 of title 18, United States Code), or was an attempt or conspiracy to commit such an offense.

- (B) District. The term “District” means any one of the governmental subdivisions of the Nation established in accordance with Article IX of the Constitution of the Tohono O’odham Nation.
- (C) Dru Sjodin National Sex Offender Public Website (“NSOPW”). The public website maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16920.
- (D) Employee. The term “employee” includes, but is not limited to, an individual who is self-employed or works for any other person or entity, regardless of compensation. Volunteers at an agency or organization on the Nation’s Lands are included within the definition of employee for registration purposes.
- (E) Foreign Convictions. A foreign conviction is one obtained outside of the United States under the laws of Canada, the United Kingdom, Australia, New Zealand, or under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.
- (F) Immediate. “Immediate” and “immediately” mean within 24 hours.
- (G) Imprisonment. The term “imprisonment” refers to incarceration pursuant to a conviction, regardless of the nature of the institution in which the offender serves the sentence. The term is to be interpreted broadly to include, for example, confinement in a state “prison” as well as in a federal, military, foreign, Bureau of Indian Affairs, private or contract facility, or a local or tribal “jail.” Persons under “house arrest” following conviction of a covered sex offense are required to register pursuant to the provisions of this Chapter during their period of “house arrest.”
- (H) Jurisdiction. Unless context requires otherwise, the term “jurisdiction” as used in this Chapter refers to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and any Indian tribe.
- (I) Minor. The term “minor” means an individual who has not attained the age of 18 years.
- (J) Nation’s Lands. “Nation’s Lands” means all land within the exterior boundaries of:
- (1) the Sells Tohono O’odham Reservation established by the Executive Order of February 1, 1917, and the Act of February 21, 1931 (46 Stat. 1202, chapter 267);
 - (2) the San Xavier Reservation established by the Executive Order of July 1, 1874;
 - (3) the Gila Bend Indian Reservation established by the Executive Order of December 12, 1882, and modified by the Executive Order of June 17, 1909;
 - (4) the Florence Village established by Public Law 95-361 (92 Stat. 595); and
 - (5) such other lands as may have been or may hereafter be added thereto by purchase, gift, act of Congress or otherwise.

(K) National Sex Offender Registry (“NSOR”). The national database maintained by the Attorney General of the United States pursuant to 42 U.S.C. §16919.

(L) Resides. The term “reside” or “resides” means, with respect to an individual, the location of the individual's home or other place or places where the individual habitually lives or sleeps.

(M) Sex Offense. The term “sex offense” as used in this Chapter includes:

- (1) A criminal offense that has an element involving a sexual act or sexual contact with another.
- (2) A criminal offense that is a “specified offense against a minor.” The term “specified offense against a minor” means an offense against a minor that involves any of the following:
 - (a) An offense (unless committed by a parent or guardian) involving kidnapping;
 - (b) An offense (unless committed by a parent or guardian) involving false imprisonment;
 - (c) Solicitation to engage in sexual conduct;
 - (d) Use in a sexual performance;
 - (e) Solicitation to practice prostitution;
 - (f) Video voyeurism 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;
 - (i) Any conduct that by its nature is a sex offense against a minor.
- (3) A federal offense (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.
- (4) 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).
- (5) An attempt or conspiracy to commit an offense described in clauses (1) through (4).
- (6) A foreign conviction is not a sex offense for the purposes of this Chapter unless it was either:

(a) obtained under the laws of Canada, the United Kingdom, Australia, New Zealand; or

(b) under the laws of any foreign country when the United States State Department in its Country Reports on Human Rights Practices has concluded that an independent judiciary generally or vigorously enforced the right to a fair trial in that country during the year in which the conviction occurred.

(7) a violation of the Tohono O'odham Criminal Code, Chapter 9, "Sexual and Related Offenses," or any conviction for attempt, conspiracy, or aiding and abetting such an offense.

(N) Sex Offender. A person convicted of a covered sex offense is a "sex offender."

(O) Sexual Act. The term "sexual act" means:

(1) 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;

(2) contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;

(3) 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

(4) the intentional or reckless 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.

(P) Sexual Contact. The intentional or reckless 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.

(Q) Student. A "student" is a person who enrolls in or attends either a private or public education institution, including a secondary school, trade or professional school, or an institution of higher education.

(R) SORNA. The Sex Offender Registration and Notification Act (Title I of the Adam Walsh Child Protection and Safety Act of 2006 Pub. L. 109-248), 42 U.S.C. §16911 *et. seq.*, as amended.

(S) Sex Offender Registry. The term "sex offender registry" means the Nation's registry of sex offenders and notification program maintained by the Tohono O'odham Police Department.

(T) SMART Office. The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, which was established within the United States Department of Justice under the general authority of the Attorney General of the United States pursuant to 42 U.S.C. §16945.

(U) Tohono O’odham Police Department. The Nation’s law enforcement department under the Nation’s Department of Public Safety.

ARTICLE III – COVERED OFFENSES

Section 3301 Covered Offenses

Individuals convicted of any of the following offenses, or convicted of an attempt or conspiracy to commit any of the following offenses, are subject to the requirements of this Chapter and must register with the Tohono O’odham Police Department within 24 hours of entering the Nation’s Lands:

(A) Tribal Offenses:

(1) a violation of the Tohono O’odham Criminal Code, Chapter 9, “Sexual and Related Offenses,” or any conviction for attempt, conspiracy, or aiding and abetting of the following offenses:

- (a) Section 9.1, Sexual Assault;
- (b) Section 9.2, Sexual Abuse;
- (c) Section 9.3, Sexual Conduct with a Minor (Statutory Rape);
- (d) Section 9.4, Incest;
- (e) Section 9.5, Indecent Exposure;
- (f) Section 9.6, Child Molesting;
- (g) Section 9.7, Prostitution;
- (h) Section 9.8, Soliciting for Prostitution;
- (i) Section 9.9, Patronizing for Prostitution;
- (j) Section 9.10, Receiving the Proceeds of Prostitution;
- (k) Section 9.11, Causing or Taking a Child for Purposes of Prostitution;
- (l) Section 9.12, Possession of Obscene Materials;
- (m) Section 9.13, Furnishing Obscene Materials; and
- (n) Section 9.14, Seizure of Obscene Materials.

(2) a conviction in a tribal jurisdiction of a sex offense.

(B) Federal Offenses:

A conviction for any of the following, and any other offense hereafter included in the definition of “sex offense” at 42 U.S.C. §16911(5):

- (1) 18 U.S.C. §1591 (sex trafficking of children);
- (2) 18 U.S.C. §1801 (video voyeurism of a minor);
- (3) 18 U.S.C. §2241 (aggravated sexual abuse);
- (4) 18 U.S.C. §2242 (sexual abuse);
- (5) 18 U.S.C. §2243 (sexual abuse of a minor or ward);
- (6) 18 U.S.C. §2244 (abusive sexual contact);
- (7) 18 U.S.C. §2245 (offenses resulting in death);
- (8) 18 U.S.C. §2251 (sexual exploitation of children);
- (9) 18 U.S.C. §2251A (selling or buying of children);
- (10) 18 U.S.C. §2252 (material involving the sexual exploitation of a minor);
- (11) 18 U.S.C. §2252A (material containing child pornography);
- (12) 18 U.S.C. §2252B (misleading domain names on the Internet);
- (13) 18 U.S.C. §2252C (misleading words or digital images on the Internet);
- (14) 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the U.S.);
- (15) 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity);
- (16) 18 U.S.C. §2422 (coercion and enticement of a minor for illegal sexual activity);
- (17) 18 U.S.C. §2423 (transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual conduct with a minor, engaging in illicit sexual Conduct in foreign places);
- (18) 18 U.S.C. §2424 (failure to file factual statement about an alien individual);
- (19) 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

(C) Foreign Offenses:

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

(D) 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).

(E) Juvenile Offenses or Adjudications:

Any sex offense, or attempt or conspiracy to commit a sex offense, that is comparable to or more severe than the federal crime of aggravated sexual abuse (as codified in 18 U.S.C. §2241) and committed by a minor who is 14 years of age or older at the time of the offense. This includes engaging in a sexual act with another by force or the threat of serious violence; or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim.

(F) Jurisdiction Offenses:

Any sex offense committed in any jurisdiction that involves:

- (1) Any type or degree of genital, oral, or anal penetration;
- (2) Any sexual touching of or sexual contact with a person's body, either directly or through the clothing;
- (3) Kidnapping of a minor;
- (4) False imprisonment of a minor;
- (5) Solicitation to engage a minor in sexual conduct understood broadly to include any direction, request, enticement, persuasion, or encouragement of a minor to engage in sexual conduct;
- (6) Use of a minor in a sexual performance;
- (7) Solicitation of a minor to practice prostitution;
- (8) Possession, production, or distribution of child pornography;
- (9) Criminal sexual conduct that involves physical contact with a minor or the use of the Internet to facilitate or attempt such conduct. This includes offenses whose elements involve the use of other persons in prostitution, such as pandering, procuring, or pimping in cases where the victim was a minor at the time of the offense;

- (10) Any conduct that by its nature is a sex offense against a minor; or
- (11) Any offense similar to those outlined in:
 - (a) 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion);
 - (b) 18 U.S.C. §1801 (video voyeurism of a minor);
 - (c) 18 U.S.C. §2241 (aggravated sexual abuse);
 - (d) 18 U.S.C. §2242 (sexual abuse);
 - (e) 18 U.S.C. §2244 (abusive sexual contact);
 - (f) 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution); or
 - (g) 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

(G) Sex Offense:

Any sex offense as defined in Section 3201(M).

Section 3302 Registration in Another Jurisdiction

Any person already registered in another jurisdiction for a sex offense shall register with the Tohono O’odham Police Department immediately upon entry of the Nation’s Lands.

ARTICLE IV – REGISTRATION

Section 3401 Required Registration

- (A) A sex offender shall register with the Tohono O’odham Police Department within 24 hours of entering the Nation’s Lands.
- (B) A sex offender within the Nation’s Lands shall immediately register with the Tohono O’odham Police Department.
- (C) A sex offender must initially register with the Tohono O’odham Police Department if the sex offender was convicted by the Tohono O’odham Judicial Court of a covered sex offense regardless of the sex offender’s actual or intended residency.
- (D) A sex offender must register with the Tohono O’odham Police Department if the sex offender is incarcerated by the Nation while completing any sentence for a covered sex offense, regardless of whether it is the same jurisdiction as the jurisdiction of conviction or residence.

Section 3402 Timing of Registration

(A) A sex offender required to register with the Nation under this Chapter shall do so in the following timeframe:

- (1) Within 24 hours of entering the Nation's Lands, a sex offender must register with the Tohono O'odham Police Department.
- (2) If convicted by the Tohono O'odham Nation for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration.
- (3) If convicted by the Tohono O'odham Nation but not incarcerated, the sex offender must register within 24 hours of sentencing for the registration offense.

(B) When a sex offender reenters the justice system due to any criminal allegations, the sex offender must register immediately following notification that registration is required based upon the offender's prior convictions for covered sex offenses.

(C) The Tohono O'odham Police Department shall have policies and procedures in place to ensure the following:

- (1) That any sex offender incarcerated or sentenced by the Nation for a covered sex offense completes their initial registration with the Nation;
- (2) That the sex offender reads, or has read to them, and signs an acknowledgement form stating that the duty to register has been explained to them and that the sex offender understands the registration requirement;
- (3) That the sex offender is registered; and
- (4) That upon entry of the sex offender's information into the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.

Section 3403 Retroactive Registration

(A) The Tohono O'odham Police Department shall adopt policies and procedures to ensure the following three categories of sex offenders are subject to the registration and updating requirements of this Chapter:

- (1) Sex offenders incarcerated or under the supervision of the Nation, whether for a covered sex offense or other crime;
- (2) Sex offenders already registered or subject to a pre-existing sex offender registration requirement under the Nation's laws; and

(3) Sex offenders reentering the justice system due to any formal allegations for any crime.

(B) The Tohono O'odham Police Department shall ensure registration of the sex offenders identified in this Section within one year from the enactment date of this Chapter.

Section 3404 Keeping Registration Current

(A) All sex offenders registered in the Nation's Sex Offender Registry who live, work, or attend school within the Nation's Lands shall immediately appear in person at the Tohono O'odham Police Department to update any changes to their name, employment, or permanent residence. This includes termination of employment or residency.

(B) All sex offenders registered in the Nation's Sex Offender Registry shall immediately inform the Tohono O'odham Police Department in writing of any changes to their temporary residence information, motorized vehicle information, e-mail and all other Internet identifiers, any numbers associated with any communication device, or telephone numbers. In the event of a change in temporary residence, the sex offender and Tohono O'odham Police Department shall immediately notify the jurisdiction in which the sex offender will be temporarily staying.

(C) A sex offender who is a student in any capacity within the Nation's Lands who changes his or her school, or otherwise terminates his or her schooling, shall immediately appear in person to update that information.

(D) If the location, i.e. campus, but not the school of the sex offender's attendance changes, the sex offender must notify the Tohono O'odham Police Department in writing.

(E) A sex offender who is employed by the Nation in any capacity or otherwise is employed within the Nation's Lands that changes his or her employment, or otherwise terminates his or her employment, shall immediately appear in person at the Tohono O'odham Police Department to update that information.

(F) If the location, i.e., worksite, of a sex offender's employment changes but not the employer, the sex offender must immediately notify an appropriate official at the Tohono O'odham Police Department by telephone of the change.

(G) With regard to changes in a sex offender's registration information, with the exception of changes to the location of employment or school campus within the Nation's Lands as described in subsections (D) and (F), the Tohono O'odham Police Department or authorized designee shall utilize the SORNA Exchange Portal to immediately notify:

(1) Each jurisdiction in which the sex offender is required to register, or was required to register prior to the updated information being given, are immediately notified of the change; and

(2) All jurisdictions where a sex offender intends to reside, work, or attend school.

Section 3405 International Travel Notification

- (A) If a sex offender registered and residing on the Nation’s Lands intends to travel outside the United States, the sex offender shall notify the Tohono O’odham Police Department by advance written notice at least 21 days in advance of the intended travel.
- (B) Once the sex offender provides advance written notice of intended travel outside the United States, the Tohono O’odham Police Department shall inform the U.S. Marshals Service, and must transmit or make available the international travel information to national databases, law enforcement and supervision agencies, and other jurisdictions.
- (C) The Tohono O’odham Police Department shall enact and implement policies and procedures in accordance with this Section.

Section 3406 Failure to Appear for Registration and Absconding

- (A) In the event a sex offender fails to register with the Nation as required by this Chapter, the Tohono O’odham Police Department shall immediately inform the jurisdiction that provided notification that the sex offender was to enter the Nation’s Lands that the sex offender failed to appear for registration.
- (B) If the Tohono O’odham Police Department receives information that a sex offender has absconded, the Tohono O’odham Police Department shall make an effort to determine if the sex offender has actually absconded.
- (C) In the event no determination can be made, the Tohono O’odham Police Department shall ensure that the Nation’s members and any appropriate law enforcement agency are notified.
- (D) If the information indicating the possible absconding came through notice from another jurisdiction or federal authorities, they shall be informed that the sex offender has failed to appear and register.
- (E) If an absconded sex offender cannot be located then the Tohono O’odham Police Department shall take the following steps:
 - (1) Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located;
 - (2) Notify the U.S. Marshals Service;
 - (3) Seek a warrant for the sex offender’s arrest. The U.S. Marshals Service or FBI may be contacted in an attempt to obtain a federal warrant, if necessary, for the sex offender’s arrest;
 - (4) Update the NSOR to reflect the sex offender’s status as an absconder, or is otherwise not capable of being located; and

(5) Enter the sex offender into the National Crime Information Center Wanted Person File.

(F) In the event a sex offender who is required to register fails to do so, the Tohono O'odham Police Department shall take all appropriate follow-up measures including those outlined in this Section. The Tohono O'odham Police Department shall first make an effort to determine if the sex offender is actually within the Nation's Lands.

ARTICLE V – REQUIRED INFORMATION

Section 3501 General Requirements

(A) Pursuant to Article IV, a sex offender shall register with the Tohono O'odham Police Department within 24 hours of entering the Nation's Lands and provide all of the information detailed in this Article to the Tohono O'odham Police Department.

(B) The Tohono O'odham Police Department or authorized designee shall obtain all of the information detailed in this Article from the sex offender and shall implement the Department's relevant policies and procedures in compliance with this Chapter.

(C) All information obtained under this Chapter shall be, at a minimum, maintained by the Tohono O'odham Police Department in a digitized format.

(D) A sex offender registry shall be maintained in an electronic database by the Tohono O'odham Police Department and shall be in a form capable of electronic transmission.

Section 3502 Name

The Tohono O'odham Department Police Department shall obtain, and a sex offender shall provide, the following information related to the sex offender's name:

(A) The sex offender's full primary legal name;

(B) Any and all current and former names, nicknames, aliases, and any fictitious names used by the sex offender, regardless of the context in which it is used; and

(C) Any and all ethnic or tribal names by which the sex offender is commonly known. This does not include any religious or sacred names not otherwise commonly known.

Section 3503 Physical Description

The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, an accurate description of the sex offender as follows:

(A) A physical description;

- (B) A general description of the sex offender's physical appearance or characteristics; and
- (C) Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

Section 3504 Date of Birth

The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, the following information related to the sex offender's date of birth:

- (A) The sex offender's actual date of birth; and
- (B) Any other date of birth used by the sex offender.

Section 3505 Social Security

The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, the following information:

- (A) A valid social security number for the sex offender; and
- (B) Any social security number the sex offender has used in the past, valid or otherwise.

Section 3506 Criminal History

The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, the following information related to the sex offender's criminal history:

- (A) The date of all arrests;
- (B) The date of all convictions;
- (C) Any civil violations or judgments;
- (D) The sex offender's status of parole, probation, or supervised release;
- (E) The sex offender's registration status;
- (F) Any contact with any law enforcement; and
- (G) Any outstanding arrest warrants.

Section 3507 Picture

The Tohono O'odham Department Police Department shall obtain, and a sex offender shall provide, a current photograph of the sex offender.

Section 3508 Residence Address

The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, the following information related to the sex offender's residence:

- (A) The address of each residence at which the sex offender currently resides or will reside; and
- (B) Any location or description that identifies where the sex offender habitually resides regardless of whether it pertains to a permanent residence or location otherwise identifiable by a street or address.

Section 3509 DNA Sample

- (A) If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the Tohono O'odham Police Department or authorized designee a sample of his DNA.
- (B) Any DNA sample obtained from a sex offender shall be submitted to an appropriate lab for analysis and entry of the resulting DNA profile into CODIS.

Section 3510 Driver's Licenses, Identification Cards, Passports, and Immigration Documents

- (A) The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, a photocopy of all of the sex offender's driver's licenses issued by any jurisdiction.
- (B) The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, a photocopy of any identification card issued by any jurisdiction.
- (C) The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, a photocopy of any and all tribal enrollment cards.
- (D) The Tohono O'odham Police Department shall obtain, and a sex offender shall provide a photocopy of any passports used by the sex offender.
- (E) The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, a photocopy of any and all immigration documents.

Section 3511 Employment Information

The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, the following information related to the sex offender's employment:

- (A) Any and all places where the sex offender is employed in any means including volunteer and unpaid positions:

- (B) The name of any and all the sex offender's employers;
- (C) The addresses and phone numbers of the sex offender's employers; and
- (D) Similar contact information related to any transient or day labor employment.

Section 3512 Finger and Palm Prints

The Tohono O'odham Police Department or authorized designee shall obtain, and a sex offender shall provide, both finger prints and palm prints of the sex offender in a latent ink and digitized format.

Section 3513 Internet Identifiers

The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, the following information related to the sex offender's Internet related activity:

- (A) Any and all e-mail addresses of the sex offender;
- (B) Any and all Instant Message addresses and identifiers of the sex offender;
- (C) Any and all other designations or monikers used for self-identification in Internet communications or postings of the sex offender; and
- (D) Any and all designations used by the sex offender for the purpose of routing or self-identification in Internet communications or postings of the sex offender.

Section 3514 Phone Numbers

The Tohono O'odham Department Police Department shall obtain, and a sex offender shall provide, the following information related to the sex offender's telephone numbers:

- (A) Any and all land line telephone numbers used by the sex offender;
- (B) Any and all cellular telephone numbers used by the sex offender; and
- (C) Any and all electronic communication devices used by the sex offender.

Section 3515 Professional Licensing Information

The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, all licensing information of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

Section 3516 School

The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, the name and address of each school where the sex offender is or will be a student.

Section 3517 Temporary Lodging

The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, the following information when the sex offender will be absent from his residence for 24 hours or more:

- (A) Identifying information of the temporary lodging locations including addresses and names;
- (B) The dates the sex offender will be staying at each temporary lodging location.

Section 3518 Offense Information

The Tohono O'odham Police Department shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered.

Section 3519 Vehicle Information

The Tohono O'odham Police Department shall obtain, and a sex offender shall provide, the following information related to all motorized vehicles owned or operated by the sex offender for work or personal use including land vehicles, aircraft, and watercraft:

- (A) License plate numbers;
- (B) Registration numbers or identifiers;
- (C) General description of the vehicle to include color, make, model, and year; and
- (D) Any permanent or frequent location where any covered vehicle is kept.

ARTICLE VI – VERIFICATION AND APPEARANCE REQUIREMENTS

Section 3601 Timing

A sex offender shall, at a minimum, appear in person at the Tohono O'odham Police Department for purposes of verification and keeping his or her registration current once every 90 days for the rest of his or her life.

Section 3602 Requirements for In Person Appearances

- (A) At each in person verification, the sex offender shall permit the Tohono O'odham Police Department to take a photograph of the offender.

- (B) If a sex offender dramatically alters his or her appearance in any shape or form, the sex offender shall immediately report to the Tohono O’odham Police Department to update the information required under Article V of this Chapter.
- (C) At each in person verification, the sex offender shall review existing information for accuracy.
- (D) At each in person verification, the sex offender shall provide any of the requirements under Article V if the Tohono O’odham Police Department requires an update.
- (E) If any new information or change in information is obtained at an in person verification, the Tohono O’odham Department Police Department shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.

Section 3603 Verification and Appearance Policies and Procedures

- (A) Within 90 days of this Chapter’s enactment, the Tohono O’odham Police Department shall develop and implement policies and procedures in compliance with this Article.
- (B) The policies and procedures for verification and in person appearances shall include:
 - (1) a procedure for sex offenders unable to appear in person due to hospitalization or severe health issues to submit verification information by another means; and
 - (2) a procedure for sex offenders registered in another jurisdiction who have not entered the Nation’s Lands for more than a year and who do not intend to enter the Nation’s Lands to submit verification information by another means other than in person appearances.

Section 3604 Reduction in Registration

- (A) A sex offender may have their period of registration reduced as follows:
 - (1) An offender may have his or her period of registration reduced to 20 years if he or she was adjudicated delinquent for a covered sex offense as a juvenile that required registration and he or she has maintained a clean record for 20 consecutive years.
 - (2) For purposes of this Section, juveniles registered pursuant to this Chapter shall be precluded from expunging their juvenile records of sexual offense convictions.
- (B) For purposes of this Section, a person has a clean record if:
 - (1) He or she has not been convicted of any offense, for which imprisonment for more than 90 days may be imposed;
 - (2) He or she has not been convicted of any sex offense;

- (3) He or she has successfully completed, without revocation, any period of supervised release, probation, or parole; and
- (4) He or she has successfully completed an appropriate sex offender treatment program certified by the Nation, another jurisdiction, or by the Attorney General of the United States.

ARTICLE VII – PUBLIC SEX OFFENDER REGISTRY WEBSITE

Section 3701 Nation’s Public Sex Offender Registry Website

- (A) The Tohono O’odham Police Department shall use and maintain the Nation’s public sex offender registry website.
- (B) The Nation’s public sex offender registry website shall include links to sex offender safety and education resources.
- (C) The Nation’s public sex offender registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
- (D) The Nation’s public sex offender registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.
- (E) The Nation’s public sex offender registry website shall have the capability of conducting searches by (1) name; (2) county, city, town, district, village and community; and, (3) zip code and/or geographic radius.
- (F) The Nation shall include in the design of its website 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.
- (G) Nothing in this section precludes the Tohono O’odham Police Department from adding to and amending the website in compliance with the requirements of this Chapter.
- (H) If there are any substantive changes to the website, the Tohono O’odham Police Department shall first provide written notice to the Tohono O’odham Legislative Council.

Section 3702 Required and Prohibited Information

- (A) The following information shall be made available to the public on the Nation’s sex offender registry website:
 - (1) Notice that an offender is in violation of registration requirements or cannot be located if the sex offender has absconded;

- (2) All sex offenses for which the sex offender has been convicted;
- (3) The sex offense(s) for which the offender is currently registered;
- (4) The address of the sex offender's employer(s) and worksites;
- (5) The name of the sex offender including all aliases and nicknames;
- (6) A current photograph of the sex offender;
- (7) A physical description of the sex offender;
- (8) The residential address and, if relevant, a description of a habitual residence of the sex offender;
- (9) All addresses of schools attended by the sex offender; and
- (10) The sex offender's vehicle license plate number along with a description of the vehicle.

(B) The following information shall not be available to the public on the sex offender registry website:

- (1) Any arrest that did not result in conviction;
- (2) The sex offender's social security number;
- (3) Any travel and immigration documents;
- (4) The identity of the victim; and
- (5) Internet identifiers (as defined in 42 U.S.C. §16911).

(C) For sex offenders who are under a witness protection program, the Tohono O'odham Police Department may honor the request of the United States Marshals Service or other agency responsible for witness protection by not including the original identity of the offender on the publicly accessible sex offender registry website.

Section 3703 Community Notification

(A) Whenever a sex offender registers or updates his or her information with the Nation, the Tohono O'odham Police Department shall:

- (1) Immediately notify the FBI or other federal agency as designated by the United States Attorney General in order that the information may be updated on NSOR or other relevant databases.

- (2) Immediately notify any agency, department, or program within the Nation that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision or treatment functions.
- (3) Immediately notify any and all other registration jurisdictions where the sex offender is registered due to the sex offender's residency, school attendance, or employment.
- (4) Immediately notify National Child Protection Act agencies, which includes any agency responsible for conducting employment-related background checks under section 3 of the National Child Protection Act of 1993 (42 U.S.C. 5119a) when a sex offender registers or updates registration.

(B) The Tohono O'odham Police Department shall ensure there is an automated community notification process in place that ensures the following:

- (1) Upon a sex offender's registration or update of information with the Nation, the Nation's public sex offender registry website is immediately updated.
- (2) The Nation's public sex offender registry has a function that enables the general public to request an e-mail notice that will notify them when a sex offender registers with the Tohono O'odham Police Department within a specified zip code, or within a certain geographic radius. This e-mail notice shall include the sex offender's identity so that the public can access the public registry for the new information.
- (3) Within 24 hours of receiving registration information, the Tohono O'odham Police Department shall distribute registration information including the offender's photograph, address, and summary of the offender's status and criminal background to the victim, public, local publications and/or media, current and prospective employers, if known, to all Districts.
- (4) Registration information shall be distributed by the Tohono O'odham Police Department or authorized designee and shall be available to the public at the Tohono O'odham Justice Center, Police Department and substations, Tohono O'odham Administration Building, District Offices, agencies, and all schools on or near the Tohono O'odham Nation.
- (5) The Tohono O'odham Police Department enforcement officers may use any additional means to make community notification of circumstances or persons that may pose a danger to the community or its members.
- (6) The Tohono O'odham Police Department shall register all sex offenders' convictions and warrants into the National Crime Information Center database. The Tohono O'odham Police Department is authorized to share registration information with any law enforcement agency.

ARTICLE VIII – SOVEREIGN IMMUNITY

Section 3801 Sovereign Immunity; Immunity from Civil Liability

- (A) Nothing under this Chapter shall be construed as a waiver of sovereign immunity for the Tohono O'odham Nation, its departments, agencies, employees, or agents.
- (B) Any person acting in good faith of this Article shall be immune from any civil liability arising out of such actions.

ARTICLE IX – VIOLATIONS AND PENALTIES

Section 3901 Failure to Register and Penalties

- (A) Any person required to register under this Chapter and who fails to register as required constitutes a per se violation of this Chapter.
- (B) Any person under the criminal jurisdiction of the Nation who fails to register as required by this Chapter shall be sentenced to the following:
 - (1) Imprisonment in jail for not less than 180 days nor more than one year and a fine not to exceed \$2500 for each offense.
 - (2) Any person found guilty of failure to register shall not be eligible for concurrent sentencing, suspension or commutation of sentence, probation, pardon, parole or release on any other basis.
 - (3) The sentencing court may impose any additional penalties or remedies or order any equitable relief it deems necessary.
- (C) Each violation of a provision of this Chapter by a sex offender who is not an Indian shall be considered a civil violation subject to enforcement by any means not prohibited by federal law, including, but not limited to the issuance of fines, forfeitures, and civil contempt.

Section 3902 Hindering Sex Offender Registration

- (A) A person is guilty of an offense if he or she:
 - (1) Knowingly harbors or knowingly attempts to harbor, or knowingly assists another person in harboring or attempting to harbor a sex offender who is in violation of this Chapter;
 - (2) Knowingly assists 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 Chapter; or

(3) Provides information to law enforcement agency regarding a sex offender which the person knows to be false.

(B) A person found guilty of any of the offenses under this Section shall be sentenced to the following:

(1) Imprisonment in jail for not less than 90 days nor more than 180 days and a fine not to exceed \$1250 for each offense.

(2) The sentencing court may impose any additional penalties or remedies or order any equitable relief it deems necessary.

Section 3903 Exclusion

Any person who is not an enrolled member of the Tohono O’odham Nation and who is required to register under this Chapter shall be subject to permanent exclusion for failing to register as required by this Chapter.

ARTICLE X- EFFECTIVE DATE

Section 31001 Effective Date

This Chapter shall become effective on the first date of the month following enactment by the Legislative Council and approval by the Nation’s Chairperson.

Section 31002 Savings Clause

(A) The enactment of this Chapter shall govern the registration, notification, and punishment for any violations of this Chapter committed on or after the effective date of this Chapter.

(B) The enactment of this Chapter does not apply to or govern the registration, notification, or construction of, or punishment for any violation committed before the effective date of the enactment, or the construction and application of any defense to a prosecution for such a violation. A violation occurring prior to the enactment of this Chapter shall be prosecuted, construed, and punished according to the provisions of law existing at the time of commission, regardless of the actual date of prosecution and sentencing, and in the same manner as if this Chapter had not been enacted.