

109TH CONGRESS
1ST SESSION

H. R. 2423

To improve the national program to register and monitor individuals who commit crimes against children or sex offenses.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2005

Mr. FOLEY (for himself, Mr. CRAMER, Mr. BLUNT, Mr. CANTOR, Mr. DAVIS of Florida, Ms. GINNY BROWN-WAITE of Florida, Mr. POE, Mr. SHIMKUS, Mr. GENE GREEN of Texas, Mr. KING of New York, Ms. MILLENDER-MCDONALD, Mr. BURTON of Indiana, Mr. BRADLEY of New Hampshire, Mr. ROYCE, Mr. MILLER of Florida, Mr. MEEKS of New York, Ms. HARRIS, Mr. FOSSELLA, Mr. CHANDLER, Mr. RAMSTAD, Mr. McCAUL of Texas, Mr. SIMMONS, Mr. BISHOP of Georgia, Mr. KINGSTON, Mr. WILSON of South Carolina, Mr. BOSWELL, Mr. FORD, Mr. ROSS, Mr. McKEON, Mrs. KELLY, Mr. ROGERS of Alabama, Mr. KENNEDY of Minnesota, Mr. BONNER, Mr. CARDOZA, Ms. GRANGER, Mr. EVERETT, Mr. DENT, Mr. BOUSTANY, Mr. PEARCE, Mr. BOYD, Mr. CASE, Mr. DAVIS of Alabama, Mr. SMITH of New Jersey, Mr. MOORE of Kansas, Mr. McCOTTER, Mr. TIAHRT, Mr. POMEROY, Mr. BACHUS, and Mr. CANNON) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To improve the national program to register and monitor individuals who commit crimes against children or sex offenses.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as—

3 (1) the “Jacob Wetterling, Megan Nicole
4 Kanka, and Pam Lychner Sex Offender Registration
5 and Notification Act”; or

6 (2) the “Sex Offender Registration and Notifi-
7 cation Act”.

8 (b) TABLE OF CONTENTS.—The table of contents for
9 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—JACOB WETTERLING, MEGAN NICOLE KANKA, & PAM
LYCHNER SEX OFFENDER REGISTRATION AND NOTIFICATION
PROGRAM

Sec. 101. Jacob Wetterling, Megan Nicole Kanka, & Pam Lychner Sex Of-
fender Registration and Notification Program.

Sec. 102. Definitions.

Sec. 103. Duty of covered individuals to provide information.

Sec. 104. Duty of covered individuals on parole or supervised release to comply
with device requirements.

Sec. 105. Duties of Attorney General and State or tribal actors.

Sec. 106. State and tribal sex offender registries.

Sec. 107. National Sex Offender Registry.

Sec. 108. Development and availability of registry management software.

Sec. 109. DNA database for covered individuals.

Sec. 110. Duty of courts to determine whether an individual is a sexually vio-
lent predator.

Sec. 111. Duty of Attorney General to determine whether State or tribal actors
are qualified.

Sec. 112. Use of other Federal information to track sex offenders.

Sec. 113. Implementation by State and tribal actors and assistance grants to
those actors.

Sec. 114. Immunity for good faith conduct.

Sec. 115. Regulations.

Sec. 116. Authorization of appropriations.

TITLE II—AMENDATORY PROVISIONS, TRANSITION PROVISIONS,
AND EFFECTIVE DATE

Sec. 201. Failure to provide information a deportable offense.

Sec. 202. Repeal.

Sec. 203. Conforming amendments to title 18, United States Code.

Sec. 204. Effective date.

1 **TITLE I—JACOB WETTERLING,**
2 **MEGAN NICOLE KANKA, &**
3 **PAM LYCHNER SEX OF-**
4 **FENDER REGISTRATION AND**
5 **NOTIFICATION PROGRAM**

6 **SEC. 101. JACOB WETTERLING, MEGAN NICOLE KANKA, &**
7 **PAM LYCHNER SEX OFFENDER REGISTRA-**
8 **TION AND NOTIFICATION PROGRAM.**

9 (a) IN GENERAL.—The Attorney General shall carry
10 out this title through a program to be known as the Jacob
11 Wetterling, Megan Nicole Kanka, & Pam Lychner Sex Of-
12 fender Registration and Notification Program.

13 (b) REFERENCES TO FORMER PROGRAM OR FORMER
14 LAW.—Any reference (other than a reference in this Act)
15 in a law, regulation, document, paper, or other record of
16 the United States to the program carried out under sub-
17 title A of title XVII of the Violent Crime Control and Law
18 Enforcement Act of 1994 (42 U.S.C. 14071 et seq.), or
19 to any provision of that subtitle, shall be deemed to be
20 a reference to the program referred to in subsection (a),
21 or to the appropriate provision of this title, as the case
22 may be.

23 **SEC. 102. DEFINITIONS.**

24 In this Act:

1 (1) COVERED INDIVIDUAL.—The term “covered
2 individual” means any of the following:

3 (A) An individual who has been convicted
4 of a covered offense against a minor.

5 (B) An individual who has been convicted
6 of a sexually violent offense.

7 (C) An individual described in section
8 4042(c)(4) of title 18, United States Code.

9 (D) An individual sentenced by a court
10 martial for conduct in a category specified by
11 the Secretary of Defense under section
12 115(a)(8)(C) of title I of Public Law 105–119
13 (10 U.S.C. 951 note).

14 (E) An individual who is a sexually violent
15 predator.

16 (2) COVERED OFFENSE AGAINST A MINOR.—

17 (A) IN GENERAL.—Except as provided in
18 subparagraphs (B) and (C), the term “covered
19 offense against a minor” means an offense
20 (whether under the law of a State actor or trib-
21 al actor, Federal law, military law, or the law
22 of a foreign country) that is comparable to or
23 more severe than any of the following offenses:

24 (i) Kidnapping of a minor, except by
25 a parent of the minor.

1 (ii) False imprisonment of a minor,
2 except by a parent of the minor.

3 (iii) Criminal sexual conduct toward a
4 minor.

5 (iv) Solicitation of a minor to engage
6 in sexual conduct.

7 (v) Use of a minor in a sexual per-
8 formance.

9 (vi) Solicitation of a minor to practice
10 prostitution.

11 (vii) Any conduct that by its nature is
12 a sexual offense against a minor.

13 (viii) Possession, production, or dis-
14 tribution of child pornography, as de-
15 scribed in section 2251, 2252, or 2252A of
16 title 18, United States Code.

17 (ix) Use of the Internet to facilitate or
18 commit a covered offense against a minor.

19 (x) An attempt to commit a covered
20 offense against a minor.

21 (B) EXCEPTION.—The term does not in-
22 clude an offense if the conduct on which the of-
23 fense is based is criminal only because of the
24 age of the victim and the individual who com-

1 mitted the offense had not attained the age of
2 18 years when the offense was committed.

3 (C) INCLUSION.—The term includes a vio-
4 lation of section 103 of this Act.

5 (3) DOMICILE.—The term “domicile” means,
6 with respect to an individual, any place that serves
7 as the primary place at which the individual lives.

8 (4) DOMICILE STATE.—The term “domicile
9 State” means, with respect to an individual, the
10 State actor or tribal actor within the jurisdiction of
11 which is the individual’s domicile.

12 (5) EDUCATIONAL INSTITUTION.—The term
13 “educational institution” includes (whether public or
14 private) any secondary school, trade or professional
15 institution, and institution of higher education.

16 (6) EMPLOYMENT.—The term “employment”
17 includes carrying on a vocation and covers any labor
18 or service rendered (whether as a volunteer or for
19 compensation or for government or educational ben-
20 efit) on a full-time or part-time basis.

21 (7) JURISDICTION.—The term “jurisdiction”,
22 with respect to a tribal actor, means the Indian
23 country (as defined in section 1151 of title 18,
24 United States Code) of that tribal actor.

1 (8) SCHOOL STATE.—The term “school State”
2 means, with respect to an individual, the State actor
3 or tribal actor within the jurisdiction of which the
4 educational institution at which the individual is a
5 student is located.

6 (9) SEXUALLY VIOLENT OFFENSE.—The term
7 “sexually violent offense” means an offense (whether
8 under the law of a State actor or tribal actor, Fed-
9 eral law, military law, or the law of a foreign coun-
10 try) that is comparable to or more severe than any
11 of the following offenses:

12 (A) Aggravated sexual abuse or sexual
13 abuse (as described in sections 2241 and 2242
14 of title 18, United States Code).

15 (B) An offense an element of which is en-
16 gaging in physical contact with another person
17 with intent to commit aggravated sexual abuse
18 or sexual abuse.

19 (10) SEXUALLY VIOLENT PREDATOR.—The
20 term “sexually violent predator” means an individual
21 who—

22 (A) has a conviction for a sexually violent
23 offense; or

24 (B) suffers from a mental abnormality (as
25 defined in section 110 of this Act) or person-

1 ality disorder that makes the person likely to
2 engage in a predatory (as defined in section
3 110 of this Act) sexually violent offense.

4 (11) STATE ACTOR.—The term “State actor”
5 means any of the following:

6 (A) A State.

7 (B) The District of Columbia, the Com-
8 monwealth of Puerto Rico, Guam, American
9 Samoa, the United States Virgin Islands, or
10 any other territory or possession of the United
11 States.

12 (12) STUDENT.—The term “student” means an
13 individual who, whether on a full-time or part-time
14 basis, enrolls in or attends an educational institu-
15 tion.

16 (13) TRIBAL ACTOR.—The term “tribal actor”
17 means a federally recognized Indian tribe.

18 (14) WORK STATE.—The term “work State”
19 means, with respect to an individual, the State actor
20 or tribal actor within the jurisdiction of which the
21 individual’s place of employment is located.

22 **SEC. 103. DUTY OF COVERED INDIVIDUALS TO PROVIDE IN-**
23 **FORMATION.**

24 (a) INFORMATION REQUIRED PERIODICALLY.—A
25 covered individual shall, for the life of that individual (ex-

1 cept as provided in this section), provide information as
2 follows:

3 (1) REGISTRATION INFORMATION.—Imme-
4 diately after being sentenced for an offense that
5 qualifies the individual as a covered individual (or,
6 if the individual is imprisoned for that offense, im-
7 mediately before completing the term of imprison-
8 ment), and thereafter at least once every 6 months
9 (or, in the case of a sexually violent predator, at
10 least once every 3 months), the individual shall ap-
11 pear before a person designated by the individual’s
12 domicile State and provide—

13 (A) the individual’s name;

14 (B) the individual’s Social Security num-
15 ber;

16 (C) the address of the individual’s domi-
17 cile;

18 (D) the license plate number of, and other
19 identifying information with respect to, each ve-
20 hicle owned or operated by the individual;

21 (E) any address at which the individual ex-
22 pects to have a domicile in the future;

23 (F) the name and address of any person
24 who employs the individual and the address at
25 which the individual is so employed; and

1 (G) the name and address of any edu-
2 cational institution at which the individual is
3 employed or is a student.

4 (2) PHOTOGRAPH.—Immediately after being
5 sentenced for an offense that qualifies the individual
6 as a covered individual (or, if the individual is im-
7 prisoned for that offense, immediately before com-
8 pleting the term of imprisonment), and thereafter at
9 least once every 12 months, the individual shall ap-
10 pear before a person designated by the individual’s
11 domicile State and submit to the taking of a photo-
12 graph.

13 (3) FINGERPRINTS.—Immediately after being
14 sentenced for an offense that qualifies the individual
15 as a covered individual (or, if the individual is im-
16 prisoned for that offense, immediately before com-
17 pleting the term of imprisonment), and thereafter at
18 least once every 12 months, the individual shall ap-
19 pear before a person designated by the individual’s
20 domicile State and submit to the taking of finger-
21 prints.

22 (4) OTHER REGULATORY REQUIREMENTS.—
23 The Attorney General may, by regulation, require
24 the individual to provide any information that the
25 Attorney General considers appropriate on any basis,

1 and at any time and in any manner, that the Attor-
2 ney General considers appropriate.

3 (5) INDIVIDUAL IN CUSTODY IN STATE OTHER
4 THAN DOMICILE STATE.—Whenever an individual is
5 required by any paragraph of this subsection to pro-
6 vide information immediately after being sentenced
7 (or immediately before completing a term of impris-
8 onment) and the State actor or tribal actor that has
9 sentenced (or imprisoned) the individual is not the
10 individual’s domicile State—

11 (A) the individual shall provide that infor-
12 mation (in the same time, place, and manner as
13 prescribed by that paragraph) to an appropriate
14 official of the State actor or tribal actor that
15 has sentenced (or imprisoned) the individual;
16 and

17 (B) the State actor or tribal actor that has
18 sentenced (or imprisoned) the individual shall
19 promptly make available that information to the
20 individual’s domicile State.

21 (b) INFORMATION REQUIRED UPON CHANGE OF
22 REGISTRY INFORMATION.—A covered individual shall, for
23 the life of that individual (except as provided in this sec-
24 tion), provide information as follows:

1 (1) CHANGE OF ADDRESS.—Not more than 3
2 days after establishing a new domicile, the individual
3 shall—

4 (A) appear before a person designated by
5 the individual’s domicile State and provide the
6 address of the new domicile, and the address of
7 the previous domicile; and

8 (B) if the new domicile and the previous
9 domicile are not both within the jurisdiction of
10 a single State actor or tribal actor qualified
11 under this Act, appear before a person des-
12 ignated by the individual’s new domicile State
13 and—

14 (i) provide the address of the new
15 domicile and the address of the previous
16 domicile; and

17 (ii) submit to the taking of a photo-
18 graph and the taking of fingerprints.

19 (2) CHANGE OF EMPLOYMENT.—Not more than
20 3 days after beginning, or ceasing, to be employed
21 by an employer, the individual shall appear before,
22 and provide notice of the beginning or ceasing, and
23 the name and address of the employer, to—

24 (A) a person designated by the individual’s
25 domicile State; and

1 (B) if the individual's work State is dif-
2 ferent from the domicile State, a person des-
3 ignated by the individual's work State.

4 (3) CHANGE OF STUDENT STATUS.—Not more
5 than 3 days after beginning, or ceasing, to be a stu-
6 dent at an educational institution, the individual
7 shall appear before, and provide notice of the begin-
8 ning or ceasing, and the name and address of the
9 educational institution, to—

10 (A) a person designated by the individual's
11 domicile State; and

12 (B) if the individual's school State is dif-
13 ferent from the domicile State, a person des-
14 ignated by the individual's school State.

15 (c) DUTY TO PROVIDE INFORMATION TO ATTORNEY
16 GENERAL.—

17 (1) IF STATE ACTOR OR TRIBAL ACTOR NOT
18 QUALIFIED.—Whenever an individual is required by
19 subsection (a) or (b) to provide information to a
20 State actor or tribal actor, and the actor is not
21 qualified for purposes of this Act, the individual
22 shall also provide that information (in the same
23 time, place, and manner as prescribed in subsection
24 (a) or (b), as the case may be) to the Attorney Gen-
25 eral, and a failure to do so shall be treated for pur-

1 poses of this Act as a violation of subsection (a) or
2 (b), as the case may be.

3 (2) IF PROVIDING INFORMATION TO MORE
4 THAN ONE STATE.—Whenever an individual is re-
5 quired by subsection (a) or (b) to provide informa-
6 tion to more than one State actor or tribal actor, the
7 individual shall also provide that information (in the
8 same time, place, and manner as prescribed in sub-
9 section (a) or (b), as the case may be) to the Attor-
10 ney General, and a failure to do so shall be treated
11 for purposes of this Act as a violation of subsection
12 (a) or (b), as the case may be.

13 (d) PUNISHMENT.—

14 (1) IN GENERAL.—A covered individual who
15 violates subsection (a) or (b) shall—

16 (A) on the first conviction, be fined under
17 title 18, United States Code, and imprisoned
18 not more than 5 years (or, in the case of a sex-
19 ually violent predator, not more than 10 years),
20 and shall thereafter be subject to supervised re-
21 lease for not less than 36 months; and

22 (B) on any conviction after the first, be
23 fined under title 18, United States Code, and
24 imprisoned not more than 20 years (or, in the
25 case of a sexually violent predator, for life), and

1 shall thereafter be subject to supervised release
2 for life.

3 (2) STRICT CULPABILITY.—In a prosecution for
4 a violation of subsection (a) or (b), the state of mind
5 of the individual committing the violation is not an
6 element of the offense and it need not be proven
7 that the individual had any particular state of mind
8 with respect to any element of the offense.

9 (3) AFFIRMATIVE DEFENSE.—In a prosecution
10 for a violation of subsection (a) or (b), it is an af-
11 firmative defense that uncontrollable circumstances
12 prevented the individual from complying, and that
13 the individual did not contribute to the creation of
14 such circumstances in reckless disregard of the re-
15 quirement to comply, and that the individual com-
16 plied as soon as such circumstances ceased to exist.

17 (4) VIOLATIONS ARE CONTINUING.—A violation
18 of subsection (a) or (b) is a continuing violation for
19 purposes of the statute of limitations.

20 (e) EXCEPTION FOR CERTAIN INDIVIDUALS.—Sub-
21 sections (a) and (b) apply to any covered individual, unless
22 each of the following is true with respect to the covered
23 individual:

24 (1) The individual is not a sexually violent
25 predator.

1 (2) The individual has only one conviction for
2 an offense that qualifies the individual as a covered
3 individual.

4 (3) A period of at least 20 years, excluding en-
5 suing periods of imprisonment, has expired since the
6 date on which the individual was sentenced for, or
7 completed the term of imprisonment for, the convic-
8 tion described in paragraph (2).

9 (4) the conviction referred to in paragraph (2)
10 was not for aggravated sexual abuse (as defined in
11 section 2241 of title 18, United States Code) or a
12 comparable, or more severe, offense.

13 **SEC. 104. DUTY OF COVERED INDIVIDUALS ON PAROLE OR**
14 **SUPERVISED RELEASE TO COMPLY WITH DE-**
15 **VICE REQUIREMENTS.**

16 (a) IN GENERAL.—A covered individual shall comply
17 with any requirements that the Attorney General pre-
18 scribes under subsection (b)—

19 (1) for the period of supervised release or pa-
20 role, if the individual has only one conviction for an
21 offense that qualifies the individual as a covered in-
22 dividual; and

23 (2) for the life of the individual, in all other
24 cases.

25 (b) REGULATIONS REQUIRED.—

1 (1) IN GENERAL.—The Attorney General, in
2 consultation with State actors and tribal actors,
3 shall prescribe regulations to ensure that every cov-
4 ered individual referred to in subsection (a) wears
5 and maintains a device that transmits information
6 about the individual’s whereabouts to the domicile
7 State.

8 (2) PENALTIES FOR FAILURE TO COMPLY.—
9 The regulations shall include penalties for the failure
10 of the covered individual to wear or maintain the de-
11 vice.

12 (3) DEVICES AND PROCEDURES.—The regula-
13 tions shall describe the devices to be used and, for
14 each such device, the procedures to be followed by
15 the individual and the domicile State. The type of
16 device to be used may vary from domicile State to
17 domicile State, from offense to offense, or both.

18 **SEC. 105. DUTIES OF ATTORNEY GENERAL AND STATE OR**
19 **TRIBAL ACTORS.**

20 (a) WHEN AN INDIVIDUAL PROVIDES INFORMA-
21 TION.—Whenever an individual is required by this Act to
22 provide information (including information such as photo-
23 graphs and fingerprints) to the Attorney General, to a
24 State actor or tribal actor, or to both, the Attorney Gen-
25 eral (or the actor, or both, as the case may be) shall—

1 (1) ensure that the individual complies with the
2 requirement;

3 (2) ensure that the information provided is ac-
4 curate and complete;

5 (3) ensure that the information provided is in-
6 cluded in the National Sex Offender Registry; and

7 (4) ensure that the information is promptly—

8 (A) made available to any law enforcement
9 agency responsible for the area in which the in-
10 dividual’s domicile is located and to the State
11 law enforcement agency of the domicile State;

12 (B) entered into the appropriate records or
13 data system of the actor; and

14 (C) made available by the actor, together
15 with information relating to criminal history, to
16 the Attorney General.

17 (b) WHEN A COVERED INDIVIDUAL IS MISSING.—

18 (1) STATE OR TRIBAL ACTOR.—Whenever infor-
19 mation is made known to a State actor or tribal
20 actor that an individual has violated section
21 103(a)(1) or section 103(b), the actor shall promptly
22 notify the Attorney General of that information.

23 (2) ATTORNEY GENERAL.—Whenever informa-
24 tion is made known to the Attorney General that an
25 individual has violated section 103(a)(1) or section

1 103(b), or is notified of information under para-
2 graph (1), the Attorney General shall—

3 (A) revise the National Sex Offender Reg-
4 istry to reflect that information; and

5 (B) add the name of the individual to the
6 wanted person file of the National Crime Infor-
7 mation Center and create a wanted persons
8 record: *Provided*, That an arrest warrant which
9 meets the requirements for entry into the file is
10 issued in connection with the violation.

11 (c) WHEN A COVERED INDIVIDUAL CHANGES AD-
12 DRESS.—

13 (1) IN GENERAL.—The Attorney General and
14 each State actor or tribal actor shall ensure that,
15 whenever information is made known to the Attor-
16 ney General or to that actor (as the case may be)
17 that a covered individual has established a new
18 domicile, and the individual's new domicile State and
19 previous domicile State are not the same, the infor-
20 mation about the new domicile and all other infor-
21 mation collected under this Act about the individual
22 is promptly made available to—

23 (A) the local law enforcement agencies re-
24 sponsible for the area in which the previous

1 domicile is located, and to those responsible for
2 the area in which the new domicile is located;

3 (B) the previous domicile State; and

4 (C) the new domicile State.

5 (2) ELECTRONIC FORWARDING.—In addition to
6 the requirements of paragraph (1), the Attorney
7 General shall ensure (through the National Sex Of-
8 fender Registry or otherwise) that, whenever infor-
9 mation is made known to the Attorney General that
10 a covered individual has established a new domicile,
11 and the individual's new domicile State and previous
12 domicile State are not the same, the information
13 about the new domicile and all other information col-
14 lected under this Act about the individual is auto-
15 matically and immediately, by means of electronic
16 forwarding, transmitted to the new domicile State, if
17 the new domicile State is qualified for purposes of
18 this Act.

19 (d) WHEN A COVERED INDIVIDUAL IS SENTENCED
20 OR COMPLETES A TERM OF IMPRISONMENT.—The Attor-
21 ney General and each State actor or tribal actor shall en-
22 sure that, immediately after a covered individual is sen-
23 tenced for an offense that qualifies the individual as a cov-
24 ered individual (or, if the individual is imprisoned for that

1 offense, immediately before completing the term of impris-
2 onment), a responsible official—

3 (1) notifies the Attorney General that the indi-
4 vidual has completed the term of imprisonment; and

5 (2) notifies the individual of the individual's du-
6 ties under this Act.

7 **SEC. 106. STATE AND TRIBAL SEX OFFENDER REGISTRIES.**

8 (a) STATEWIDE REGISTRY REQUIRED.—Each State
9 actor or tribal actor shall maintain, throughout its juris-
10 diction, a single comprehensive registry of information col-
11 lected under this Act.

12 (b) RELEASE OF INFORMATION IN REGISTRY.—Each
13 State actor or tribal actor shall have in effect, throughout
14 its jurisdiction, a single public information program that
15 includes the following elements:

16 (1) INTERNET SITE.—

17 (A) IN GENERAL.—The actor shall release
18 to the public, through an Internet site main-
19 tained by the actor, all information, except for
20 Social Security numbers and information relat-
21 ing to a covered individual for an offense com-
22 mitted when the covered individual had not at-
23 tained the age of 18 years, collected under this
24 Act. The site shall have multiple field search ca-
25 pability and shall include, for each covered indi-

1 vidual, the name, aliases, home address, work
2 address, photograph, conviction for which reg-
3 istration is required, and risk level. The site
4 shall include, as much as practicable, links to
5 sex offender safety and education resources.

6 (B) INTEGRATION OF STATE SITES.—The
7 actor shall consult with other State actors and
8 tribal actors to ensure, as much as practicable,
9 that the site integrates with and shares infor-
10 mation with the sites maintained by those other
11 actors.

12 (C) CORRECTION OF ERRORS.—The site
13 shall contain instructions on the process for
14 correcting information that a person alleges to
15 be erroneous.

16 (D) RISK LEVEL.—For purposes of this
17 paragraph, the risk level for an individual shall
18 be determined under procedures established by
19 the actor, under which the individual is pro-
20 vided notice and an opportunity to present evi-
21 dence, including witnesses, to the trier of fact,
22 and upon proof of indigent status is provided
23 counsel at the expense of the actor. The actor
24 shall establish not fewer than two risk levels.

1 (2) COMMUNITY NOTIFICATION.—Appropriate
2 law enforcement agencies shall release information
3 collected under this Act relating to a covered indi-
4 vidual to—

5 (A) public and private schools, child care
6 providers, and businesses that provide services
7 or products to children, located within a radius,
8 prescribed by the Attorney General, of the home
9 or work address of the individual; and

10 (B) residents who reside within a radius,
11 prescribed by the Attorney General, of the home
12 or work address of the individual.

13 (c) PUBLICATION OF NUMBER OF OFFENDERS REG-
14 ISTERED.—Every three months, the Attorney General
15 shall collect from each State actor and tribal actor infor-
16 mation on the total number of covered individuals included
17 in the registry maintained by that State actor or tribal
18 actor. The Attorney General shall release that information
19 to the public in a manner consistent with this Act.

20 (d) REPORT.—Not later than 1 year after the date
21 of the enactment of this Act, the Attorney General shall
22 submit to Congress a report on the feasibility of requiring
23 State actors and tribal actors to actively notify individuals
24 within a community should a covered individual move into
25 that community.

1 **SEC. 107. NATIONAL SEX OFFENDER REGISTRY.**

2 (a) IN GENERAL.—The Attorney General shall main-
3 tain a database to track the whereabouts and movements
4 of covered individuals. The database shall be known as the
5 National Sex Offender Registry.

6 (b) DISCRETIONARY RELEASE OF INFORMATION.—

7 (1) IN GENERAL.—Subject to paragraph (2),
8 the Attorney General may release information in the
9 National Sex Offender Registry concerning a covered
10 individual if the Attorney General determines that
11 the information released is relevant and necessary to
12 protect the public.

13 (2) IDENTITY OF VICTIM.—The Attorney Gen-
14 eral shall not, under paragraph (1), release the iden-
15 tity of the victim of an offense by reason of which
16 an individual is a covered individual.

17 (c) REQUIRED DISCLOSURES TO CRIMINAL JUSTICE
18 AGENCIES.—The Attorney General shall disclose informa-
19 tion in the National Sex Offender Registry—

20 (1) to Federal, State, and local criminal justice
21 agencies—

22 (A) for law enforcement purposes; and

23 (B) for releases of information under sub-
24 section (b); and

25 (2) to Federal, State, and local governmental
26 agencies responsible for conducting employment-re-

1 cost to develop, implement, and support the soft-
2 ware.

3 (c) SUPPORT.—The Attorney General shall ensure
4 that a State actor or tribal actor purchasing the software
5 is provided technical support for the installation of the
6 software and for maintaining the software.

7 **SEC. 109. DNA DATABASE FOR COVERED INDIVIDUALS.**

8 (a) DATABASE REQUIRED.—The Attorney General
9 shall establish and maintain a database for the purposes
10 of—

11 (1) managing DNA information with respect to
12 covered individuals; and

13 (2) making that information available to Fed-
14 eral, State, and local law enforcement agencies for
15 use by those agencies in a manner consistent with
16 this Act.

17 (b) REGULATIONS.—Under regulations issued by the
18 Attorney General—

19 (1) Federal, State, and local agencies and other
20 entities may submit DNA information to the Attor-
21 ney General for inclusion in the database;

22 (2) Federal, State, and local law enforcement
23 agencies may compare DNA information against
24 other DNA information in the database; and

1 (3) Federal, State, and local prosecutors may
2 use DNA information in prosecutions.

3 **SEC. 110. DUTY OF COURTS TO DETERMINE WHETHER AN**
4 **INDIVIDUAL IS A SEXUALLY VIOLENT PRED-**
5 **ATOR.**

6 (a) IN GENERAL.—A determination of whether an in-
7 dividual is a sexually violent predator for purposes of this
8 Act shall be made by a court after considering the rec-
9 ommendation of a board composed of experts in the behav-
10 ior and treatment of sex offenders, victims’ rights advo-
11 cates, and representatives of law enforcement agencies.

12 (b) WAIVER.—The Attorney General may waive the
13 requirements of subsection (a) with respect to a State
14 actor or tribal actor if the Attorney General determines
15 that the State actor or tribal actor has established alter-
16 native procedures or legal standards for designating a per-
17 son as a sexually violent predator.

18 (c) DEFINITIONS.—In this section:

19 (1) MENTAL ABNORMALITY.—The term “men-
20 tal abnormality” means a congenital or acquired
21 condition of an individual that affects the emotional
22 or volitional capacity of the individual in a manner
23 that predisposes that individual to the commission of
24 criminal sexual acts to a degree that makes the per-

1 son a menace to the health and safety of other per-
2 sons.

3 (2) PREDATORY.—The term “predatory” means
4 an act directed at an individual (whether or not a
5 relationship with that individual has been established
6 or promoted) for the primary purpose of victimiza-
7 tion.

8 **SEC. 111. DUTY OF ATTORNEY GENERAL TO DETERMINE**
9 **WHETHER STATE OR TRIBAL ACTORS ARE**
10 **QUALIFIED.**

11 (a) IN GENERAL.—A determination of whether a
12 State actor or tribal actor is qualified for purposes of this
13 Act shall be made by the Attorney General in accordance
14 with this section.

15 (b) REQUIREMENTS.—The Attorney General may de-
16 termine that a State actor or tribal actor is qualified if,
17 as determined by the Attorney General, each of the fol-
18 lowing apply:

19 (1) The actor has in effect, throughout its juris-
20 diction, laws that implement the requirements of
21 section 103, or substantially similar requirements,
22 with respect to each covered individual whose domi-
23 cile is within that jurisdiction.

1 (2) The actor participates in the National Sex
2 Offender Registry in the manner that the Attorney
3 General considers appropriate.

4 (3) The actor ensures that an audit of the ac-
5 tivities carried out under this Act is carried out at
6 least once each year and that the findings of each
7 audit are promptly reported to the Attorney General.

8 (c) REPORTS TO CONGRESS.—Each year, the Attor-
9 ney General shall submit to Congress a report identifying
10 the extent to which each State actor or tribal actor is
11 qualified for purposes of this Act.

12 **SEC. 112. USE OF OTHER FEDERAL INFORMATION TO**
13 **TRACK SEX OFFENDERS.**

14 (a) TAXPAYER INFORMATION.—The Secretary of the
15 Treasury, in coordination with the Attorney General, shall
16 develop and maintain a system under which taxpayer in-
17 formation that pertains to a covered individual and is use-
18 ful in locating the individual, or in verifying information
19 with respect to the individual, is made available to Fed-
20 eral, State, and local law enforcement agencies for use by
21 those agencies in a manner consistent with this Act.

22 (b) SOCIAL SECURITY INFORMATION.—The Sec-
23 retary of Health and Human Services, in coordination
24 with the Attorney General, shall develop and maintain a
25 system under which Social Security information that per-

1 tains to a covered individual and is useful in locating the
2 individual, or in verifying information with respect to the
3 individual, is made available to Federal, State, and local
4 law enforcement agencies for use by those agencies in a
5 manner consistent with this Act.

6 **SEC. 113. IMPLEMENTATION BY STATE AND TRIBAL AC-**
7 **TORS AND ASSISTANCE GRANTS TO THOSE**
8 **ACTORS.**

9 (a) IMPLEMENTATION BY STATE AND TRIBAL AC-
10 TORS.—

11 (1) IN GENERAL.—Each State actor or tribal
12 actor shall have not more than 3 years from the date
13 of the enactment of this Act in which to fully imple-
14 ment this Act.

15 (2) IMPLEMENTATION BY TRIBES AND IN IN-
16 DIAN COUNTRY.—The Attorney General shall coordi-
17 nate with the Secretary of the Interior to assist trib-
18 al actors in fully implementing this Act throughout
19 the jurisdiction of each tribal actor.

20 (b) INELIGIBILITY FOR FUNDS.—

21 (1) IN GENERAL.—For any fiscal year after the
22 expiration of the period specified in subsection
23 (a)(1), a State actor or tribal actor that fails to fully
24 implement this Act shall not receive 10 percent of
25 the funds that would otherwise be allocated for that

1 fiscal year to the actor under any of the following
2 programs:

3 (A) BYRNE.—Subpart 1 of Part E of title
4 I of the Omnibus Crime Control and Safe
5 Streets Act of 1968 (42 U.S.C. 3750 et seq.),
6 whether characterized as the Edward Byrne
7 Memorial State and Local Law Enforcement
8 Assistance Programs, the Edward Byrne Me-
9 morial Justice Assistance Grant Program, or
10 otherwise.

11 (B) LLEBG.—The Local Government
12 Law Enforcement Block Grants program.

13 (C) OTHER LAW ENFORCEMENT
14 GRANTS.—Any other program under which the
15 Attorney General provides grants or other fi-
16 nancial assistance, except for the SOMA pro-
17 gram under this section.

18 (2) REALLOCATION.—Amounts not allocated
19 under a program referred to in paragraph (1) to an
20 actor for failure to fully implement this Act shall be
21 reallocated under that program to State actors and
22 tribal actors that have not failed to fully implement
23 this Act.

24 (c) SEX OFFENDER MANAGEMENT ASSISTANCE PRO-
25 GRAM.—

1 (1) IN GENERAL.—From amounts made avail-
2 able to carry out this subsection, the Attorney Gen-
3 eral shall carry out a program, to be known as the
4 Sex Offender Management Assistance program (in
5 this section referred to as the “SOMA program”),
6 under which the Attorney General awards a grant to
7 each State actor or tribal actor to offset costs di-
8 rectly associated with implementing this Act.

9 (2) DISTRIBUTION OF FUNDS.—Each grant
10 awarded under the SOMA program shall be distrib-
11 uted directly to the State actor or tribal actor for
12 distribution by that actor to public entities within
13 that actor.

14 (3) USES.—

15 (A) IN GENERAL.—Subject to subpara-
16 graph (B), each grant awarded under the
17 SOMA program shall be used for training, sala-
18 ries, equipment, materials, and other costs di-
19 rectly associated with implementing this Act,
20 including the costs of acquiring and using de-
21 vices in carrying out section 104.

22 (B) DATABASES OF INDIVIDUALS IN CUS-
23 TODY.—Up to 10 percent of a grant awarded
24 under the SOMA program may be used to par-
25 ticipate in one or more databases that identify

1 individuals in custody, such as the
2 JusticeXchange database.

3 (4) ELIGIBILITY.—

4 (A) APPLICATION.—To be eligible to re-
5 ceive a grant under the SOMA program, the
6 chief executive of a State actor or tribal actor
7 shall, on an annual basis, submit to the Attor-
8 ney General an application (in such form and
9 containing such information as the Attorney
10 General may reasonably require) assuring
11 that—

12 (i) the actor has fully implemented (or
13 is making a good faith effort to fully im-
14 plement) this Act; and

15 (ii) where applicable, the actor has
16 penalties comparable to or greater than
17 Federal penalties for crimes listed in this
18 Act, except that the Attorney General may
19 waive the requirement of this clause if an
20 actor demonstrates an overriding need for
21 assistance under the SOMA program.

22 (B) REGULATIONS.—Not later than 90
23 days after the date of the enactment of this
24 Act, the Attorney General shall promulgate reg-
25 ulations to implement the procedures used (in-

1 including the information that must be included
2 and the requirements that the State actors or
3 tribal actors must meet) in submitting an appli-
4 cation under the SOMA program.

5 (5) ALLOCATION OF FUNDS.—In allocating
6 funds under the SOMA program, the Attorney Gen-
7 eral may consider the number of covered individuals
8 registered in each actor’s registry.

9 (6) INCORPORATION OF CERTAIN TRAINING
10 PROGRAMS.—Before implementing the SOMA pro-
11 gram, the Attorney General shall study the feasi-
12 bility of incorporating into the SOMA program the
13 activities of any technical assistance or training pro-
14 gram established as a result of section 40152 of the
15 Violent Crime Control and Law Enforcement Act of
16 1994 (42 U.S.C. 13941). In a case in which incor-
17 porating such activities into the SOMA program will
18 eliminate duplication of efforts or administrative
19 costs, the Attorney General shall take administrative
20 actions, as allowable, and make recommendations to
21 Congress to incorporate such activities into the
22 SOMA program.

23 (d) INCENTIVES.—

24 (1) BONUS PAYMENTS FOR EARLY COMPLI-
25 ANCE.—A State actor or tribal actor that has fully

1 implemented this Act within 2 years after the date
2 of the enactment of this Act is eligible for a bonus
3 payment under the SOMA program for the fiscal
4 year after the Attorney General certifies that the
5 actor has achieved full implementation. The amount
6 of the bonus payment shall be equal to 5 percent of
7 the funds that the actor received under the SOMA
8 program for the preceding fiscal year. However, if
9 the actor has fully implemented this Act within 1
10 year after such date of enactment, the amount of the
11 bonus payment shall instead be equal to 10 percent
12 of the funds that the actor received under the
13 SOMA program for the preceding fiscal year. An
14 actor may receive a bonus payment under this para-
15 graph only once during the course of the SOMA pro-
16 gram.

17 (2) REDUCED PAYMENTS FOR LATE COMPLI-
18 ANCE.—A State actor or tribal actor that has failed
19 to fully implement this Act within 3 years after the
20 date of the enactment of this Act is subject to a pay-
21 ment reduction under the SOMA program for the
22 following fiscal year. The amount of the payment re-
23 duction shall be equal to 5 percent of the funds that
24 would otherwise be allocated to the actor under the
25 SOMA program for that fiscal year. In addition, if

1 the actor has failed to fully implement this Act with-
2 in 4 years after such date of enactment, the amount
3 of the payment reduction shall be equal to 10 per-
4 cent of the funds that would otherwise be allocated
5 to the actor under the SOMA program for that fis-
6 cal year. An actor may be subject to a payment re-
7 duction under this paragraph only twice during the
8 course of the SOMA program.

9 (e) **REPORTS TO CONGRESS.**—Each year, the Attor-
10 ney General shall submit to Congress a report identifying
11 the extent to which each State actor or tribal actor has
12 fully implemented this Act.

13 **SEC. 114. IMMUNITY FOR GOOD FAITH CONDUCT.**

14 A law enforcement agency, an employee of a law en-
15 forcement agency, a contractor acting at the direction of
16 a law enforcement agency, and an officer of a State actor
17 or tribal actor are immune from liability for good faith
18 efforts to carry out this Act.

19 **SEC. 115. REGULATIONS.**

20 The Attorney General shall issue regulations to carry
21 out this Act.

22 **SEC. 116. AUTHORIZATION OF APPROPRIATIONS.**

23 There is authorized to be appropriated for each of
24 fiscal years 2006 through 2009 such sums as may be nec-
25 essary to carry out this Act.

1 **TITLE II—AMENDATORY PROVI-**
2 **SIONS, TRANSITION PROVI-**
3 **SIONS, AND EFFECTIVE DATE**

4 **SEC. 201. FAILURE TO PROVIDE INFORMATION A DEPORT-**
5 **ABLE OFFENSE.**

6 Section 237(a)(2)(A) of the Immigration and Nation-
7 ality Act (8 U.S.C. 1227(a)(2)(A)) is amended—

8 (1) by redesignating clause (v) as clause (vi);

9 and

10 (2) by inserting after clause (iv) the following
11 new clause:

12 “(v) FAILURE TO PROVIDE REGISTRA-
13 TION INFORMATION AS A SEX OF-
14 FENDER.—Any alien who is convicted
15 under subsection (d) of section 103 of the
16 Sex Offender Registration and Notification
17 Act of a violation of subsection (a) or (b)
18 of such section is deportable.”.

19 **SEC. 202. REPEAL.**

20 Sections 170101 (42 U.S.C. 14071) and 170102 (42
21 U.S.C. 14072) of the Violent Crime Control and Law En-
22 forcement Act of 1994 are repealed.

1 **SEC. 203. CONFORMING AMENDMENTS TO TITLE 18, UNITED**
2 **STATES CODE.**

3 The following provisions of title 18, United States
4 Code, are each amended by striking “and that the person
5 register in any State where the person resides, is em-
6 ployed, carries on a vocation, or is a student (as such
7 terms are defined under section 170101(a)(3) of the Vio-
8 lent Crime Control and Law Enforcement Act of 1994)”
9 and inserting “and that the person comply with the Sex
10 Offender Registration and Notification Act”:

11 (1) PROBATION.—Section 3563(a)(8).

12 (2) SUPERVISED RELEASE.—Section 3583(d).

13 **SEC. 204. EFFECTIVE DATE.**

14 This Act and the amendments made by this Act take
15 effect on the date that is 6 months after the date of the
16 enactment of this Act.

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