

OMAHA TRIBAL CODE (2013)

TITLE 17. OMAHA TRIBAL SEX OFFENDER REGISTRATION CODE

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CHAPTER 1. GENERAL MATTERS

SECTION 17-1-1. Title.

This Code shall be known as the Omaha Tribal Sex Offender Registration Code.

SECTION 17-1-2. Purpose.

The intent of this code is to implement the federal Sex Offender Registration and Notification Act (SORNA) (Title I of Public Law 109-248) and provide for Tribal enforcement of SORNA requirements and protection to the residents of the Omaha Tribal Reservation. This shall be interpreted liberally to comply with the terms and conditions of SORNA as presently written or hereafter amended.

SECTION 17-1-3. Need.

Violent crime in Indian Country is more than twice the national average. On some reservations it is twenty times the national average. An astounding thirty percent of Indian and Alaska Native women will be raped in their lifetimes. Tribal nations are disproportionately affected by violent crime and sex offenses in particular from both Indian and non-Indian perpetrators; consequently, the conduct and presence of convicted sex offenders in Indian Country threatens the political integrity, economic security, health and welfare of tribal nations even to the point of imperiling the subsistence of tribal communities.

SECTION 17-1-4. Creation of Registries.

(a) Sex Offender Registry. There is hereby established a sex offender registry, which the Omaha Nation Law Enforcement Services shall maintain and operate pursuant to the provisions of this code, as amended.

(b) Public Sex Offender Registry Website. There is hereby established a public sex offender registry website, which the Omaha Nation Law Enforcement Services shall maintain and operate pursuant to the provisions of this code, as amended.

CHAPTER 2. TERMINOLOGY AND COVERED OFFENSES

SECTION 17-2-1. Definitions.

The Definitions below apply to this Code only.

(a) Convicted. An sex offender is “convicted” for the purposes of this code if the sex offender has been subjected to penal consequences based on the conviction, however the conviction may be styled. This is either an adult, or minor who is “convicted” prosecuted and found guilty as an adult for a sex offense; or is adjudicated delinquent as a juvenile for a sex offense.

(b) Foreign Convictions. A foreign conviction is one obtained outside of the United States.

(c) Employee. The term “employee” as used in this code includes, but is not limited to, an individual who is self-employed or works for any other entity, regardless of compensation. Volunteers of a tribal agency or organization are included within the definition of employee for registration purposes.

(d) Immediate. “Immediate” and “immediately” mean within 3 business days.

(e) 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, BIA, 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 code during their period of “house arrest”.

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(f) Jurisdiction. The term “jurisdiction” as used in this code 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.

(g) Minor. The term “minor” means an individual who has not attained the age of 18 years.

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

(i) Sex Offense. The term “sex offense” as used in this code includes those offenses contained in 42 U.S.C. §16911(5) and those offenses enumerated in Section 17-2-2 of this Code/Title or any other covered offense under tribal law.

(j) Sex Offender. A person convicted of a sex offense is a “sex offender”, this shall be all persons whether they meet any Federal or Tribal definition of “Indian”. This code shall specifically apply to all persons residing within the exterior boundaries of the Omaha Tribal Reservation.

(k) Sexual Act. The term “sexual act” means any act which is so defined under the covered offenses enumerated in Section 17-2-2 under relevant Federal, Tribal, State or Foreign Jurisdiction.

(l) Sexual Contact. The term “sexual contact” means any act which is so defined under the covered offenses enumerated in Section 17-2-2 under relevant Federal, Tribal, State or Foreign Jurisdiction.

(m) 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.

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

(o) Sex Offender Registry. The term “sex offender registry” means the registry of sex offenders, and a notification program, maintained by The Omaha Nation Law Enforcement Services.

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

(q) 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.

(r) 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.

(s) “Tier 1 Sex Offender”. A “tier 1 sex offender”, or a “sex offender” designated as “tier 1”, is one that has been convicted of a “tier 1” sex offense as defined in section 17-3-1.

(t) “Tier 2 Sex Offender”. A “tier 2 sex offender”, or a “sex offender” designated as “tier 2”, is one that has been either convicted of a “tier 2” sex offense as defined in section 17-3-2, or who is subject to the recidivist provisions of 17-3-2(A).

(u) “Tier 3 Sex Offender”. A “tier 3 sex offender”, or a “sex offender” designated as “tier 3”, is one that has been either convicted of a “tier 3” sex offense as defined in section 17-3-3, or who is subject to the recidivist provisions of 17-3-3(A).

SECTION 17-2-2. Covered Offenses.

Individuals who reside within the exterior boundaries of the reservation or otherwise reside on property owned by the tribe in fee or trust regardless of location, are employed within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location, or who attend school within the exterior boundaries of the reservation or on property owned by the tribe in fee or trust regardless of location, or who remains on or may be found within the exterior boundaries of the Omaha Tribal Reservation for more than six (6) hours or more than one (1) hour after sundown and during the hours of darkness, which ever duration is less, that have been convicted of any of the following offenses, or

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convicted, are subject to the requirements of this code:

(a) Attempts and Conspiracy. A conviction for an attempt or conspiracy to commit any of the following offenses is a covered 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 (Mann Act),
- (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 adjudicated to have been committed by a minor.

(f) Tribal Offenses. The following are the covered offenses under the Omaha Tribal Code:

- (1) §5-4-138 Promoting Commercial or Illicit Sexual Commerce or Conduct
- (2) §5-4-139 Aggravated Sexual Assault
- (3) §5-4-140 Sexual Assault
- (4) §5-4-141 Sexual Conduct with a Minor

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- (5) §5-4-142 Sexual Exploitation of a Minor
- (6) §5-4-143 Voyeurism
- (7) §5-4-144 Indecent Exposure
- (8) §11-2-1(b) Domestic Abuse
- (9) §13-2-1(b) Physical Abuse of Vulnerable Adult
- (10) §5-4-12 Kidnapping (if specifically ordered by Court following a finding of a sexual component)
- (11) §5-4-13 False Imprisonment (if specifically ordered by Court following a finding of a sexual component)
- (12) §11-2-4 Stalking (if specifically ordered by Court following a finding of a sexual component)
- (13) §5-4-153 Incest (if specifically ordered by Court following a finding that the victim was a minor)

CHAPTER 3. TIERED OFFENSES

SECTION 17-3-1. Tier 1 Offenses.

- (a) Sex Offenses. A “Tier 1” offense includes an offense defined as an offense subjecting the offender to requirements for registry pursuant to the Omaha Tribal Sex Offender Registration Code, for which a person has been convicted, or an attempt or conspiracy to commit such an offense, that is not a “Tier 2” or “Tier 3” offense.
- (b) Offenses Involving Minors. A “Tier 1” offense also includes any offense for which a person has been convicted by any jurisdiction, local government, or qualifying foreign country pursuant to Section 17-2-2(C) that involves the false imprisonment of a minor, video voyeurism of a minor, or possession or receipt of child pornography.
- (c) Tribal Offenses. The following Tribal Offenses shall be Tier 1 offenses:
 - (1) §5-4-138(a)(1) Promoting Commercial or Illicit Sexual Commerce or Conduct
 - (2) §5-4-142(a)(3)(4) Sexual Exploitation of a Minor
 - (3) §5-4-143 Voyeurism
 - (4) §5-4-144(b) Indecent Exposure (Class B offense)
 - (5) §11-2-4 Stalking (if specifically ordered by Court following a finding of a sexual component)
- (d) Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a “Tier 1” 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),

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- (8) 18 U.S.C. §2423(c) (engaging in illicit conduct in foreign places),
- (9) 18 U.S.C. §2424 (filing factual statement about an alien individual), or
- (10) 18 U.S.C. §2425 (transmitting information about a minor to further criminal sexual conduct).

(e) 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 17-3-1(A),(B), or (C) shall be considered a “Tier 1” offense.

SECTION 17-3-2. Tier 2 Offenses.

(a) Recidivism and Felonies. Unless otherwise covered by Section 17-3-3, any covered sex offense that is not the first covered sex offense for which a person has been convicted and that is a Class A offense is considered a “Tier 2” offense.

(b) Tribal Offenses. The following Tribal Offenses shall be Tier 2 offenses:

- (1) §5-4-138(a)(2)(3)(4) Promoting Commercial or Illicit Sexual Commerce or Conduct
- (2) §5-4-140 Sex Assault (except §5-4-140(2)(b)(7))
- (3) §5-4-141 Sexual Conduct with a Minor
- (4) §5-4-142(a)(1)(2) Sexual Exploitation of a Minor
- (5) §11-2-1(b) Domestic Abuse
- (6) §13-2-1(b) Physical Abuse of a Vulnerable Adult
- (7) §5-4-13 False Imprisonment (if specifically ordered by Court following a finding of a sexual component)
- (8) §5-4-153 Incest (if specifically ordered by Court following a finding that the victim was a minor)

(c) Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered a conviction for a “Tier 2” offense:

- (1) 18 U.S.C. §1591 (sex trafficking by force, fraud, or coercion),
- (2) 18 U.S.C. §2243 (sexual abuse of a minor or ward),
- (3) 18 U.S.C. §2244 (Abusive sexual contact, where the victim is 13 years of age or older),
- (4) 18 U.S.C. §2251 (sexual exploitation of children),
- (5) 18 U.S.C. §2251A (selling or buying of children),
- (6) 18 U.S.C. §2252 (material involving the sexual exploitation of a minor),
- (7) 18 U.S.C. §2252A (production or distribution of material containing child pornography),
- (8) 18 U.S.C. §2260 (production of sexually explicit depictions of a minor for import into the United States),
- (9) 18 U.S.C. §2421 (transportation of a minor for illegal sexual activity),
- (10) 18 U.S.C. §2422(b) (coercing a minor to engage in prostitution),
- (11) 18 U.S.C. §2423(a) (transporting a minor to engage in illicit conduct).

(d) 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 17-3-2(A),(B), or (C) shall be considered a “Tier 2” offense.

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SECTION 17-3-3. Tier 3 Offenses.

- (a) Recidivism and Felonies. Any sex offense that is defined as a Class A offense where the offender has at least one prior conviction for a Tier 2 sex offense, or has previously become a Tier 2 sex offender, is a “Tier 3” offense.
- (b) Tribal Offenses. The following Tribal Offenses shall be Tier 3 offenses:
 - (1) §5-4-138(a)(5) Promoting Commercial or Illicit Sexual Commerce or Conduct
 - (2) §5-4-139 Aggravated Sexual Assault
 - (3) §5-4-140(2)(b)(7) Sexual Assault
 - (4) §5-4-12 Kidnapping (if specifically ordered by Court following a finding of a sexual component)
- (c) Certain Federal Offenses. Conviction for any of the following federal offenses shall be considered conviction for a “Tier 3” offense:
 - (1) 18 U.S.C. §2241 (aggravated sexual abuse),
 - (2) 18 U.S.C. §2242 (sexual abuse), or
 - (3) Where the victim is 12 years of age or younger, 18 U.S.C. §2244 (abusive sexual contact).
- (d) 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 17-3-3(A),(B), or (C) shall be considered a “Tier 3” offense.

SECTION 17-3-4. Offender Notification.

- (a) The Omaha Tribal Court shall advise every person charged with a crime which, if conviction is found would be a covered offense under this Title, that such a conviction would result in sex offender registry requirements of either 15 years, 25 years, or for life, at arraignment.
- (b) The Omaha Tribal Court shall, when pronouncing sentence for any covered offense, or on any recaptured offender who has a prior conviction for an offense which would be a covered offense had it occurred following the adoption of this Title, Order the following:
 - (1) That the sex offender was guilty of a covered offense.
 - (2) That the Court shall determine the Tier of the Offense and announce the Tier.
 - (3) That the Court shall advise the sex offender of the duration of his registration requirement.
 - (4) That the sex offender is required to follow the reporting requirements of this Title and has three days from his release from confinement to register with the Omaha Nation Law Enforcement Services.

SECTION 17-3-5. Record Retention.

- (a) All Omaha Tribal Court records of convictions or adjudications for covered offenses detailed above in this Chapter shall be maintained indefinitely until the death of the sex offender.
 - (1) This shall supersede any other records retention policies.
 - (2) These files that may have been otherwise destroyed or reduced to digitized or electronic media may be maintained separately from other Tribal Court files, within the confines of the Omaha Tribal Court if they are maintained in a tamper proof fire resistant locked container.

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(3) That any files of juvenile adjudications for covered offenses otherwise maintained by the Omaha Tribal Court that would routinely be destroyed under Title XII of the Omaha Tribal Code shall also be maintained.

(A) These files shall only be available for purposes of this Title or for purposes of prosecution for a subsequently committed covered offense, in this or any other jurisdiction, and shall not be discoverable by any means for any other purpose.

CHAPTER 4. REQUIRED INFORMATION

SECTION 17-4-1. General Requirements.

- (a) Duties. A sex offender covered by this code who is required to register with the tribe shall provide all of the information detailed in this chapter to the Omaha Nation Law Enforcement Services. The Omaha Nation Law Enforcement Services 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.
- (b) Digitization. All information obtained under this code shall be, at a minimum, maintained by the Omaha Nation Law Enforcement Services in a digitized format. This format shall comport with the requirements necessary for such digitized information to be compatible with the National Sex Offender Public Website (NSOPW: <http://www.nsopw.gov/Core/Portal.aspx>).
- (c) Electronic Database. A sex offender registry shall be maintained in an electronic database by the Omaha Nation Law Enforcement Services utilizing the Tribal and Territory Sex Offender Registry System (TTSORS) as a template and host, or such other later developed registry that comports with the same requirements as TTSORS.

SECTION 17-4-2. Criminal History.

- (a) Criminal History. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's criminal history:
 - (1) The date of all arrests regardless of jurisdiction, including identity of arresting agency,
 - (2) The date of all convictions, including identity of convicting jurisdiction,
 - (3) The sex offender's status of parole, probation, or supervised release,
 - (4) The sex offender's registration status, and
 - (5) Any outstanding arrest warrants and the jurisdiction in which they were issued.

SECTION 17-4-3. Date of Birth.

- (a) Date of Birth. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's date of birth:
 - (1) The sex offender's actual date of birth, and
 - (2) Any other date of birth used by the sex offender.

SECTION 17-4-4. DNA Sample.

- (a) DNA. If the sex offender's DNA is not already contained in the Combined DNA Index System (CODIS), the sex offender shall provide the Omaha Nation Law Enforcement Services a sample of his DNA.
- (b) CODIS. Any DNA sample obtained from a sex offender shall be submitted to the FBI DNA Database Unit for analysis and entry of the resulting DNA profile in to CODIS.

SECTION 17-4-5. Driver's Licenses, Identification Cards, Passports, and Immigration Documents.

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- (a) Driver's License. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, a photocopy of all of the sex offender's valid driver's licenses issued by any jurisdiction.
- (b) Identification Cards. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, a photocopy of any identification card including the sex offender's tribal enrollment card issued by any jurisdiction.
- (c) Passports. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, a photocopy of any passports used by the sex offender.
- (d) Immigration Documents. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, a photocopy of any and all immigration documents.

SECTION 17-4-6. Employment Information.

- (a) Employment. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's employment, to include any and all places where the sex offender is employed in any means including volunteer and unpaid positions:
 - (1) The name of the sex offender's employer,
 - (2) The address of the sex offender's employer, and
 - (3) Similar information related to any transient or day labor employment.

SECTION 17-4-7. Finger and Palm Prints.

- (a) Finger and Palm Prints. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, both finger prints and palm prints of the sex offender in a digitized format.

SECTION 17-4-8. Internet Identifiers.

- (a) Internet Names. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, 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.

SECTION 17-4-9. Name.

- (a) Name. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's name:
 - (1) The sex offender's full primary given name,
 - (2) Any and all nicknames, aliases, and pseudonyms regardless of the context in which it is used, and
 - (3) 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 17-4-10. Phone Numbers.

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- (a) Phone Numbers. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's telephone numbers:
- (1) Any and all land line telephone numbers, and
 - (2) Any and all cellular telephone numbers, and
 - (3) In the event that the sex offender has no such telephone number at least one message telephone number where the sex offender may be reached.

SECTION 17-4-11. Picture.

- (a) Photograph. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, a current photograph of the sex offender.
- (b) Update Requirements. A digitized photograph shall be collected at each and every registration:
- (1) Every 90 days for Tier 3 sex offenders,
 - (2) Every 180 days for Tier 2 sex offenders, and
 - (3) Every year for Tier 1 sex offenders.

SECTION 17-4-12. Physical Description.

- (a) Physical Description. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, an accurate description of the sex offender as follows:
- (1) A physical description,
 - (2) A general description of the sex offender's physical appearance or characteristics, and
 - (3) Any identifying marks, such as, but not limited to, scars, moles, birthmarks, or tattoos.

SECTION 17-4-13. Professional Licensing Information.

- (a) Professional Licenses. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, all licensing of the sex offender that authorizes the sex offender to engage in an occupation or carry out a trade or business.

SECTION 17-4-14. Residence Address.

- (a) Address. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's residence:
- (1) The address of each residence at which the sex offender resides or will reside, or habitually may be found. This is specifically to include relative and companion addresses that the sex offender may stay overnight at more than once per month, and
 - (2) 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 17-4-15. School.

- (a) School Location. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, the following information related to the sex offender's school:
- (1) The address of each school where the sex offender is or will be a student, and
 - (2) The name of each school the sex offender is or will be a student.

SECTION 17-4-16. Social Security Number.

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- (a) Social Security. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, the following information:
- (1) A valid social security number for the sex offender, and
 - (2) Any social security number the sex offender has used in the past, valid or otherwise.

SECTION 17-4-17. Temporary Lodging.

- (a) Lodging Information. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, the following information when the sex offender will be absent from his residence for 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) Travel Abroad. In the event the sex offender will be traveling outside of the United States for more than 7 days, the Omaha Nation Law Enforcement Services shall immediately provide this information to INTERPOL directly, or through referral through appropriate Federal agency.

SECTION 17-4-18. Offense Information.

- (a) Offense Information. The Omaha Nation Law Enforcement Services shall obtain the text of each provision of law defining the criminal offense(s) for which the sex offender is registered from the jurisdiction where the offense occurred.

SECTION 17-4-19. Vehicle Information.

- (a) Detailed Information. The Omaha Nation Law Enforcement Services shall obtain, and a covered sex offender shall provide, the following information related to all vehicles owned or operated by the sex offender, any person at his residence or any such vehicle that he may have access to, for work or personal use including land vehicles, aircraft, and watercraft:
- (1) License plate numbers,
 - (2) Registration numbers or identifiers,
 - (3) General description of the vehicle to include color, make, model, and year, and
 - (4) Any permanent or frequent location where any covered vehicle is kept.

SECTION 17-4-20. Frequency, Duration and Reduction.

- (a) Frequency. A sex offender who is required to register shall, at a minimum, appear in person at the Omaha Nation Law Enforcement Services for purposes of verification and keeping their registration current in accordance with the following time frames:
- (1) For "Tier 1" offenders, once every year for 15 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.
 - (A) The registration period shall be annually in the month in which the sex offender's birthday falls with registration being required within the month, but not on the exact date of the birthday.
 - (B) Birth month shall not be construed to mean within thirty days of the birth date.
 - (C) Registration shall be required at such times and locations as may designated by the Omaha Nation Law Enforcement Services for the Sex Offender Registry and shall not require that sex offenders be allowed to register 24 hours a day, seven days a week.

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(2) For “Tier 2” offenders, once every 180 days for 25 years from the time of release from custody for a sex offender who is incarcerated for the registration offense or from the date of sentencing for a sex offender who is not incarcerated for the registration offense.

(A) The registration period shall begin computation in the month in which the sex offender’s birthday falls and that month six months following the month of the registrants birth, with registration being required in that month, but not on the exact date of the birthday.

(B) This computation shall be conducted from the birth date regardless of the date of initial registration in the jurisdiction, unless such dates shall coincide.

(C) Birth month shall not be construed to mean within thirty days of the birth date.

(D) Registration shall be required at such times and locations as may designated by the Omaha Nation Law Enforcement Services for the Sex Offender Registry and shall not require that sex offenders be allowed to register 24 hours a day, seven days a week.

(3) For “Tier 3” offenders, once every 90 days for the rest of their lives.

(A) The registration period shall begin computation in the month in which the sex offender’s birthday falls and those months three, six and nine months following the month of the registrants birth, with registration being required in that month, but not on the exact date of the birthday.

(B) This computation shall be conducted from the birth date regardless of the date of initial registration in the jurisdiction, unless such dates shall coincide.

(C) Birth month shall not be construed to mean within thirty days of the birth date.

(D) Registration shall be required at such times and locations as may designated by the Omaha Nation Law Enforcement Services for the Sex Offender Registry and shall not require that sex offenders be allowed to register 24 hours a day, seven days a week.

(b) Reduction of Registration Periods. A sex offender may be eligible to have their period of registration reduced as follows:

(1) A Tier 1 offender may have his or her period of registration reduced to 10 years if he or she has maintained a clean record for 10 consecutive years;

(2) A Tier 3 offender may have his or her period of registration reduced to 25 years if he or she was adjudicated delinquent of an offense as a juvenile that required Tier 3 registration and he or she has maintained a clean record for 25 consecutive years.

(c) Clean Record. For purposes of Chapter 17-4-20(B) a person has a clean record if:

(1) He or she has not been convicted of any offense, for which imprisonment for more than 1 year 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 tribe or by another jurisdiction, if such program meets the requirements for such programs set forth by the Attorney General of the United States.

(d) Judicial Determination Required. For any such sex offender seeking to have his registration requirement reduced under Sections B and C above, shall first Petition the Omaha Tribal Court to have such period reduced. Any such Petition shall name the Omaha Tribe of Nebraska as a party and notice shall be sent to the Omaha Tribal Council, the Omaha Tribal Prosecutor and Omaha Nation Law Enforcement Services.

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(1) The burden of proof shall be on the sex offender to prove by clear and convincing evidence that he has a Clean Record as defined in section C above, with any inconclusive evidence or inferences, shall be viewed in a light least favorable to the sex offender.

SECTION 17-4-21. Requirements for In-Person Appearances.

- (a) Photographs. At each in person verification, the sex offender shall permit the Omaha Nation Law Enforcement Services to take updated photographs of the offender.
- (b) Review of Information. At each in person verification the sex offender shall review existing information for accuracy.
- (c) Notification. If any new information or change in information is obtained at an in person verification, the Omaha Nation Law Enforcement Services shall immediately notify all other jurisdictions in which the sex offender is required to register of the information or change in information.

CHAPTER 5. REGISTRATION

SECTION 17-5-1. Where Registration is Required.

- (a) Jurisdiction of Conviction. A sex offender must initially register with the Omaha Nation Law Enforcement Services if the sex offender was convicted by the Tribal Court of a covered sex offense regardless of the sex offender's actual or intended residency.
- (b) Jurisdiction of Incarceration. A sex offender must register with the Omaha Nation Law Enforcement Services if the sex offender is incarcerated within the exterior boundaries of the Omaha Tribe of Nebraska, while completing any sentence for a covered sex offense, regardless of whether it is the jurisdiction of conviction or residence.
- (c) Jurisdiction of Residence. A sex offender must register with the Omaha Nation Law Enforcement Services if the sex offender resides within lands subject to the jurisdiction of the tribe, including all lands within the exterior boundaries of the Omaha Indian Reservation.
- (d) Jurisdiction of Employment. A sex offender must register with the Omaha Nation Law Enforcement Services if he or she is employed by the tribe in any capacity or otherwise is employed within lands subject to the jurisdiction of the tribe, including all lands within the exterior boundaries of the Omaha Indian Reservation.
- (e) Jurisdiction of School Attendance. A sex offender must register with the Omaha Nation Law Enforcement Services if the sex offender is a student in any capacity within lands subject to the jurisdiction of the tribe, including all lands within the exterior boundaries of the Omaha Indian Reservation.
- (f) Jurisdiction where may be Found. A sex offender must register with the Omaha Tribal Police if he is one who, without establishing a residence, commencing employment or becoming a student on lands subject to the jurisdiction of the tribe, remains on, or may be found within the exterior boundaries of the Omaha Tribal Reservation, for more than six (6) hours, or more than one (1) hour after sundown and during the hours of darkness, which ever duration is less.

SECTION 17-5-2. Timing of Registration.

- (a) Timing. A sex offender required to register with the tribe under this code shall do so in the following timeframe:
 - (1) If convicted by the Omaha Tribe of Nebraska for a covered sex offense and incarcerated, the sex offender must register before being released from incarceration;
 - (2) If convicted by the Omaha Tribe of Nebraska but not incarcerated, within 3 business days of sentencing for the registration offense, and
 - (3) Within 3 business days of establishing a residence, commencing employment, or becoming a student on lands subject to the jurisdiction of the tribe, including all lands within the

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exterior boundaries of the Omaha Indian Reservation, a sex offender must appear in person to register with The Omaha Nation Law Enforcement Services. All such sex offenders detailed above, whose original covered offense was adjudicated in another jurisdiction shall be re-tiered according to the provisions of Chapter 3 above.

(A) The Omaha Nation Law Enforcement Services shall immediately generate a supplemental incident report which shall be forwarded to the Omaha Tribal Prosecutor within three working days of such a registration. The Omaha Tribal Prosecutor shall then file a Civil Petition, on behalf of the Omaha Tribe of Nebraska, to Tier the sex offenders covered offense(s) under the provisions of Chapter 3 above for all purposes under this Title.

(1) Within six (6) hours, or within one (1) hour after sundown and during the hours of darkness, which ever duration is less of entering on to, or remaining within the exterior boundaries of the Omaha Tribal Reservation without establishing a residence, commencing employment, or becoming a student on lands subject to the jurisdiction of the tribe.

(b) Duties of the Omaha Nation Law Enforcement Services. The Omaha Nation Law Enforcement Services shall have policies and procedures in place to ensure the following:

(1) That any sex offender incarcerated or sentenced by the tribe for a covered sex offense completes their initial registration with the tribe,

(2) That 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,

(3) That the sex offender is registered, and

(4) That upon entry of the sex offender's information in to the registry, that information is immediately forwarded to all other jurisdictions in which the sex offender is required to register due to the sex offender's residency, employment, or student status.

SECTION 17-5-3. Retroactive Registration.

(a) Retroactive Registration. The Omaha Nation Law Enforcement Services shall have in place policies and procedures to ensure the following three categories of sex offenders are subject to the registration and updating requirements of this code:

(1) Sex offenders incarcerated or under the supervision of the tribe, whether for a covered sex offense or other crime,

(2) Recognizing that the Tribe has had no prior sex offender registration requirement for sex offenders all sex offenders already within the Tribe's jurisdiction currently registered with another law enforcement agency, and

(3) Sex offenders reentering the justice system.

(b) Timing of Recapture. The Omaha Nation Law Enforcement Services shall ensure recapture of the sex offenders mentioned in section 17-5-3(a)(1) and(2) within the following timeframe to be calculated from the date of passage of this code:

(1) For Tier 1 sex offenders, 1 year,

(2) For Tier 2 sex offenders, 180 days, and

(3) For Tier 3 sex offenders, 90 days.

(c) Notification of Recapture of Sex Offender Reentering the Criminal Justice System. The Omaha Nation Law Enforcement Services shall immediately generate a supplemental incident report which shall be forwarded to the Omaha Tribal Prosecutor within three working days of determination that a person entering the criminal justice system is a recaptured sex offender. The Omaha Tribal Prosecutor shall then file a Civil Petition, on behalf of the Omaha Tribe of Nebraska, to require the offender to register as if the original sex offense had been committed while this Title was in effect.

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(1) It shall be sufficient for the sex offender to re-enter the criminal justice system, no subsequent conviction is necessary to trigger registration requirements.

(2) This section hereby authorizes the Omaha Tribal Court to impose sex offender registration requirements, appropriately tiered by the nature of the original offense, as a civil sanction after a finding by a preponderance of the evidence that the person is a sex offender that committed a covered crime prior to the implementation of this Title.

SECTION 17-5-4. Keeping Registration Current.

(a) Jurisdiction of Residency. All sex offenders required to register in this jurisdiction shall immediately appear in person at the Omaha Nation Law Enforcement Services to update any changes to their name, residence (including termination of residency), employment, or school attendance. All sex offenders required to register in this jurisdiction shall immediately inform The Omaha Nation Law Enforcement Services via facsimile of any changes to their temporary lodging information, vehicle information, internet identifiers, or telephone numbers. In the event of a change in temporary lodging, the sex offender and The Omaha Nation Law Enforcement Services shall immediately notify the jurisdiction in which the sex offender will be temporarily staying.

(b) Jurisdiction of School Attendance. Any sex offender who is a student in any capacity within lands subject to the jurisdiction of the tribe, including all lands within the exterior boundaries of the Omaha Indian Reservation, regardless of location that change their school, or otherwise terminate their schooling, shall immediately appear in person at the Omaha Nation Law Enforcement Services to update that information. The Omaha Nation Law Enforcement Services shall ensure that 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.

(c) Jurisdiction of Employment. Any sex offender who is employed by the tribe in any capacity or otherwise is employed within lands subject to the jurisdiction of the tribe, including all lands within the exterior boundaries of the Omaha Indian Reservation, regardless of location that change their employment, or otherwise terminate their employment, shall immediately appear in person at the Omaha Nation Law Enforcement Services to update that information. The Omaha Nation Law Enforcement Services shall ensure that 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.

(d) Duties of the Omaha Nation Law Enforcement Services. With regard to changes in a sex offender's registration information, the Omaha Nation Law Enforcement Services or shall immediately notify:

- (1) All jurisdictions where a sex offender intends to reside, work, or attend school,
- (2) Any jurisdiction where the sex offender is either registered or required to register, and
- (3) Specifically with respect to information relating to a sex offender's intent to commence residence, school, or employment outside of the United States, any jurisdiction where the sex offender is either registered or required to register, and the U.S. Marshals Service. The tribal police shall also ensure this information is immediately updated on NSOR.

SECTION 17-5-5. Failure to Appear for Registration and Absconding.

(a) Failure to Appear. In the event a sex offender fails to register with the tribe as required by this code, the Omaha Nation Law Enforcement Services shall immediately inform the jurisdiction that provided notification that the sex offender was to commence residency, employment, or school attendance with the tribe that the sex offender failed to appear for registration.

(b) Absconded Sex Offenders. If the Omaha Nation Law Enforcement Services receives information that a sex offender has absconded the Omaha Nation Law Enforcement Services shall make an effort to determine if the sex offender has actually absconded.

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(1) 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.

(2) If an absconded sex offender cannot be located then Omaha Nation Law Enforcement Services shall take the following steps:

(A) Update the registry to reflect the sex offender has absconded or is otherwise not capable of being located,

(B) Notify the U.S. Marshals Service,

(C) 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 for the sex offender's arrest,

(D) Update the NSOR to reflect the sex offender's status as an absconder, or is otherwise not capable of being located, and

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

(c) Failure to Register. In the event a sex offender who is required to register due to their employment or school attendance status fails to do so or otherwise violates a registration requirement of this code, the Omaha Nation Law Enforcement Services shall take all appropriate follow-up measures including those outlined in section 17-5-5(b). The Omaha Nation Law Enforcement Services shall first make an effort to determine if the sex offender is actually employed or attending school in lands subject to the tribe's jurisdiction.

CHAPTER 6. PUBLIC SEX OFFENDER REGISTRY WEBSITE

SECTION 17-6-1. Website.

- (a) Website. The Omaha Nation Law Enforcement Services shall use and maintain a public sex offender registry website.
- (b) Links. The registry website shall include links to sex offender safety and education resources.
- (c) Instructions. The registry website shall include instructions on how a person can seek correction of information that the individual contends is erroneous.
- (d) Warnings. The registry website shall include a warning that the information contained on the website should not be used to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses and that any such action could result in civil or criminal penalties.
- (e) Search Capabilities. The registry website shall have the capability of conducting searches by (1) name; (2) county, city, and/or town; and, (3) zip code and/or geographic radius.
- (f) Dru Sjodin National Sex Offender Public Website. The tribe 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.

SECTION 17-6-2. Required and Prohibited Information.

- (a) Required Information. The following information shall be made available to the public on the sex offender registry website:
 - (1) Notice that an offender is in violation of their registration requirements or cannot be located if the sex offender has absconded,
 - (2) All sex offenses for which the sex offender has been convicted,
 - (3) The sex offense(s) for which the offender is currently registered,

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- (4) The address of the sex offender's employer(s),
- (5) The name of the sex offender including all aliases,
- (6) A current photograph of the sex offender,
- (7) A physical description of the sex offender,
- (8) The residential address and, if relevant, a description of a habitual residence of the sex offender,
- (9) All addresses of schools attended by the sex offender, and
- (10) The sex offender's vehicle license plate number along with a description of the vehicle.

(b) Prohibited Information. The following information shall not be available to the public on the sex offender registry website:

- (1) Any arrest that did not result in conviction,
- (2) The sex offender's social security number,
- (3) Any travel and immigration documents/numbers,
- (4) The identity of the victim, and
- (5) Internet identifiers (as defined in 42 U.S.C. §16911).
- (6) Witness Protection. For sex offenders who are under a witness protection program, the tribal police 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.
- (7) Any information including name, address, photograph identifying description or any such other information that may concern or relate to any sex offender adjudicated as a minor who has not yet reached the age of eighteen (18).

SECTION 17-6-3. Community Notification.

(a) Law Enforcement Notification. Whenever a sex offender registers or updates his or her information with the tribe, the Omaha Nation Law Enforcement Services shall:

- (1) Immediately notify the FBI or other federal agency as designated by the Attorney General in order that the information may be updated on NSOR or other relevant databases,
- (2) Immediately notify every agency, department, or program within the tribe that is responsible for criminal investigation, prosecution, child welfare or sex offender supervision functions, including but not limited to, Omaha Nation Law Enforcement Services, Omaha Tribal Prosecutor, and tribal probation.
- (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.

(A) Currently the only such agencies known to conduct employment-related background checks within the exterior boundaries of the Omaha Tribal Reservation are the FBI and the Nebraska State Patrol.

(b) Community Notification. The Omaha Nation Law Enforcement Services shall develop, maintain and use a Tribe and Territory Sex Offender Registry System (TTSORS) based sex offender registry in order to provide community notification.

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CHAPTER 7. IMMUNITY

(a) No waiver of immunity. Nothing under this chapter shall be construed as a waiver of sovereign immunity for the Omaha Tribe of Nebraska, its departments, agencies, employees, or agents.

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

CHAPTER 8. CRIMES AND BANISHMENT

(a) Any sex offender, regardless of their status as an Indian or non-Indian, violating the registration provisions of this code shall be subject to criminal provisions as detailed below. Sex offenders who are also non-member Indians or non-Indian may also be subject to exclusion and banishment as contained in Title XVI of the Omaha Tribal Code, or as later amended.

(b) Each violation of a provision of this code by a sex offender shall be considered a civil violation subject to enforcement, by any means not prohibited by federal law. This shall specifically apply to forfeitures of any and all tangible or real property used, maintained, obtained or otherwise utilized or related to the failure to register or absconding sex offender including any such vehicle or residence in which the sex offender may have resided.

SECTION 17-8-1. Failure to Register as a Sex Offender.

(a) A person is guilty of the crime of Failure to Register as a Sex Offender if, being a sex offender who has committed a covered offense and is subject to registration under Chapter 5 of this Code, and fails to register with the Omaha Nation Law Enforcement Services in a timely manner as detailed in Chapter 5 above.

(b) A person who violates this section shall be guilty of a Class A Offense and shall be designated as an absconded offender.

(1) Except that any person who violates this section by failing to report or register for his or her periodic registration as required by section 17-4-20 above, without relocating outside the exterior boundaries of the Omaha Tribal Reservation, and evidencing no intent to abscond, shall be guilty of a Class B offense.

SECTION 17-8-2. Providing False Information to the Sex Offender Registry.

(a) A person is guilty of the crime of Providing False Information to the Sex Offender Registry if, being a sex offender who has committed a covered offense and is subject to registration under Chapter 5 of this Code, and:

(1) Purposely, knowingly and recklessly provides false or inaccurate information as required under Chapter 4 above.

(A) This shall specifically include all acts of omission.

(b) A person who violates this section is guilty of a Class B Offense.

SECTION 17-8-3. Hindrance of Sex Offender Registration.

(a) A person is guilty the crime of Hindrance of Sex Offender Registration if they:

(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 Title;

(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 Title; or

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

(4) Violation of sub-sections (a), (b) or (c) shall be a Class B offense, unless the sex offender so aided was a Tier 3 registrant in which instance the violation of this section shall be a Class A offense.

SECTION 17-8-4. Unlawfully Using Sex Offender Registry Information.

- (a) A person is guilty the crime of Unlawfully Using Sex Offender Registry Information if they utilize information available of the Omaha Tribe's Sex Offender Registry to unlawfully injure, harass, or commit a crime against any individual named in the registry or residing or working at any reported addresses.
- (b) Violation of this section shall be a Class C offense.

