

IN THE SUPREME COURT

STATE OF ARIZONA

PETITION TO AMEND RULE 8.4,)
ARIZONA RULES OF CRIMINAL) Supreme Court No. R-07-_____
PROCEDURE, AND ADD RULE 27.12)
AND 40, ARIZONA RULES OF)
CRIMINAL PROCEDURE.)

Pursuant to Arizona Supreme Court Rule 28, David K. Byers, Executive Director of the Administrative Office of the Courts, Arizona Supreme Court, respectfully petitions this Court to adopt the attached proposed amendment to Rule 8.4, Arizona Rules of Criminal Procedure and the new Rules 27.12 and 40, of the Arizona Rules of Criminal Procedure (Attachment A) to govern probation review proceedings pursuant to §13-923, A.R.S. and hearings to determine whether a person under eighteen years of age charged with a criminal offense should be treated as a juvenile pursuant to §13-501.01, A.R.S.

Background and Purpose of the Proposed New Rule.

In the First Regular Session of the Forty-eighth Legislature (2007), the Legislature passed House Bill 2779, now Chapter 176 (Attachment B), adding A.R.S. § 13-923 dealing with probation review hearings for persons under twenty two years of age who are required to register as a

sex offender pursuant to A.R.S. §13-3921 and also adding A.R.S. § 13-501.01 dealing with transfer of persons under eighteen years of age for juvenile prosecution. On May 1, 2007, the Governor signed the bill into law. The new law becomes effective September 19, 2007.

The new A.R.S. § 13-923 grants the right to a probation review hearing to a probationer who is under twenty two years of age and who was convicted of an offense committed when the person was under eighteen years of age that requires the probationer to register as a sex offender. The law requires the preparation of a probation report, and a hearing of which the prosecutor, the probationer's attorney and an eligible victim shall be notified. At the hearing the court must consider: (1) whether to continue, modify or terminate probation, (2) whether to continue to require, to suspend or to terminate the probationer's duty to register as a sex offender and (3) whether to continue, defer or terminate community notification. The new statute also permits a pre-hearing involving the prosecutor, probationer's attorney and eligible victim in a more informal setting.

The new A.R.S. §13-501.01 provides for a "transfer hearing" to determine whether a person under eighteen years of age and charged as an adult pursuant to A.R.S. § 13-501

(B) with a violation of an offense listed in Title 13, Chapter 14 or 35.1 (sex related offenses) should be treated as a juvenile. A hearing is required if requested by the juvenile or the court on its own motion, except that the court is required to hold a hearing if the alleged offense was committed more than twelve months prior to the date of filing of the criminal charge.

The statute sets forth the standard of proof, clear and convincing evidence, which the defendant must meet and the elements of proof that must be found in order for the defendant to gain transfer to the juvenile court. The statute also includes the factors the court must consider, very similar to A.R.S. § 8-327 and Rule 34, Rules of Procedure for Juvenile Court dealing with Transfer for Criminal Prosecution. The statute further requires the court not defer the decision as to transfer.

I. Contents of the Proposed New Rule.

The proposed new Rule 27.12, Arizona Rules of Criminal Procedure, establishes the process for holding the probation review hearing. The rule states who has a right to a hearing, the manner in which a probationer is informed of that right, how a hearing is to be requested and who must be notified of the hearing. The Rule also defines the scope of the hearing, the requirement of a probation review

report and the ability to hold a pre-hearing as provided by statute.

The proposed new Rule 40, Arizona Rules of Criminal Procedure, defines the scope of the transfer hearing, how the hearing is to be initiated and the contents of the motion for transfer. The rule also sets forth time limits for both the request for transfer and the hearing itself. In order not to interrupt the ongoing criminal case, the rule specifically states that the requirements of Rule 15, Arizona Rules of Criminal Procedure covering disclosure are not suspended during the pendency of the transfer hearing.

Similar to Rule 34, Rules of Procedure for Juvenile Court, Rule 40 provides for a transfer investigation, in this instance by either the adult or juvenile probation department. Similar to Rule 16.2, Arizona Rules of Criminal Procedure, Rule 40 limits the effect of the defendant's testimony at future proceedings. The rule further establishes the process for issuing the court's findings and if transfer to juvenile court is ordered, how the juvenile case is commenced.

The proposed amendment to Rule 8.4, Arizona Rules of Criminal Procedure, excludes time from the speedy trial time limits set forth in Rules 8.2 and 8.3, Arizona Rules

of Criminal Procedure as a result of setting the transfer hearing.

II. Effective Date of the Proposed New Rule

Petitioner respectfully requests that the proposed new rule be made effective on an emergency basis with a comment period to follow, as S.B. 1629, Chapter 179 is effective on September 19, 2007.

RESPECTFULLY SUBMITTED this _____ of August, 2007:

By _____
David K. Byers
Executive Director
Administrative Office of the Courts
Arizona Supreme Court
1501 W. Washington St.
Phoenix, AZ 85007-3231

Attachment A

Rule 8.4. Excluded periods

The following periods shall be excluded from the computation of the time limits set forth in Rules 8.2 and 8.3:

- a.** Delays occasioned by or on behalf of the defendant, including, but not limited to, delays caused by an examination and hearing to determine competency or mental retardation, the defendant's absence or incompetence, or his or her inability to be arrested or taken into custody in Arizona.
- b.** Delays resulting from a remand for new probable cause determination under Rules 5.5 or 12.9.
- c.** Delays resulting from extension of the time for disclosure under Rule 15.6.
- d.** Delays necessitated by congestion of the trial calendar, but only when the congestion is attributable to extraordinary circumstances, in which case the presiding judge shall promptly apply to the Chief Justice of the Arizona Supreme Court for suspension of any of the Rules of Criminal Procedure.
- e.** Delays resulting from continuances in accordance with Rule 8.5, but only for the time periods prescribed therein.
- f.** Delays resulting from joinder for trial with another defendant as to whom the time limits have not run when there is good cause for denying severance. In all other cases, severance should be granted to preserve the applicable time limits.
- g.** Delays resulting from the setting of a transfer hearing pursuant to Rule 40 of these rules.

Rule 27.12. Probation Review hearing

a. Right to Hearing. On request of a probationer who is under twenty two years of age and who is serving a term of probation for an offense that requires registration pursuant to A.R.S. § 13-3821 and that was committed when the probationer was under eighteen years of age, the court shall conduct a probation review hearing at least once a year. The probationer shall be informed of the right to a hearing at the time a term of probation is imposed.

b. Request for Hearing. A request for a hearing shall be filed by the probationer and a copy shall be provided to the county attorney.

c. Scope of Hearing. The court, at the hearing, shall consider the following:

(1) Whether to continue, modify or terminate probation;

(2) Whether to continue to require, suspend or terminate the probationer's registration pursuant to A.R.S. §13-3821;

(3) Whether to continue, defer or terminate community notification pursuant to A.R.S. § 13-3825.

d. Notification of hearing date. The court shall notify the following people of the hearing;

(1) The prosecutor, who in turn shall notify any victim or victim's attorney entitled to be present and heard pursuant to the constitution of this state, statute or court rule;

(2) The attorney for the probationer.

e. Probation review report. The court shall require a probation review report prior to the probation review hearing. The report shall be delivered to the judge conducting the hearing at least two days prior to the date set for the hearing.

f. Pre-hearing. Prior to the probation review hearing the court may hold a

pre-hearing. The persons present and the scope of the pre-hearing shall be as provided by statute.

Rule 40. Transfer for Juvenile Prosecution

a. Scope. This rule shall apply to defendants who are eligible for transfer to juvenile court pursuant to A.R.S. 13-501.01.

b. Initiation. A hearing to determine whether prosecution of a defendant shall be transferred to juvenile court shall be initiated as follows:

1. Upon motion of the defendant, or
2. Upon an order of the court stating that a transfer hearing is either being set in the court's discretion or is required by law.

c. Contents of Motion and Court Order. The motion for transfer or the court order shall designate the offense or offenses that are the subject of the transfer hearing.

d. Time Limits.

1. Request for Transfer. The motion for transfer or the court order setting a transfer hearing shall be filed within forty days of the date of the arraignment.

2. Hearing Date. The transfer hearing shall be held within forty-five days of the filing of the motion for transfer or of the court order. The court may continue the hearing for good cause.

e. Disclosure. The filing of a motion to transfer or the setting of a transfer hearing shall not serve to suspend any requirement pursuant to Rule 15 of these rules.

f. Transfer Investigation. Upon receipt of an order setting a transfer hearing the court shall order the adult or juvenile probation department to

conduct a transfer investigation and make a written report specifically addressing those issues that the court considers in determining whether to transfer the defendant. The adult and juvenile probation departments may confer as necessary to complete the investigation. A copy of the report shall be given to all parties not less than five days prior to the transfer hearing unless the time is waived by the parties.

g. Prior Transfer. If the defendant has previously been transferred for juvenile prosecution by any court of this state, the court, in its discretion, may waive the provisions of sections f of this rule. Any prior orders of transfer, probation reports or reports pertaining to physical, psychological or psychiatric evaluations introduced into evidence in a prior transfer proceeding shall be provided to the parties and counsel and may be considered by the court.

h. Transfer Hearing. The transfer hearing shall include a determination whether the defendant has shown by clear and convincing evidence that public safety and the rehabilitation of the defendant, if adjudicated delinquent in juvenile court, would be best served by transferring the prosecution to juvenile court. The court shall consider those factors provided by statute.

i. If the defendant testifies at the transfer hearing, the defendant does not by so testifying waive the right to remain silent during the trial. If the defendant testifies at the transfer hearing, neither this fact nor the defendant's testimony at the hearing shall be mentioned to the jury unless the defendant testifies at trial concerning the same matters.

j. Order of Transfer. At the conclusion of the hearing the court shall determine whether the defendant shall be transferred to juvenile court. The

court shall state its reasons in writing in the form of a minute entry or order and shall not defer the decision.

k. Commencement of Juvenile Proceedings. If the court orders the defendant to be transferred for juvenile prosecution the indictment or information shall serve as the juvenile petition for those charges subject to transfer by order of the court. The Clerk of the Court shall, within forty-eight hours of the order transferring prosecution, file a copy of the indictment or information in the juvenile court.

Attachment B

House Engrossed Senate Bill

State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 176

SENATE BILL 1628

AN ACT

AMENDING TITLE 8, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-350.01; AMENDING TITLE 13, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-501.01; AMENDING TITLE 13, CHAPTER 9, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-923; AMENDING SECTION 13-3821, ARIZONA REVISED STATUTES; RELATING TO SEX OFFENDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 8, chapter 3, article 3, Arizona Revised Statutes, is amended by adding section 8-350.01, to read:

8-350.01. Youth sex offenders; treatment; definition

A. IF THE COURT OR THE ADULT OR JUVENILE PROBATION DEPARTMENT PLACES A SEX OFFENDER IN A SEX OFFENDER TREATMENT PROGRAM, THE TREATMENT PROVIDER OR, IF THE TREATMENT IS PROVIDED BY THE STATE DEPARTMENT OF CORRECTIONS OR THE DEPARTMENT OF JUVENILE CORRECTIONS, THE STATE DEPARTMENT OF CORRECTIONS OR THE DEPARTMENT OF JUVENILE CORRECTIONS SHALL PLACE THE OFFENDER IN A TREATMENT PROGRAM WITH SIMILAR OFFENDERS OF A SIMILAR AGE AND DEVELOPMENTAL MATURITY LEVEL, IF GROUP TREATMENT IS PRESCRIBED BY

THE TREATMENT PROVIDER.

B. A MENTAL HEALTH TREATMENT PROGRAM THAT A SEX OFFENDER IS REQUIRED TO PARTICIPATE IN BY A COURT, AN ADULT OR JUVENILE PROBATION DEPARTMENT, THE STATE DEPARTMENT OF CORRECTIONS OR THE DEPARTMENT OF JUVENILE CORRECTIONS:

1. SHALL COMPLY WITH THE PROFESSIONAL CODE OF ETHICS FROM THE ASSOCIATION FOR THE TREATMENT OF SEXUAL ABUSERS.

2. SHALL NOT INCLUDE THE USE OF IMAGES THAT ARE IN VIOLATION OF TITLE 13, CHAPTERS 35 AND 35.1.

C. FOR THE PURPOSES OF THIS SECTION, "SEX OFFENDER" MEANS A PERSON WHO IS TWENTY-ONE YEARS OF AGE OR YOUNGER WHO IS ADJUDICATED DELINQUENT FOR OR CONVICTED OF AN OFFENSE THAT INVOLVES A VIOLATION OF TITLE 13, CHAPTER 14 OR 35.1 AND THAT DOES NOT INVOLVE THE DISCHARGE, USE OR THREATENING EXHIBITION OF A DEADLY WEAPON OR DANGEROUS INSTRUMENT.

Sec. 2. Title 13, chapter 5, Arizona Revised Statutes, is amended by adding section 13-501.01, to read:

13-501.01. Persons under eighteen years of age; juvenile transfer

A. ON MOTION OF A JUVENILE OR ON THE COURT'S OWN MOTION, THE COURT, IF A JUVENILE IS BEING PROSECUTED IN THE SAME MANNER AS AN ADULT PURSUANT TO SECTION 13-501, SUBSECTION B FOR A VIOLATION OF TITLE 13, CHAPTER 14 OR 35.1, SHALL HOLD A HEARING TO DETERMINE IF JURISDICTION OF THE CRIMINAL PROSECUTION SHOULD BE TRANSFERRED TO THE JUVENILE COURT.

B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THE COURT SHALL HOLD A HEARING IF A JUVENILE IS PROSECUTED IN THE SAME MANNER AS AN ADULT PURSUANT TO SECTION 13-501, SUBSECTION B FOR A VIOLATION OF TITLE 13, CHAPTER 14 OR 35.1 THAT WAS COMMITTED MORE THAN TWELVE MONTHS BEFORE THE DATE OF THE FILING OF THE CRIMINAL CHARGE.

C. IF THE COURT FINDS BY CLEAR AND CONVINCING EVIDENCE THAT PUBLIC SAFETY AND THE REHABILITATION OF THE JUVENILE, IF ADJUDICATED DELINQUENT, WOULD BE BEST SERVED BY TRANSFERRING THE PROSECUTION TO THE

JUVENILE COURT, THE JUDGE SHALL ORDER THE JUVENILE TRANSFERRED TO THE JUVENILE COURT. ON TRANSFER, THE COURT SHALL ORDER THAT THE JUVENILE BE TAKEN TO A PLACE OF DETENTION DESIGNATED BY THE JUVENILE COURT OR TO THAT COURT OR SHALL RELEASE THE JUVENILE TO THE CUSTODY OF THE JUVENILE'S PARENT, GUARDIAN OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE JUVENILE. IF THE JUVENILE IS RELEASED TO THE JUVENILE'S PARENT, GUARDIAN OR OTHER PERSON LEGALLY RESPONSIBLE FOR THE JUVENILE, THE COURT SHALL REQUIRE THAT THE PARENT, GUARDIAN OR OTHER PERSON BRING THE JUVENILE TO APPEAR BEFORE THE JUVENILE COURT AT A DESIGNATED TIME. THE JUVENILE COURT SHALL THEN PROCEED WITH ALL FURTHER PROCEEDINGS AS IF A PETITION ALLEGING DELINQUENCY HAD BEEN FILED WITH THE JUVENILE COURT UNDER SECTION 8-301.

D. THE COURT SHALL CONSIDER THE FOLLOWING FACTORS IN DETERMINING WHETHER THE PUBLIC SAFETY AND THE JUVENILE'S REHABILITATION, IF ADJUDICATED DELINQUENT, WOULD BE SERVED BY THE TRANSFER:

1. THE SERIOUSNESS OF THE OFFENSE INVOLVED.
2. THE RECORD AND PREVIOUS HISTORY OF THE JUVENILE, INCLUDING PREVIOUS CONTACTS WITH THE COURT AND LAW ENFORCEMENT, PREVIOUS PERIODS OF ANY COURT ORDERED PROBATION AND THE RESULTS OF THAT PROBATION.
3. ANY PREVIOUS COMMITMENTS OF THE JUVENILE TO JUVENILE RESIDENTIAL PLACEMENTS OR OTHER SECURE INSTITUTIONS.
4. WHETHER THE JUVENILE WAS PREVIOUSLY COMMITTED TO THE DEPARTMENT OF JUVENILE CORRECTIONS FOR A FELONY OFFENSE.
5. WHETHER THE JUVENILE COMMITTED ANOTHER FELONY OFFENSE WHILE THE JUVENILE WAS A WARD OF THE DEPARTMENT OF JUVENILE CORRECTIONS.
6. WHETHER THE JUVENILE COMMITTED THE ALLEGED OFFENSE WHILE PARTICIPATING IN, ASSISTING, PROMOTING OR FURTHERING THE INTERESTS OF A CRIMINAL STREET GANG, A CRIMINAL SYNDICATE OR A RACKETEERING ENTERPRISE.

7. THE VIEWS OF THE VICTIM OF THE OFFENSE.
 8. THE DEGREE OF THE JUVENILE'S PARTICIPATION IN THE OFFENSE WAS RELATIVELY MINOR BUT NOT SO MINOR AS TO CONSTITUTE A DEFENSE TO PROSECUTION.
 9. THE JUVENILE'S MENTAL AND EMOTIONAL CONDITION.
 10. THE LIKELIHOOD OF THE JUVENILE'S REASONABLE REHABILITATION THROUGH THE USE OF SERVICES AND FACILITIES THAT ARE CURRENTLY AVAILABLE TO THE JUVENILE COURT.
- E. AT THE CONCLUSION OF THE TRANSFER HEARING, THE COURT SHALL MAKE A WRITTEN DETERMINATION WHETHER THE JUVENILE SHOULD BE TRANSFERRED TO JUVENILE COURT. THE COURT SHALL NOT DEFER THE DECISION AS TO THE TRANSFER.

Sec. 3. Title 13, chapter 9, Arizona Revised Statutes, is amended by adding section 13-923, to read:

13-923. Persons convicted of sexual offenses; annual probation review hearing; report; notification

- A. IF REQUESTED BY THE PROBATIONER, THE COURT SHALL CONDUCT A PROBATION HEARING AT LEAST ONCE A YEAR FOR A PROBATIONER WHO IS UNDER TWENTY-TWO YEARS OF AGE AND WHO WAS CONVICTED OF AN OFFENSE THAT OCCURRED WHEN THE PERSON WAS UNDER EIGHTEEN YEARS OF AGE AND THAT REQUIRES THE PROBATIONER TO REGISTER PURSUANT TO SECTION 13-3821.
- B. THIS SECTION DOES NOT PRECLUDE THE COURT FROM CONDUCTING MORE THAN ONE PROBATION REVIEW HEARING EACH YEAR.
- C. THE PROBATION DEPARTMENT THAT IS SUPERVISING THE PROBATIONER SHALL PREPARE A PROBATION REPORT AND SUBMIT THE REPORT TO THE COURT PRIOR TO THE HEARING.
- D. THE FOLLOWING INDIVIDUALS SHALL BE NOTIFIED OF THE HEARING:
 1. A PROSECUTOR.
 2. AN ATTORNEY FOR THE PROBATIONER.
 3. ANY VICTIM OR VICTIM'S ATTORNEY WHO HAS A RIGHT TO BE PRESENT AND HEARD PURSUANT TO THE VICTIMS' BILL OF RIGHTS, ARTICLE II, SECTION 2.1 OF THE CONSTITUTION OF THIS STATE, TITLE 13, CHAPTER 40 OR COURT RULE.

4. THE PROBATION OFFICER SUPERVISING THE PROBATIONER.
E. AT THE HEARING THE COURT, AFTER HEARING FROM THOSE PRESENT PURSUANT TO SUBSECTION D OF THIS SECTION, SHALL CONSIDER THE FOLLOWING:

1. WHETHER TO CONTINUE, MODIFY OR TERMINATE PROBATION.

2. WHETHER TO CONTINUE TO REQUIRE, TO SUSPEND OR TO TERMINATE THE PROBATIONER'S REGISTRATION PURSUANT TO SECTION 13-3821.

3. WHETHER TO CONTINUE, DEFER OR TERMINATE COMMUNITY NOTIFICATION PURSUANT TO SECTION 13-3825.

F. THE COURT MAY HOLD A PRE-HEARING INVOLVING THE PERSONS LISTED IN SUBSECTION D OF THIS SECTION TO DISCUSS AND ADVISE THE COURT CONCERNING THE ISSUES LISTED IN SUBSECTION E OF THIS SECTION.

Sec. 4. Section 13-3821, Arizona Revised Statutes, is amended to read:

13-3821. Persons required to register; procedure; identification card; definitions

A. A person who has been convicted of a violation or attempted violation of any of the following offenses or who has been convicted of an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the following offenses or an offense that was in effect before September 1, 1978 and that, if committed on or after September 1, 1978, has the same elements of an offense listed in this section or who is required to register by the convicting jurisdiction, within ten days after the conviction or within ten days after entering and remaining in any county of this state, shall register with the sheriff of that county:

1. Unlawful imprisonment pursuant to section 13-1303 if the victim is under eighteen years of age and the unlawful imprisonment was not committed by the child's parent.

2. Kidnapping pursuant to section 13-1304 if the victim is under eighteen years of age and the kidnapping was not committed by the child's parent.

3. Sexual abuse pursuant to section 13-1404 if the victim is under eighteen years of age.

4. Sexual conduct with a minor pursuant to section 13-1405.

5. Sexual assault pursuant to section 13-1406.

6. Sexual assault of a spouse if the offense was committed before August 12, 2005.

7. Molestation of a child pursuant to section 13-1410.
 8. Continuous sexual abuse of a child pursuant to section 13-1417.
 9. Taking a child for the purpose of prostitution pursuant to section 13-3206.
 10. Child prostitution pursuant to section 13-3212.
 11. Commercial sexual exploitation of a minor pursuant to section 13-3552.
 12. Sexual exploitation of a minor pursuant to section 13-3553.
 13. Luring a minor for sexual exploitation pursuant to section 13-3554.
 14. Sex trafficking of a minor pursuant to section 13-1307.
 15. A second or subsequent violation of indecent exposure to a person under fifteen years of age pursuant to section 13-1402.
 16. A second or subsequent violation of public sexual indecency to a minor under the age of fifteen years pursuant to section 13-1403, subsection B.
 17. A third or subsequent violation of indecent exposure pursuant to section 13-1402.
 18. A third or subsequent violation of public sexual indecency pursuant to section 13-1403.
 19. A violation of section 13-3822 or 13-3824.
- B. Before the person is released from confinement the state department of corrections in conjunction with the department of public safety and each county sheriff shall complete the registration of any person who was convicted of a violation of any offense listed under subsection A of this section. Within three days after the person's release from confinement, the state department of corrections shall forward the registered person's records to the department of public safety and to the sheriff of the county in which the registered person intends to reside. Registration pursuant to this subsection shall be consistent with subsection E of this section.
- C. Notwithstanding subsection A of this section, the judge who sentences a defendant for any violation of chapter 14 or 35.1 of this title or for an offense for which there was a finding of sexual motivation pursuant to section 13-118 may require the person who committed the offense to register pursuant to this section.
- D. The court may require a person who has been adjudicated delinquent for an act that would constitute an offense specified in subsection A or C of this section to register pursuant to this section. Any duty to register under this subsection shall terminate when the person reaches twenty-five years of age.
- E. A person who has been convicted of or adjudicated delinquent and who is required to register in the convicting state for an act that would constitute

an offense specified in subsection A or C of this section and who is not a resident of this state shall be required to register pursuant to this section if the person is either:

1. Employed full-time or part-time in this state, with or without compensation, for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year.

2. Enrolled as a full-time or part-time student in any school in this state for more than fourteen consecutive days or for an aggregate period of more than thirty days in a calendar year. For the purposes of this paragraph, "school" means an educational institution of any description, public or private, wherever located in this state.

F. Any duty to register under subsection D or E of this section for a juvenile adjudication terminates when the person reaches twenty-five years of age.

G. The court may order the termination of any duty to register under this section on successful completion of probation if the person was under eighteen years of age when the offense for which the person was convicted was committed.

H. THE COURT MAY ORDER THE SUSPENSION OR TERMINATION OF ANY DUTY TO REGISTER UNDER THIS SECTION AFTER A HEARING HELD PURSUANT TO SECTION 13-923.

I. At the time of registering, the person shall sign or affix an electronic fingerprint to a statement giving such information as required by the director of the department of public safety, including all names by which the person is known. The sheriff shall fingerprint and photograph the person and within three days thereafter shall send copies of the statement, fingerprints and photographs to the department of public safety and the chief of police, if any, of the place where the person resides. The information that is required by this subsection shall include the physical location of the person's residence and the person's address. If the person has a place of residence that is different from the person's address, the person shall provide the person's address, the physical location of the person's residence and the name of the owner of the residence if the residence is privately owned and not offered for rent or lease. If the person receives mail at a post office box, the person shall provide the location and number of the post office box. If the person does not have an address or a permanent place of residence, the person shall provide a description and physical location of any temporary residence and shall register as a transient not less than every ninety days with the sheriff in whose jurisdiction the transient is physically present.

~~I~~ J. On the person's initial registration and every year after the person's initial registration, the person shall obtain a new nonoperating identification license or a driver license from the motor vehicle division in the department of transportation and shall carry a valid nonoperating identification license or a driver license. Notwithstanding sections 28-3165 and 28-3171, the license is valid for one year from the date of issuance, and the person shall submit to the department of transportation proof of the person's address and place of residence. The motor vehicle division shall annually update the person's address and photograph and shall make a copy of the photograph available to the department of public safety or to any law enforcement agency. The motor vehicle division shall provide to the department of public safety daily address updates for persons required to register pursuant to this section.

~~J~~ K. Except as provided in subsection E or K of this section, the clerk of the superior court in the county in which a person has been convicted of a violation of any offense listed under subsection A of this section or has been ordered to register pursuant to subsection C or D of this section shall notify the sheriff in that county of the conviction within ten days after entry of the judgment.

~~K~~ L. Within ten days after entry of judgment, a court not of record shall notify the arresting law enforcement agency of an offender's conviction of a violation of section 13-1402. Within ten days after receiving this information, the law enforcement agency shall determine if the offender is required to register pursuant to this section. If the law enforcement agency determines that the offender is required to register, the law enforcement agency shall provide the information required by section 13-3825 to the department of public safety and shall make community notification as required by law.

~~L~~ M. A person who is required to register pursuant to this section because of a conviction for the unlawful imprisonment of a minor or the kidnapping of a minor is required to register, absent additional or subsequent convictions, for a period of ten years from the date that the person is released from prison, jail, probation, community supervision or parole and the person has fulfilled all restitution obligations. Notwithstanding this subsection, a person who has a prior conviction for an offense for which registration is required pursuant to this section is required to register for life.

~~M~~ N. A person who is required to register pursuant to this section and who is a student at a public or private institution of postsecondary education or

who is employed, with or without compensation, at a public or private institution of postsecondary education or who carries on a vocation at a public or private institution of postsecondary education shall notify the county sheriff having jurisdiction of the institution of postsecondary education. The person required to register pursuant to this section shall also notify the sheriff of each change in enrollment or employment status at the institution.

~~N.~~ O. At the time of registering, the sheriff shall secure a sufficient sample of blood or other bodily substances for deoxyribonucleic acid testing and extraction from a person who has been convicted of an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the offenses listed in subsection A of this section or an offense that was in effect before September 1, 1978 and that, if committed on or after September 1, 1978, has the same elements of an offense listed in subsection A of this section or who is required to register by the convicting jurisdiction. The sheriff shall transmit the sample to the department of public safety.

~~O.~~ P. For the purposes of this section:

1. "Address" means the location at which the person receives mail.
2. "Residence" means the person's dwelling place, whether permanent or temporary.

APPROVED BY THE GOVERNOR MAY 1, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2007.